



**Information Meetings and Associated Provisions
within the Family Law Act 1996**

Final Evaluation Report

3 Volumes

**Research Conducted by the Centre for Family Studies at the
University of Newcastle upon Tyne**

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Preface

The Research Task

The Family Law Act 1996 heralded a radically new approach to the legal dissolution of marriage. Recognising marriage as an important and long-established institution that provides a strong foundation for the rearing of children, the Act aims, as its overall objectives, to support marriage wherever possible, and to ensure that people considering divorce have full information about the enormity of the step they are taking and the options available to them. The Act acknowledges divorce as a process over time rather than a discrete event; it removes the concept of fault as evidence of irretrievable breakdown in the marriage; it introduces a period of time for reflection and consideration; it requires that all arrangements for the future, including matters of finance and property, are made before divorce can be granted; and it places considerable emphasis on saving saveable marriages, consensual decision-making, parental responsibility, and protection from violence. The Act contains a number of novel provisions in support of its objectives. In the four years since the Family Law Act (FLA) received Royal Assent, Parts I, III and IV have been implemented. Part II, which would change the ground for divorce, has not.

Part II lays down the reformed process of divorce. In most cases, a person wishing to divorce would need to attend an information meeting at least three months before making a statement of marital breakdown. Parliament decided that information should be delivered on an individual basis, and listed the range of information which must be presented (Section 8 of the FLA). This includes the opportunity for parties to have a meeting with a marriage counsellor (MWMC) which would be free for those eligible for public funding for legal help (through the Community Legal Service, which has replaced the Legal Aid Board).

Since there was no existing blueprint for the mandatory provision of information on an individual basis, nor for a MWMC, it was agreed in Parliament that these elements should be tested prior to implementation of Part II. In the period between June 1997 and May 1999, six different models of information meeting were piloted and the MWMC was tested between June 1998 and July 1999. Fourteen pilots covered eleven geographical areas in England and Wales.

I was appointed to lead a research team to evaluate these pilots, and we began our work in March 1997. Our primary task was to examine the ‘who, what, where, when and how’ of information provision in order to advise on the best possible model for implementation. The evaluation has had to take place under conditions which could never replicate those which would pertain under the FLA. Most significantly, attendance at an information meeting during the pilots remained voluntary. Only when Part II is implemented will it be possible to evaluate how attendees react when attendance is mandatory. The research programme is best described as having been research in action. It has been applied, multi-method, and designed as a phased programme of work to inform policy through carefully constructed, flexible methodologies.

The Research Process

Our evaluation has incorporated the study of eight main elements within a prospective framework. We systematically collected data on every person who contacted the pilots to book an information meeting. All those who attended an information meeting were asked to participate in the evaluation. We followed up as many people as possible who gave research consent, for some six to nine months after they had attended a meeting. Some people were tracked over a longer period. This methodology has given us rich insights into how people approach, experience and manage marriage breakdown and divorce. We have been able to provide research findings well beyond our original research brief.

Because it would have been inappropriate and impossible to design the entire evaluation programme at the beginning of the research, we divided it into phases. There have been seven phases in total. At the end of each phase we submitted our proposals for the work to be undertaken in the next phase, enabling the Lord Chancellor's Department to consider its requirements and modify them as the pilots evolved. During the first two phases, our emphasis was on establishing the methodology, designing the data collection instruments, and undertaking data collection across the first six pilot sites. During Phases Two, Three and Four we began to analyse both quantitative and qualitative data, primarily to address particular issues raised by the Lord Chancellor's Department as it planned for new pilots. During Phases Five and Six we continued data collection in respect of all the elements in the study and pursued some special studies in addition to the main research programme, undertaking analysis on a continuous basis. The pilots all ended during Phase Six, enabling us to devote this seventh phase of the research to completing collection of follow-up data from those who had attended an information meeting or a MWMC, co-ordination of all our various data sets, further analyses of the data and the preparation of the Final Report.

As is appropriate in this kind of research, we revised the research questions in the light of emerging findings and evolving policy considerations. New elements, such as the provision of information meetings in prison, were added to the study as the pilots progressed. When the pilots began, implementation of Part II was scheduled for 1999. However, the piloting period was extended by the Lord Chancellor's Department in order that new models could be tested, and this inevitably changed the research timetable. In addition, it became clear in June 1999 that the Government is concerned to know more about the impacts of information meetings, and our research brief was further expanded in order to allow us to consider a range of policy options in respect of information provision in the light of the research findings as a whole. Throughout the past three and a half years the research has progressed according to plan and to agreed timetables. This Final Report marks the culmination of the main evaluation, although we are continuing to track our research subjects until June 2001.

Interim Research Reports

This is the fourth substantive report to be presented to the Lord Chancellor since the pilots began. The First Interim Evaluation Report was presented in January 1998. In it, we described the research priorities, our methodologies and the constraints and challenges inherent in the research programme and presented evidence from the first six months' operation of the first six pilots, each of which offered two models of information meeting. We were able to discern some emerging themes and to make suggestions for new models.

The Second Interim Evaluation Report was submitted in September 1998, and focused on findings from the first five pilots, which had commenced in June/July 1997 and had run for a period of nine months up to the end of March 1998. By this time nearly 3,000 people had attended an information meeting and we were seeing consistent patterns in the emerging findings. The tensions inherent in the models being tested were manifest, and we pointed to a number of policy issues which would require consideration prior to implementation of Part II.

The Third Interim Evaluation Report was delivered to the Lord Chancellor in January 1999. It differed from the previous two interim reports in that it included preliminary comparative analysis across all six models of information meeting, and discussions of other elements such as the MWMC and parenting plans. Since only four pilots had closed their doors by January 1999, we cautioned that the findings and conclusions must remain preliminary. Nevertheless, we had become increasingly clear about the policy issues which needed to be addressed and had developed a conceptual framework in order to shed light on the ways in which information meetings were being used and valued by those attending them.

In order to present emerging findings in these three reports we inevitably had to make a number of cuts into the data, providing us with a series of snapshots at given moments in time. Since new data were coming into the research centre daily, we had arbitrarily stopped the clock three times in order to prepare the reports. Our intention was to provide indicators as to the similarities and differences between models, and to elaborate on the issues which were emerging. Those reports all represent accounts of research in progress, and each report has extended and developed the discussion of our evaluation. None has been written as a stand-alone document. All three interim reports are available in the libraries of both Houses of Parliament and in the national libraries. In June 1999, the Lord Chancellor published a Summary of the first three interim reports and announced that he would not be making a final decision in respect of Part II until we had completed our evaluation and he had had time to consider the research findings as a whole. The research story, therefore, has been built up over the years, and this Final Report is the first to take a retrospective look across all the pilots since they finished their work.

In addition to the interim reports and the Summary, we have prepared 63 working papers within the team and these have informed and guided our work. They have been made available to the Lord Chancellor's Department as requested. Additional reports of work on specific matters have been prepared specifically for the Department at various times.

We have been limited in the amount of data beyond the interim reports which could be put into the public domain during the life of the pilots. Over the last year the Lord Chancellor's Department has agreed, at the suggestion of the Research Advisory Group and the research team, that articles on the emerging results may be published. Accordingly, during recent months a series of articles have appeared in *Family Law*. Papers were also presented at the President's Conference in September 1999 and these have since been published.

Research Reporting

The interim reports and working papers contain the written record of our work over the past three and a half years. Throughout this period, we have been in regular contact with various officials in the Family Policy Division of the Lord Chancellor's Department, and

this was particularly frequent during the initial stages of the research and during the first pilots. The Department has been continually updated about research findings.

Early in the life of the research an independent Research Advisory Group was appointed by the Lord Chancellor's Department to guide and monitor our work, and to advise on methodologies and outputs. The Research Advisory Group has been efficiently and effectively chaired by Sir Peter Barclay, who has done a splendid job of ensuring that advisory group meetings have been business-like, supportive and constructive. The members of the Research Advisory Group are listed in Annexe 1. During the course of the research, the group has met on nine occasions and members have considered all our interim reports and this Final Report prior to their submission to the Lord Chancellor.

As Research Director, I have been invited to attend all the meetings of the Lord Chancellor's Advisory Board on Family Law (ABFL), chaired by Sir Thomas Boyd-Carpenter, since its inception. I have presented research reports to each ABFL meeting and the contents of all reports to the Lord Chancellor have been considered in detail.

The National Interdisciplinary Forum established to oversee the work of the pilots and to co-ordinate the work of the Local Interdisciplinary Fora from the pilot sites has met regularly throughout the evaluation period. It is chaired by The Rt Hon. Lord Justice Matthew Thorpe. Research reports have been presented to each meeting, all of which have been attended by myself or by the Principal Research Associate, Mr Peter McCarthy.

Shortly after the evaluation commenced the Lord Chancellor's Department convened a small group to co-ordinate the work of this research team with that of Professor Gwynn Davis and his team, who have been monitoring the publicly-funded mediation provisions within Part III of the Act. Members of the Family Policy Division of the Lord Chancellor's Department, members of the Legal Aid Board and the two research directors have met approximately twice a year during the life of the pilots.

The Research Team

The evaluation task has been complex and multi-faceted. In order to ensure that all the varying aspects of information provision could be investigated carefully we convened a highly experienced multi-disciplinary Research Programme Team which brought together academic experts from several disciplines and universities. Within Newcastle University, senior members of the Centre for Urban and Regional Development Studies (Professor Mike Coombes and Dr Simon Raybould), Economics (Professor Peter Dolton) and Law (Professor Richard Collier) have taken responsibility for specific elements of the study. In addition, Mrs Caroline Bridge, Senior Lecturer in Law at Manchester University, led the work on domestic violence and ethnicity; Emeritus Professor Douglas Hooper provided expertise in the field of marital counselling; Professor Martin Richards guided the work in respect of information for parents and children; and Emeritus Professor Noel Timms has provided an overall perspective on the conceptual and theoretical thinking which has underpinned the evaluation process. Between us, we represent the fields of law, sociology, social policy, social studies, psychology, geography and economics. The Research Programme Team has been unchanging throughout the evaluation. It has met monthly in Newcastle throughout the life of the project, and research staff have been in attendance at these meetings, all of which have been minuted.

The entire research programme has been co-ordinated and managed from the Newcastle Centre for Family Studies, with Mr Peter McCarthy (Principal Research Associate) and Dr Cathy Stark (Senior Research Associate) taking responsibility for managing two clusters of research staff. Inevitably, in a study spanning over three years, a number of research associates and interview staff have joined and left the team at different times. Over the course of the evaluation, a total of 20 research staff and 41 interview staff have been employed in the Newcastle Centre for Family Studies to work on this project. All of them have contributed substantially to the research programme and many of them have contributed to interim reports and to this Final Report.

We have been supported in our work by the secretary designated to the project, Ruth Moody, the Senior Secretary in NCFS, Jennifer Rankin, and the NCFS secretary, Claire Baxter, who between them have prepared successive drafts of interim reports and of this Final Report.

As independent academic researchers we have had no vested interest in the outcomes of the evaluation, and we have approached the study with open minds and without prejudice as to the decisions which might be taken in the future in respect of Part II of the FLA. We have endeavoured to report the findings openly and honestly at all times.

Acknowledgements

In order to conduct a study of this kind, researchers need the co-operation of many people. The pilots were established precisely so that they could be evaluated. Consequently, research often dominated the everyday life of the pilots and we are grateful to everyone involved in all the pilots for their willingness to respond to numerous requests from the research team and for allowing us open access to all their work. Members of the research team spent many hours observing training, information meetings and the MWMC. We know that being under the spotlight in this way can be uncomfortable for professionals who are trying to deliver a confidential service to people whose lives are in disarray, but observation gave us insights into the processes and the issues which we could never have obtained in any other way. We would like to thank everyone who allowed us to enter the professional world of service delivery.

Officials in the Family Policy Division have had to manage the tensions between political priorities and research protocols and this has been achieved in a way which has been supportive of the research endeavour. Without their commitment and support our task would have been impossible.

Members of ABFL and of our Research Advisory Group have shown interest, wisdom and insight throughout the study, challenging us about our findings and asking us to consider specific issues and questions in particular ways when it has been appropriate to do so. We are very grateful to Sir Thomas Boyd-Carpenter, Sir Peter Barclay, and all their colleagues on the advisory groups for regularly considering and approving the methodology and the approach we were taking.

Despite all the support of the people mentioned above, however, the majority of the data obtained for the study have come from members of the public who have attended information meetings in the pilots and agreed to participate in our research. They have been prepared to share a great deal of detail about their lives and about the way in which a variety of interventions have influenced the decisions they have taken. We know that the

process of separation and divorce is painful for most people who experience it. Having researchers ask endless questions about it may be the last thing most people would entertain. Yet, thousands of people have spoken to us and we offer them our heartfelt thanks. We will be continuing to talk to some of them well into the future.

Throughout our interim reports we presented verbatim many of the responses from people who took part in the study, and we do so throughout the Final Report. We assured everyone that we would respect their confidentiality and we have made every possible effort to ensure that no one is personally identifiable, although we appreciate that people may well recognise what they themselves have told us. We have included a number of brief personal accounts in some of the chapters: all the names have been changed. We have endeavoured to achieve a balanced presentation at all times, and our aim has been to select comments which flow directly from the accounts of research respondents. It is our belief that those who have experienced the pilots are best able to comment on them, and that policy decisions should reflect the informed views represented here.

Finally, I would like to record my personal thanks to all my colleagues in the research team. Interview staff and some research associates have conducted 2,900 hours of interviews. Other research associates have painstakingly entered data and collated vast data sets, and the secretarial staff have ensured that the administration of the research programme has run smoothly throughout.

No one could describe this research as easy or straightforward. It has created many challenges and we have had to make tough methodological decisions. The research is inevitably richer for the breadth and depth of experience that has been brought to bear on it, and working in such a dynamic multi-disciplinary team has been an exciting and rewarding experience. As the Research Director of a diverse project, I have had to rely on the integrity and wisdom of my colleagues on many occasions. I have been enormously fortunate to have such a committed and steadfast team and I am truly grateful to all of them for their dedication and their support.

The Final Report

This report builds on the interim evaluation reports and we do not repeat the findings and discussions contained in them. It has been written, however, as a stand-alone document although cross-references to the interim reports are made where appropriate. We are acutely aware that it is a lengthy report, but it addresses a number of substantive issues on which important policy decisions in family law, welfare provision and professional practice are likely to be made, and we make no apology for discussing them in such depth. The study has taken over three years to execute and has involved collecting data from over 10,000 people. The data are extensive and rich, and inevitably we have not been able to analyse all of them, nor include all the analyses in this report. We have obtained both quantitative and qualitative data in a variety of different ways and at different times, and we indicate the basis for our analysis at appropriate points during the report. We have focused our attention on the matters which are central to ABFL's remit and which the Lord Chancellor will need to consider before he is in a position to make a decision about implementation of Part II.

There are seven main sections to the Final Report, and 36 chapters in all. A Summary of the report is provided as a separate document. Members of the research team responsible for different aspects of the evaluation have provided material for the report. I have edited

(sometimes ruthlessly) and developed (sometimes substantially) the contributions to ensure that there is a consistency of approach, and to provide the links between the various elements. The aim has been to render the research findings accessible to a wide audience of policymakers, practitioners and academics and to keep the technical methodological detail to the minimum. Some of this is contained in the Annexes.

Section 1 sets the context for the whole report. It refers to the social changes which influenced proposals for divorce reform, describes the development of the Family Law Act and the development of the pilots, outlines the research task, and provides details of the people who applied to attend an information meeting during the pilots. In the last chapter in this section we discuss the extent to which the findings can be generalised to a wider population who would be required to attend an information meeting under an implemented system. In Section 2 we present the findings in respect of the different ways in which information was delivered during the pilots and make comparison between them. We also consider the impacts attending an information meeting had within the complex lives of those who volunteered to attend.

Sections 3, 4 and 5 focus on the extent to which information provision has supported the principles in Part I of the FLA. Section 3 addresses the concern to support and save marriages and includes discussion of the meeting with the marriage counsellor; Section 4 describes the ways in which mediators and lawyers have been used by those who attended an information meeting, and considers how conciliatory approaches to divorce have been promoted; and Section 5 looks specifically at the ways in which information meetings have sought to promote continuing relationships between parents and children when families break up.

In Section 6 we report the findings from a number of special studies set up to consider some specific issues in respect of access to justice. We consider how ethnic diversity may be catered for under the FLA, describe the issues relating to domestic violence which must be taken into account in information provision, discuss appropriate ways for delivering information meetings in prison, and refer to information required to address a range of specific needs and circumstances, including ill health, which have emerged during the study. The final chapter in this section is somewhat different, in that it considers the importance of gender in the operation of family law and the FLA in particular. We have discussed gender issues at various points within this report and our interim reports, but it became clear that to do justice to this issue we needed to include a chapter in the Final Report where gender issues are discussed.

In Section 7 we look to the future. We present a new model for the delivery of an information meeting within the FLA and describe alternative options on the basis of the findings of the evaluation. It is in this final section that we draw together the policy and practice matters which have emerged during the pilots and consider their implications for reforming the process of separation and divorce. We make no comment on whether Part II of the FLA should be implemented. That is not our job, and we regard it as being a political decision. We do make clear proposals, however, for the changes which would need to be made in respect of information provision should Part II be implemented. We also point to the tensions and dilemmas inherent in a system for marital dissolution which tries to address social welfare concerns within the context of legal remedies. Because of the length of the report, it is presented in three volumes: Volume 1 contains Sections 1 and 2; Volume 2 contains Sections 3, 4 and 5; and Volume 3 contains Sections 6 and 7 and the Annexes. A summary of the Final Report has been prepared as a separate document.

The report represents the views of the research team and does not necessarily reflect those of the Lord Chancellor's Department, ABFL or our own Research Advisory Group. As a team, however, we are agreed about the messages which should radiate from the study and our conclusions reflect common understandings of the issues and the remedies which might be applied to them.

Professor Janet Walker
Research Director
August 2000

Glossary

The information meeting pilots generated a new terminology which will be encountered throughout the report. We provide a glossary here:

Attendee	Someone who attended an information meeting.
Information meeting	A one-to-one meeting with an information presenter.
Group presentation	A meeting at which information was given to groups of people.
Information presenter	The person who delivered the information in the one-to-one meeting.
Group presenter	The person who delivered the information to a group of people.
Facilitator	The person who introduced the information meeting attendee to the CD-ROM facility in Models E and F, ensured that the program was working, dealt with technical problems, and handed out the information pack at the end of the meeting.
Administrator	The person who answered the phone and made the appointments for information meetings.
Receptionist	The person in attendance at the information meeting venue.
MWMC	A meeting with a marriage counsellor (Section 8(6)(b)).
UKMOG	The United Kingdom Marriage Organisations Group, which developed the MWMC.
Client	The term counsellors gave to those information meeting attendees who took up the offer of a meeting with a marriage counsellor. (We continue to refer to them as attendees since we are talking about people who have accessed the MWMC as a direct result of having attended the information meeting. We would question whether they were clients of the marital agency at this stage. We do not alter the nomenclature in direct quotations, however.)
Supervisor	The person responsible for professional supervision of the counsellors who conducted the meetings with a marriage counsellor.

Customer	The term given by the pilots to attendees at CD-ROM (Model E and F) meetings. (We refer to them throughout as attendees unless we are quoting directly the comments of research respondents.)
Divorce-associated professional	Someone whose primary profession is related to the divorce process, for example a lawyer, family court welfare officer, mediator or counsellor.

Volume 1

**Information Meetings and Associated Provisions
within the Family Law Act 1996**

**Final Evaluation Report
Volume 1**

August 2000

Newcastle Centre for Family Studies

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Setting the Context

1. Setting the Context

The Family Law Act (1996) received Royal Assent on 4 July 1996. It has been described as one of the most radical and far-reaching reforms in family justice of the twentieth century, and it signified a wholly different approach to the manner in which couples whose marriages have broken down would experience the legal process of divorce. Proposals to reform the law of divorce usually arise from the realisation that the existing law and procedure are unsatisfactory and out of step with changes in social and family life. The proposals for divorce reform outlined in the Queen's Speech in November 1995, and introduced in the House of Lords in the Family Law Bill 1995, were no exception. The proposals followed a period of lengthy and considered public debate and consultation which had begun in 1985. Debates about marriage and divorce have always evoked emotionally-charged responses. Whenever there have been proposals to change the law, governments have faced deeply divided opinions driven by religious beliefs, moral attitudes, social concerns and professional self-interests. The emerging legislation must always be considered in the light of the concerns which have shaped it.

The Act contains a number of novel provisions, including mandatory information meetings. Under Part II Section 8(2) of the Family Law Act, a party making a statement of marital breakdown must (except in prescribed circumstances) have attended an information meeting not less than three months beforehand. Furthermore, the Act makes provision for those attending an information meeting to be encouraged to have a meeting with a marriage counsellor, which it was intended should be free for those eligible for non-contributory legal aid. The government of the day deemed it essential to test and evaluate these new provisions through pilot projects prior to implementation of the Act, which was originally scheduled for January 1999. In December 1996, the Lord Chancellor's Department laid down a number of specific criteria for the information meeting pilots, including the requirement that the pilot projects would be part of a research programme.

In Chapters 1–5, we reflect on the social, legal and policy changes which influenced the proposals for divorce reform and which continue to influence decisions about the implementation of Part II of the Family Law Act; review the debates which led to extensive revisions of the Family Law Bill during its passage through Parliament; describe how the information meeting pilots were developed and established; outline the research task and the way in which we have conducted a multi-dimensional and complex evaluation; describe the research sample, from which we have derived extensive quantitative and qualitative data; and discuss the issue of generalisability in respect of the research findings contained in this report.

Chapter 1

The Challenge of Social, Legal and Policy Change

Janet Walker, Noel Timms and Richard Collier

Family law is inherently unenforceable in the traditional sense since it attempts to regulate intimate human relationships. Parents cannot ultimately be forced to see children, or children to see parents and it is not possible, through a restrictive divorce law, to force a harmonious domestic relationship on the unhappy. If ... family law is to have any real influence on family behaviour it is more likely to be at the conceptual level – through what it attempts to tell us about desirable or acceptable models of family life.¹

In 1996 the (then) government put on the statute book its considered response following a long period of official reflection on how best to reform the law on divorce. During its passage through Parliament the Family Law Bill 1995 was subject to extensive change and adaptation as a result of major tensions which are reflected in the terms and provisions of the Family Law Act 1996. In this chapter we describe the current social site, the family, on which the Act is focused and which it attempts to support both expressively and instrumentally. We examine the discontinuities in couple life and its changing forms, and the increased concerns with the effects on children, who like others in the social scene have come to be considered primarily as vulnerable victims. We then turn to the issues arising from the choice of a legal route to change. It is generally agreed that the law cannot create happy, stable marriages or sustain unhappy ones. It can, however, create a framework and encompass processes which buttress and support family relationships in a variety of ways. The use of family law, however, is not without its problems. It is important, Dewar² has suggested, not to ascribe any more coherence to law than it actually possesses, whether in terms of its functions or of its ability to construct the world around us. Dewar draws attention to the way in which the law operates less by direct control and more through indirect symbolic controls which ‘radiate messages’.³ Implementing the Family Law Act (FLA) involves responding to such basic uncertainty and ambiguity, but also to the impact of policy change in related areas such as the Human Rights Act 1998 and the Government’s commitment to modernising justice.

The social, legal and policy changes connected to the FLA and to its implementation and reception by different groups can be seen as the backdrop against which information meetings and associated provisions have been enacted. Attempting to understand and interpret the action constitutes a difficult and complex task.

Discontinuities and Changes in Family Life

Fewer people are getting married than at any time in the past 40 years, and of those who do, twice as many are divorcing.⁴ The following statistics illustrate these trends. In 1961,

¹ Bainham, A., ‘Changing families and changing concepts – reforming the language of family law’, *Child and Family Law Quarterly*, vol. 10, no. 1 (1998), pp. 1–15.

² Dewar, J., ‘The normal chaos of family law’, *Modern Law Review*, vol. 61, no. 4 (1998), pp. 467–85.

³ *ibid.*, p. 470.

⁴ *Family Change: A Guide to the Issues*, Family Policy Studies Centre (2000).

some 330,000 first marriages and 50,000 remarriages took place. By 1997, the figures had changed to 200,000 and 120,000 respectively. The divorce rate has risen from 74,000 a year in 1971 to 145,000 a year by the end of the 1990s. It reached a peak in 1993 at 165,000 (the highest number ever), and has since levelled off.

The increase in the number of people divorcing in England and Wales has been continuous since divorce became a matter of civil law in 1857, with particularly sharp increases following both World Wars. The pace of change in contemporary society in the last half-century, however, has had an unparalleled impact on family life. Never before have there been so many personal opportunities in an age of technological advance which has provided, among other things, widespread access to computers and daily bombardment of media advertising. Opportunities for self-fulfilment and global communication have resulted in new freedoms to structure family life in a wide variety of ways. Although most people value their family life, the somewhat idealised vision of a stable family epitomised by a mother and father and their successful, healthy children has been challenged by the growing number of alternative family forms. The shift towards an increasing concern with the quality of relationships⁵ is reflected in far-reaching reconstructions in family living arrangements resulting from lower marriage rates and higher divorce rates.

Historically, marriage rates have always fluctuated. Although the majority of people get married at some time during their lives, nevertheless marriage rates have fallen sharply since the 1970s. By contrast, the number of people choosing to cohabit has risen. Cohabitation has always existed and is not a modern phenomenon; what has changed is that most young people now choose to cohabit either as a prelude or as an alternative to getting married.⁶ In the past, couples were forced to cohabit when they were unable to be legally married and when divorce was not an option for those whose marriage had broken down. Today, cohabitation prior to marriage is normal practice, but it is essentially a transition phase lasting about two years: most cohabiting couples either marry or split up.⁷ For some, however, it is the relationship of choice for a much longer period. It has been predicted that by 2021, the number of cohabiting never-married women aged over 45 will have increased from 30,000, in the mid 1990s, to over half a million – a 20 per cent increase. The number of cohabiting couples, estimated at 1.56 million in 1996, is predicted to almost double to nearly 3 million by 2021.⁸

In 1961, the rate of divorce was only 2.1 per 1,000 married females. It increased rapidly during the 1970s, boosted in part by the advent of the 'quickie divorce', then rose more slowly until it levelled off during the 1990s at about 14 per 1,000.⁹ In 1998, 12.9 per 1,000 married people were divorced, the lowest figure since 1990. The average length of a marriage which ends in divorce is 9–10 years. Seventy per cent of the divorces that occurred in 1998 were granted to the wife. Nearly 71 per cent of divorces represented the dissolution of the first marriage for both parties. Nearly 20 per cent of men and women divorcing in 1998 had been divorced before, as against about 10 per cent in 1981.¹⁰

⁵ Giddens, A., *The Transformation of Intimacy: Sexuality, Love and Eroticism in Modern Societies*, Polity Press (1992).

⁶ Roberts, C., 'Whatever happened to marriage?', in C. Clulow (ed.), *Women, Men and Marriage: Talks from the Tavistock Marital Studies Institute*, Sheldon Press (1995).

⁷ Kiernan, K.E. and Estaugh, V., *Cohabitation, Extra-marital Child-rearing and Social Policy*, Occasional Paper No. 17, Family Policy Studies Centre (1993).

⁸ One Plus One Marriage and Partnership Research, *Bulletin Plus*, vol. 3, no. 1 (1999).

⁹ Walker, J. and Hornick, J.P., *Communication in Marriage and Divorce*, BT Forum (1996).

¹⁰ Population Trends, Office for National Statistics (1999).

There are many theories about why the rate of divorce has increased so significantly since the 1960s. The increase clearly reflects general trends in all industrialised nations, but the high rate of increase in the 1970s was probably caused by a backlog of cases that resulted when the 1969 Divorce Reform Act came into force in January 1971. Experts are in general agreement, however, that explanations for the continued increase in divorce are to be found in broader social, structural and cultural changes which include the greater participation of women in the labour market, smaller family size (largely as a result of widely accessible birth control), economic growth and prosperity, growing secularisation and a greater tolerance of a variety of family forms and living arrangements. Divorce rates, however, are only part of the story of what is happening to families in the western world.

Another significant feature of modern family life has been the increase in the proportion of extramarital births. At the turn of the century about 5 per cent of babies were born outside marriage; by the early 1990s, almost 30 per cent of births occurred outside marriage.¹¹ About half of these babies are born to cohabiting couples. The rise in the number of lone-parent families, to just under 20 per cent of all families with dependent children, results from the increase in divorce and also from the growing numbers of single mothers who have never married (but who may have cohabited). Almost 60 per cent of lone parents are dependent on Income Support: in other words they are relatively poor.

Given these changes, it is perhaps not surprising that concerns have been expressed that 'the social fabric of our country is unravelling'.¹² The statistics do not necessarily give us a complete picture, however. The European Values Study revealed that the majority of people across thirteen countries did not view marriage as an outdated institution, although younger people held less traditional attitudes towards it.¹³ Furthermore, there is evidence that people in all societies continue to place a high value on family life,¹⁴ yet, at the same time, they also value personal fulfilment and achievement – doing what is personally satisfying.¹⁵ Expectations of marriage have also changed. Whereas marriage was traditionally associated with economic interdependence and the raising of children, today love and companionship have assumed greater importance. The private companionate aspects of marriage are rated more highly than the functional aspects of adequate income and good housing.¹⁶ As the basis for marriage has shifted, it seems that the greater the emphasis that is placed on companionate values, the more marriage is likely to fail to live up to people's expectations.¹⁷ With a strong emphasis being placed on personal emotional satisfaction, as expectations of marriage have increased so tolerance of unhappy relationships has decreased. If personal fulfilment is not achieved, there are few legal, economic and social constraints to keep couples locked into unfulfilling marital unions.¹⁸ This does not necessarily suggest that couples today do not take marriage seriously, nor that they do not think long and hard before splitting up. Indeed, as long ago as 1964 Berger and Kellner¹⁹ commented:

¹¹ *ibid.*

¹² Lord Moran, Official Report (H.L.), 30 November 1995 at col. 763.

¹³ Ashford, S. and Timms, N., *What Europe Thinks: A Study of Western European Values*, Dartmouth (1992).

¹⁴ Hugick, L. and Leonard, J., 'Sex in America', *Gallup Poll Monthly*, no. 313 (October 1991), pp. 60–73.

¹⁵ Lauer, R.H. and Lauer, J.C., *Marriage and Family: The Quest for Intimacy*, Brown (1994).

¹⁶ Clulow, C., 'Marriage: a new millennium?', in C. Clulow (ed.), *Women, Men and Marriage: Talks from the Tavistock Marital Studies Institute*, Sheldon Press (1995).

¹⁷ Richards, M., 'The companionate trap', in C. Clulow (ed.), *op. cit.*

¹⁸ Walker, J., *The Cost of Communication Breakdown*, BT Forum (1995).

¹⁹ Berger, P. and Kellner, H., 'Marriage and the construction of reality', *Diogenes* (1964), pp. 1–23.

Typically, individuals in our society do not divorce because marriage has become unimportant to them, but because it has become so important that they have no tolerance for the less than completely successful marital arrangement.

Almost all couples enter marriage firmly believing that it will be for life. In the modern world, however, marriage has been described as a ‘pressure cooker’²⁰ in which couples are expected to fulfil the roles of lover, best friend, advisor, parent, colleague, sibling, in-law and so on. What is clear is that not everyone manages to live up to these multiple expectations, and it seems that women are much more likely than men to feel disappointed. Women are also three times more likely than men to take the lead in ending the marriage.

Marriage has also become an intensely private institution, and, as Clulow²¹ has said, privatised marriage is the hardest kind to help since couples are reluctant to disclose their problems and others are reluctant to intrude. If it is accepted that marriage is essentially a personal, private matter between two adults, a difficult dilemma emerges – how to deal with the public consequences when this private and intensely personal relationship is threatened with dissolution. This dilemma is evident in our evaluation of those aspects of the FLA which focus on saving and supporting marriage.

Innocent Victims

There remains a strong belief that the nuclear family is essential to the raising of psychologically healthy children²² and that marriage provides the surest foundation for family life. Thus, there is widespread agreement that

[t]he breakdown of a human relationship, though in particular circumstances it may be unavoidable and even understandable, can never be an intrinsically good thing.²³

As a result of increases in cohabitation, lone parenthood, divorce, remarriage and the number of children born out of wedlock, children today experience a growing variety of family settings. Much of the public anxiety about rising divorce rates has centred on the potentially detrimental impact of divorce on children. It is now recognised that the separation and divorce of parents

is not a single event in the lives of children. It is a process that begins, for many, years before the divorce, and has repercussions that reverberate into adulthood.²⁴

Without doubt, the separation and divorce of parents is one of the hardest transitions for children to cope with. There is abundant research evidence that parental separation is very

²⁰ Bott, E., ‘Family and crisis’, in J. Sutherland (ed.), *Towards Community Mental Health*, Tavistock (1971).

²¹ Clulow, C. (1995), *op. cit.*

²² Schaffer, R., *Making Decisions about Children: Psychological Questions and Answers*, Blackwell (1990).

²³ The Lord Bishop of Birmingham, Official Report (H.L.), 30 November 1995 at col. 752.

²⁴ Kiernan, K.E., ‘What about the children?’, *Family Policy Bulletin*, Family Policy Studies Centre (December 1991).

distressing for children, particularly in the short term. The review by Rodgers and Pryor²⁵ of over 200 research reports on divorce and the outcomes for children found that most children experience short-term distress at the time of separation, but that long-term adverse outcomes apply only to a minority of children. Nevertheless, on a number of measures children of divorcing parents have roughly twice the probability of experiencing poor outcomes in the long term as children living in intact families. The evidence suggests that parental separation is most usefully viewed as a process in which children may need support at any stage to reduce the possible detrimental effects.

Divorce has profound effects on parenting, not least because one parent, normally the father, will no longer live with his children, thus distorting the way in which the parent-child relationship is played out. When parents live apart they have to negotiate new ways of sharing parental responsibilities. The sad reality for many is that the incompatibility which contributes to the marriage ending often continues in the experience of post-divorce parenting. Becoming a non-residential or 'subsidiary'²⁶ parent with limited contact under artificial conditions is not conducive to maintaining a close parental relationship. The reality for most fathers after divorce is that they come to occupy a decidedly secondary position in the lives of their children, and as a result, many disappear from their children's lives within a couple of years. Research suggests that this may be less a reflection of parental irresponsibility, and more a reaction to a difficult, intolerably painful and frustrating situation.²⁷ Moreover, staying in touch with children is influenced by external factors including socio-economic status. Put simply, poorer and unemployed fathers are more likely to drop out of their children's lives, and in so doing fail to offer any emotional and financial support. Referring to these impacts, during the passage of the Family Law Bill through Parliament the Lord Bishop of Worcester commented:

... we are letting down our children and thereby placing a time-bomb under our society.²⁸

It is widely agreed that in order to protect the best interests of children it is important to reduce conflict in the family, particularly before, during and after parental separation. Conflict-ridden families create a difficult environment for the well-being of children as well as of adults. In some families, violence is commonplace. Although there are no national data concerning the incidence of domestic violence in the UK, we know that violence is a feature in a significant number of divorces.²⁹ We know from this evaluation that abuse is an issue for some husbands, although the majority of abuse is targeted at wives. Violence often starts early in a relationship or when children are quite small. It may also begin or escalate around the time of separation and divorce. The impact on the abused spouse and on children is likely to be considerable. Parenting is inevitably affected by violence in the home. Mothers who are abused may appear to be inadequate or inconsistent as parents,³⁰ whereas abusive fathers may be more irritable, less involved

²⁵ Rodgers, B. and Pryor, J., *Divorce and Separation: The Outcomes for Children*, Joseph Rowntree Foundation (1998).

²⁶ Schaffer, R., *Making Decisions about Children: Psychological Questions and Answers*, Blackwell (1990).

²⁷ Simpson, B., McCarthy, P. and Walker, J., *Being There: Fathers After Divorce*, Relate Centre for Family Studies (1995).

²⁸ The Lord Bishop of Worcester, Official Report (H.L.), 30 November 1996 at col. 715.

²⁹ Hester, M., Pearson, C. and Harwin, N., *Making an Impact: Children and Domestic Violence*, Jessica Kingsley (2000).

³⁰ Brandon, M. and Lewis, A., 'Significant harm and children's experiences of domestic violence', *Child and Family Social Work*, vol. 1, no. 1 (1996), pp. 33-42.

in child rearing, less affectionate and more punitive than non-abusive fathers.³¹ Parenting skills are severely tested in violent families.³² Children in these households are also likely to be at risk of physical, sexual and/or emotional abuse.³³

Although research shows that the impacts on children who live in violent households are variable, some being more affected than others, there is clear evidence that it is a negative experience. Even very young children can be seriously affected,³⁴ while older children and teenagers may perform poorly at school and display behavioural problems.

That domestic violence is a widespread and serious problem in society is beyond doubt. Many parents stay in violent relationships 'for the sake of the children'. Others leave violent relationships only to find that the violence does not stop, and that contact arrangements may act as an ongoing trigger for abusive episodes.³⁵ In these situations it is difficult to argue that contact with abusive non-residential fathers is necessarily in the best interests of children. In June 1999, the Lord Chancellor's Department published a consultation paper on contact between children and violent parents.³⁶ The overwhelming view of respondents was that the issue of domestic violence in the context of contact requires a much better-informed and more proactive approach from professionals within the family justice system. Assumptions that it is always in a child's best interests to maintain a relationship with both parents, even when violence has been present in the marital home, need to be challenged and debated against a background of more systematic evaluative research comparing the outcomes for children who maintain contact with an abusive parent with those for children who are denied it. The issue of parenting during and post divorce was given much consideration during the information meeting pilots, and we have been able to explore some of the ways in which parents attempt to meet the needs of their children.

Private Hurts and Public Interests

Throughout history, people have attempted to define and establish an ideal human community in which both physical and emotional needs are met. For the most part, it has been the family unit which has attempted to meet these needs. Families come in all shapes and sizes, and there has always been considerable diversity in family forms. Nevertheless, parents and their offspring have usually been at the heart of family living arrangements, and the nuclear family has been increasingly idealised as superior to other family constellations, particularly when it comes to bringing up children. But it is abundantly clear that attitudes and expectations towards family life have changed. Change and continuity are the most basic concepts underlying family development. The recent shift

³¹ Holden, G.W. and Ritchie, K.L., 'Linking extreme marital discord, child rearing, and child behaviour problems: evidence from battered women', *Child Development*, no. 62 (1991), pp. 311–27.

³² Hester, M. and Radford, L., *Domestic Violence and Child Contact Arrangements in England and Denmark*, Policy Press (1996).

³³ See e.g. Ross, S.M., 'Risk of physical abuse to children of spouse abusing parents', *Child Abuse and Neglect*, vol. 20, no. 7 (1996), pp. 589–98; Abrahams, C., *The Hidden Victims: Children and Domestic Violence*, NCH Action for Children (1994).

³⁴ Hester, M. and Pearson, C., *From Periphery to Centre: Domestic Violence in Work with Abused Children*, Policy Press (1998).

³⁵ Hester and Radford. (1996), *op. cit.*; Abrahams (1994), *op. cit.*; Hester and Pearson (1998), *op. cit.*; Smart, C., 'Losing the struggle for another voice: the case of family law', *Dalhousie Law Journal*, vol. 18, no. 2 (1995).

³⁶ *Contact between Children and Violent Parents: The Question of Parental Contact in Cases Where There Is Domestic Violence*, Children Act Sub-Committee, Lord Chancellor's Department (1999).

towards greater individualism and privacy in family life is reflected in far-reaching reconstructions in family living arrangements.³⁷ Over the last decade there has been a growing sense that there is an urgent need to manage the changes in order to ensure a level of continuity in family life. The Family Law Act 1996 was conceived, in large part, as a response to this need: it addresses the ending of marriage, discontinuities in parenting and domestic violence in one statute. Marriage, parenthood and family have become and remain inextricably linked. Perhaps the most profound change to have taken place in family life over recent decades is that 'the meaning of parenthood is being transformed in concert with the reconstruction of marital relationships'.³⁸

Family Law: An Uncertain Instrument of Change

It is now a familiar argument that there exists at present a great deal of uncertainty about what the role of law should be with regard to these transformations in family relations. This is a debate in which the issue of divorce reform, and the FLA in particular, has been of central significance.³⁹ While some⁴⁰ have argued that family law reform has historically been too much influenced by empirical studies, instead of by rationally established a priori principles, others have seen it as essential to address questions of policy and practice from within a theoretically informed framework. For example, Smart and Neale⁴¹ have recently sought to integrate sociological insights, notably those deriving from the work of Giddens⁴² and Beck and Beck-Gernsheim,⁴³ to their presentation of an empirical study of post-divorce parenting. While conceptual frameworks deriving from the disciplines of sociology and psychology are helpful in understanding the role of law, so too is theory which derives from legal studies.

Dewar has argued that contemporary debates in family law, not least those around divorce reform, are characterised as chaotic, contradictory and incoherent:

The extent that family law deals in ideas of what families are, how their members should deal with each other, and what the role of law and state should be with regard to them, is not coherent at all.⁴⁴

Dewar's use of the term 'chaotic' conveys a sense of disorder, or lack of system, in family law. Importantly, such 'chaos' is seen as normal. This is an idea which can be seen to have a number of implications for debates about divorce. 'Progress' is generally equated with coherence and the successful resolution of contradiction. Debates around the FLA, for example, have largely been couched in terms of the language of progress and reform. For lawyers, the need for coherence and order can be particularly acute, with disorder seen as a sign of failure of the discipline *per se* (the criticism historically levelled, of course, at family law as somehow 'not a proper law subject'). Yet, Dewar

³⁷ Walker (1995), *op. cit.*

³⁸ Edgar, D., *Parents at the Core of Family Life: Family Matters*, Australian Institute of Family Studies (1993).

³⁹ See e.g. Bird, J. and Cretney, S., *Divorce: The New Law*, Family Law (1996); Bird, J., *Domestic Violence: The New Law*, Family Law (1996); Freeman, M., *The Family Law Act 1996*, Sweet & Maxwell (1996); Bainham, A., 'Changing families and changing concepts – reforming the language of family law', *Child and Family Law Quarterly*, vol. 10, no. 1 (1998), pp. 1–15.

⁴⁰ Deech, R., 'Divorce law and empirical studies', *Law Quarterly Review*, vol. 106 (1990), p. 229.

⁴¹ Smart, C. and Neale, B., *Family Fragments*, Polity Press (1999).

⁴² Giddens (1992), *op. cit.*

⁴³ Beck, U. and Beck-Gernsheim, E., *The Normal Chaos of Love*, Polity Press (1995).

⁴⁴ Dewar (1998), *op. cit.*, p. 468.

argues, the recognition of chaos and ‘disorder’ in this context suggests an important truth when one is seeking to gain sociological insight into the changing nature of legality at work in family law. Because family law engages with areas of life that are widely recognised as riven with contradiction or paradox (e.g. the emotions of love, passion, intimacy, commitment and betrayal which clearly resonate in so many of the accounts of attendees at information meetings), Dewar, like many other writers, suggests that family law is itself more ‘cognitively open’ to its social environment than other areas of law. Family law as a whole can be seen to epitomise what has been called the ‘new legalism’ across western societies in the way in which it presents a body of law that extensively incorporates materials and information from other disciplines, with the result that in so doing it may lose its distinctly ‘legal’ flavour. The well-documented conceptually unusual nature of many of the provisions in the FLA can thus be seen to exemplify these broader tensions between ‘law’ and its ‘context’, an issue with which research into family law has long struggled. Family law is, of course, part of a wider legal system, and therefore autonomous and disconnected from its environment. At the same time, however, ‘family practices’⁴⁵ have been seen to stand in an extremely complex relationship to law and legal rules, as we note in the next chapter.

Parker⁴⁶ has suggested that the field of family law is one which has tended historically to oscillate between two very different ways of conceptualising law in relation to families: that is, between seeing family law as being, on the one hand, primarily concerned with the enforcement of *rights* between family members, and, on the other, primarily concerned with consequences, or with maximising *utility*. Family law involves weighing or balancing different interests in pursuit of an optimal outcome. The transition from nineteenth-century absolute father-right to the twentieth-century concern with the welfare of the child can be seen to exemplify this general shift from rights to a utility/consequentialist formula in family law. It is Parker’s (and Dewar’s) argument that this shift has also been associated with a more general move from *rules* to *discretion* within family law. This is not to argue that family law has ever been ‘empty of rules’ or shot through with discretion; rather, it can be seen to consist, at different moments, of a varying mix of rules and discretion.

The welfarism and discretion which have been associated with the developments of the 1970s remain a visible presence in perceptions of family law. This is a regime which has been associated with a concern with morality (a fault-based system of divorce) and a heavy reliance on judicial discretion.⁴⁷ However, the general discretion of family law reform within recent years – the broader context, that is, in which a debate about the FLA and policy options must be located – has been widely viewed as involving a shift in the rights/consequentialist relation in a number of respects. This has been marked, in particular, by a move *towards* rules and *away from* discretion (or, from ‘welfarism to rights’⁴⁸). Over the last twenty years, a return to a rights model in family law has occurred in which questions of economics, rather than of morality, have tended to assume greater importance.⁴⁹ This development can be seen particularly clearly in two areas, each of

⁴⁵ Morgan, D., *Family Connections: An Introduction to Family Studies*, Polity Press (1996).

⁴⁶ Parker, S., ‘Rights and utility in Anglo-Australian family law’, *Modern Law Review*, vol. 55 (1992), p. 311.

⁴⁷ Smart, C., ‘Marriage, divorce and women’s economic dependency: a discussion of the politics of private maintenance’, in M. Freeman (ed.), *State, Law and the Family*, Tavistock (1984).

⁴⁸ See Dewar, J., ‘Reducing discretion in family law’, *Australian Journal of Family Law*, vol. 11 (1997), p. 309.

⁴⁹ See Eekelaar, J., ‘Families and children: from welfarism to rights’, in C. McCrudden and G. Chambers (eds), *Individual Rights and the Law in Britain*, The Law Society/Clarendon Press (1994).

which has a direct bearing on an assessment of the provisions of Part II of the FLA: costs issues, and the access to justice issue. We considered both of these during our evaluation.

Recent reforms, including the FLA, have been marked by a clear concern to reduce the costs of marital dissolution, both to the legal system and to the welfare state. The need to reduce public expenditure on the legal system (either on the court system directly or on legal aid) has thus led to increased interest in a form of legal regulation which, it is believed, might encourage parties to resolve their own disputes without going to court. At the same time, of course, the need to curb public expenditure on family breakup led to the enactment of child support legislation (now being revised), which, it was argued, might enable public expenditure to be more accurately controlled and predicted.

A number of commentators have identified a growing dissatisfaction with the perceived limits of the broad discretionary system. This has resulted in an increased concern to find a 'principled' basis for family law. Central to this process has been a perception that the 1970s discretionary model was itself, in a number of senses, failing to deliver 'just' outcomes for men, women and children. Dewar, like others, takes as illustrative of this trend three broad developments: the growth of organised men's and fathers' rights groups, the failure of the discretionary system to protect the economic interests of women upon divorce, and the growing use of arguments for rights or equality, which have themselves in turn served to push family law legislation towards the 'rule' end of the spectrum by providing some fixed starting points and/or firmer guidelines or standards. Examples here include the introduction of child support schemes, the growing emphasis on children's rights, the emergence of the concept of joint parental responsibility, and developing interest in the provision of clear and more rule-like frameworks for resolving questions of property distribution and spousal maintenance. This trend is not presented here as having in any way involved a comprehensive move towards rules. Rather, it is seen in terms of an *incursion of rules* into a discretionary framework. Importantly, this has involved no overhaul of the fundamental premises of the system itself.

The trends outlined above have involved the emergence of a 'normative pluralism', which reflects the current well-documented and deep uncertainty about law's proper role and purpose in this area. The FLA is a piece of legislation which has itself arguably intensified these underlying normative conflicts in a number of respects. For example, as a 'no-fault' statute it detaches the consequences of divorce almost entirely from consideration of responsibility for the breakdown of marriage. In relation to money and children, the removal of fault, however, leaves no clear principles as a basis for decisions. These issues are to be dealt with according to a range of utilitarian or consequentialist criteria, informed at the same time by notions of rights and justice. There appears to be more at stake here than simply a balancing exercise between rights and utility. Different and incompatible ways of approaching issues on which decisions have to be made continue to coexist. We refer to this fundamental tension in respect of the FLA in Chapter 2, and return to it at numerous points in our analysis of the research data.

A Changing Policy Agenda

Strengthening families in order to support parenting has become a goal of successive government policies, and reforms in family law have underlined the importance of parental responsibility. The 1989 Children Act signalled an important shift in emphasis since parental status was no longer tied to marital status. The Child Support Act 1991 sought to ensure that non-resident parents stay economically responsible. The FLA, for its

part, places a good deal of emphasis on protecting children and promoting continuity in parenting. The Labour Government has given the issues of family life and parenting even higher priority since coming into power in 1997. It quickly established a new inter-departmental Ministerial Group on the family under the chairmanship of the Home Secretary. In 1998, this group put forward a consultation document, entitled *Supporting Families*.⁵⁰ In his Foreword, the Home Secretary, the Rt Hon. Jack Straw MP, declared:

Family life is the foundation on which our communities, our society and our country are built. Families are central to this Government's vision of a modern and decent country.

He also pointed out that families are under considerable stress, and drew attention to the number of marriages which break down and the growth in lone-parent families. Rather than looking back to some supposedly 'golden age' of family life, however, the document stresses the need for support to be given to families in order to help parents do the best they can for their children. The consultation document proposed a number of new developments, including dedicated helplines, Sure Start programmes, parent education, improvement in financial benefits, family-friendly employment practices, support for families with specific problems, including domestic violence, and suggestions for strengthening marriage. Its proposals were largely welcomed, and some have already been taken forward, including the establishment of a National Family and Parenting Institute. Others are being modified and developed further.

What is evident is that the substantive changes which have occurred in family life are a matter of public concern, and that the family policy agenda continues to be focused on a number of key themes: strengthening marriage, minimising the detrimental impact of divorce, supporting parents irrespective of marital status, and protecting family members from violence and abuse. Although family-oriented political action is constantly changing as a result of political formulation and changing constructions of family life, the present Government is wanting to strike a balance between intervention and unnecessary interference in the private realm of the family. So, for example, although much emphasis is given to supporting families, particularly parents, there is an explicit objective of not creating a 'nanny state' or encouraging dependence on welfare support. There is an inevitable tension here. The Government has set out to tackle social exclusion and to eliminate child poverty, while at the same time holding parents responsible for their children and their misdemeanours. Parenting Orders under the Crime and Disorder Act (1998), which came into effect on 1 April 2000, are designed to offer parents of young offenders better knowledge and skills so that they can be more effective parents. The provision requires a parent to attend classes – a state provision which is designed to give parents greater control within the family. A matter of balance.

Another new and important piece of legislation, in force from October 2000, is the Human Rights Act 1998, which incorporates the European Convention of Human Rights and Fundamental Freedoms 1950 into domestic law. As a result, domestic law will have to be enacted, interpreted and amended in such a way as to be compatible with the Convention, and individuals will be able to enforce Convention rights against the state in the domestic courts in ordinary proceedings – in other words, litigants will be able to enforce the Convention rights without a trip to the European Court. The rights will be more accessible. The Human Rights Act does not extinguish existing legal provisions safeguarding human rights in UK law but is intended to improve them. Family legislation such as the Children Act 1989 and the Family Law Act 1996 has already been drafted in

⁵⁰ *Supporting Families: A Consultation Document*, Home Office (1998).

order to comply with the Convention, and in this respect the FLA has already passed human rights scrutiny.

The following rights, guaranteed by the Convention and included in the Human Rights Act 1998, are relevant to the divorce process under the FLA:

- Article 6 – the right to a fair trial
- Article 8 – the protection of private and family life, home and correspondence
- Article 10 – freedom of expression and the right to receive and impart information

Articles 6 and 8 will be of primary importance for family law. It has been suggested, for example, that the operation of Section 29, in effectively refusing legal aid to persons who have been assessed as suitable for mediation but who prefer the legal system, may be a breach of Article 6 if the nature of the proceedings concerned makes it impracticable for them to act in person.⁵¹ Article 8, which protects private and family life, will also have an impact. Its focus is, first, on the right to private life, and secondly on the right to respect for family life. The rights protected by Article 10 require consideration in respect of Part II of the FLA. The new key requirement will be that public authorities, including the courts, exercise their powers in ways which are compatible with the Convention. It is envisaged that the court will have to consider whether a human rights issue arises in each family case. To do this, practitioners will need to be as familiar with the existing jurisprudence emerging from the European Court of Human Rights as they are with domestic cases. The Convention recognises that family life does not cease after divorce, a view which impacted heavily on the previous government's proposals for divorce reform.

Accounting for Change

As Morgan⁵² has pointed out, modern family life is characterised by flux and fluidity. For many this is a matter of concern, as could be seen during debates on the Family Law Bill. Family law has sought to address this fluidity, but Morgan argues that policy-oriented accounts of modern family life lack a sense of fluidity, tending instead to list trends. Policies then seek to influence those trends. Presented in this way, the 'facts' about changing family and living arrangements provide the semblance of a unified topic which is in danger of neglecting individual everyday experiences and understandings. We saw these tensions throughout our evaluation of information meetings and associated provisions. Much of this report focuses on the actual practices of family members who chose to participate in the pilots. In order to address the research objectives (discussed in Chapter 4) we were concerned to understand the everyday strategies of people whose marriages were in serious trouble and for whom divorce was a serious risk.

Change in all aspects of everyday life presents challenges. Policymakers respond to the challenges by trying to create some sense of order and continuity. This inevitably means

⁵¹ Conway, H.L., 'The Human Rights Act 1998 and Family Law – Part Two', *Family Law*, vol. 30 (January 2000), pp. 30–4.

⁵² Morgan, D.H.J., 'Risk and family practices: accounting for change and fluidity in family life', in E. Silva and C. Smart (eds), *The 'New' Family?*, Sage (1999).

that certain sets of values are reinforced and promoted. These values may be contradictory and disordered rather than coherent and ordered. A search for clarity and focus has characterised the information meeting pilots and has also guided our thinking in respect of implementation of Part II of the FLA. We return to these themes at various points throughout the report.

Chapter 2

Divorce Reform and the Family Law Act 1996

Janet Walker

There is no one branch of the law more important, in any point of view, to the great interests of society, and to the personal comforts of its members, than that which regulates the formation and the dissolution of the nuptial contract. No institution indeed more nearly concerns the very foundations of society, or more distinctly marks by its existence the transition from a rude to a civilised state, than that of marriage.¹

In his history of divorce legislation in England from the mid-sixteenth century, Lawrence Stone contends that the basic moral and cultural values of any society are revealed in its attitude towards the breakdown and dissolution of the institution of marriage. If the complexities and dilemmas of the Family Law Act are to be seen in context, and the current concerns surrounding implementation of Part II are to be examined carefully, it is important to understand how the FLA is shaped and influenced by these values, both past and present.

Before 1857 no English court had the power to grant a decree of divorce which would terminate a marriage. For centuries, divorce had been virtually impossible. As Stone points out, however, there is little reason to suppose that there were proportionally fewer unhappy marriages when divorce was illegal than there are today, but there were powerful forces which kept even the most miserable couples together. There were, nevertheless, a number of ways in which the breakup of a marriage could be achieved: one partner could simply leave (desertion), which was much easier for men than for women; if the parties agreed to separate, this could be achieved through a written deed of separation; occasionally, wives were sold; application could be made to the ecclesiastical courts for separation from bed and board; and from 1690 onwards, very rich husbands could obtain a divorce from an adulterous wife by private Act of Parliament. Since only a very few could afford this latter route, there was for most people no legal way to remarry. Stone shows how, for centuries,

husbands and wives, and the lawyers who served their interests, continued to use, adapt, circumvent and openly deceive the law in order to deal with marital breakdown.²

As we noted in Chapter 1, the relationship between law and social behaviour is far from straightforward. Family law is directly influenced by public opinion and social behaviour: it usually follows rather than leads. There is generally a considerable time lag between the identification of a problem (and cries for reform) and the development of new legislation, and policymakers are inevitably affected by current values. Once new legislation is enacted the law itself shapes public opinion and social behaviour. We can, then, discern a

¹ *Speeches of Henry Brougham*, Philadelphia (1841), Vol. 2, p. 289. Lord Brougham was to become Lord Chancellor, and maintained a keen interest in divorce reform.

² Stone, L., *Road to Divorce: England 1530–1987*, Oxford University Press (1990).

strong 'reciprocal relationship between the enacted law, current theories of justice, and the social, economic and cultural background'.³

Divorce reform generates conflict and political friction and does not come easily or quickly. Throughout our history, there has been a reluctance to change the laws of marriage and divorce, often driven by the fear that change might result in unwanted social and political side-effects. This fear was reflected in many of the debates on the Family Law Bill 1995, which focused on concerns that any change in divorce law inevitably leads to an increase in the number of divorces. In other words, there has been and remains a belief that attempts to reform legislation make the underlying problems worse. Not surprisingly, perhaps, governments steer clear of taking the initiative in proposals for divorce reform precisely because it is a controversial topic which is inextricably linked with the subject of marriage. It is impossible to discuss divorce reform, it seems, without discussing the institution of marriage; and both topics have been central to the interests of powerful groups in society such as lawyers and the clergy. The 1995 Bill was the first government-led initiative in divorce reform since 1857, and the various interest groups were vociferous in responding to it. Those interests have continued to be influential in various ways throughout the information meeting pilots.

The controversial nature of divorce reform usually means that it takes a very long time to achieve. So, for example, the reforms recommended by a Royal Commission in 1912 were not turned into statute law until 1937. On this kind of time-scale, the FLA had a relatively short period of gestation, with just ten years between the work of the Booth Committee⁴ and the presentation of the Family Law Bill. It is, of course, four years since the Act received Royal Assent, and Part II, the most radical section of the legislation, is not yet enacted. Characteristically, then, the current changes are being made slowly and hesitantly, and even when they are enacted, there is little obvious shift in behaviour in the short term. There is always a wide time gap between intentions and impacts, and we would argue that it is probably unrealistic to expect to see any major changes in behaviour until long after the Act is implemented, and certainly not during a pre-implementation pilot period.

Historians have concluded that there is no single model of change which can explain the shifts in marital breakdown and divorce in a single country for all periods of time and for all classes of society.⁵ It is not possible, therefore, to claim that there is a simple link between the law and marital/divorcing behaviour. As historians point out, and as we have discovered in our evaluation, life is messier than that.

Early Steps towards Reform

Despite much discontent about legislation concerning marriage and divorce from the sixteenth century onwards, little was done to address the issue of marriage breakdown publicly until the middle of the nineteenth century. From 1600 onwards there were repeated proposals for change, many put forward by the clergy, but there were enormous fears about the consequences of tampering with the law. The first constructive step towards divorce reform in England and Wales was the establishment in 1850 of a Royal

³ *ibid.*, p.10.

⁴ Report of the Matrimonial Causes Procedure Committee (Chairman: The Hon. Mrs Justice Booth DBE) (1985).

⁵ See Phillips, R., *Putting Asunder: A History of Divorce in Western Society*, Cambridge University Press (1988).

Commission on Divorce. For the previous 20 years there had been growing criticism of the chaotic and unjust system of parliamentary divorce. The Royal Commission did not propose changes in the law of divorce, however, but did suggest a reconstruction of the process through the abolition of the jurisdiction of Parliament and of the ecclesiastical courts in respect of divorce. Although the government argued that the Divorce Bill 1856 would make it possible for the poor to divorce, this claim was exposed as fraudulent during parliamentary debates. Nevertheless, relatively few people were in favour of opening the door to divorce to working-class families. Debates raged over the content of the Bill, specifically over any suggestions that women should have rights equal to men's in respect of divorce, and over questions about remarriage for guilty wives and their lovers.

The Matrimonial Causes Act which emerged in 1857 bore little resemblance to the Bill that had been introduced, and it did not change the basic principles on which divorce was to be granted. Divorce was a legal remedy available to an injured and legally guiltless party whose partner had committed adultery. The doctrine of fault was central, and one of the objectives of the Act was to shore up the family by restricting adulterous behaviour. In reality, the number of divorces remained low, but a number of significant changes were made over the next forty years: the legal support for husbands to control their wives was ended, wives were granted control over their own property, and mothers could and did obtain custody of children. As the power of the Church weakened, and the Law Lords became exasperated by the level of collusion in divorce cases, so the women's movement gained prominence in its quest for equality. But further reform did not come until 1937, despite a Royal Commission in 1912 which argued for divorce to be regarded as the legal 'mopping-up operation'⁶ after the marriage was over and proposed expansion of the grounds for divorce to include desertion. The Commission, like public opinion, was split about divorce reform, and the cost and complexity of divorce litigation kept the number of divorces low.

Although the Matrimonial Causes Act 1937 did extend the grounds for divorce, fault (or unsound mind) still had to be proven. It was argued that to allow divorce by consent would destroy the institution of marriage and undermine the sanctity of marriage and family life: arguments which were used again during the passage of the Family Law Bill nearly sixty years later. Nevertheless, the retention of the matrimonial offence as the basis for divorce came under increasing attack from 1937 onwards. Indeed, during the passage of the 1937 Act, some reformers had put forward the radical view that once love and companionship had withered away, the quicker the marriage was dissolved the better. The preamble to the 1937 Act listed a number of objectives, including the 'true support for marriage' and the protection of children: objectives echoed in the 1996 Act. Nevertheless, the 1937 Act made it possible, for the first time, for many people who had been trapped in unhappy marriages to divorce, resulting in rapid increases in the numbers divorcing and creating panic that marriage breakdown was running rampant.

In 1956 the next Royal Commission on Marriage and Divorce traced the general trends in western culture which were contributing to increasing numbers of marriages breaking down, and called for measures to stem the flow, including more marriage counselling and education for young people to inculcate a greater sense of responsibility to the community and a greater sense of duty to protect children from the effects of marriage breakdown. Again the Commission was split, with some members advocating a more liberal divorce process and others unwilling to relax the grounds for divorce because they wanted to

⁶ Stone, *op. cit.*, p. 393.

promote stability in marriage. It was another twelve years before the problem of divorce was tackled, by two separate bodies: a Committee appointed by the Archbishop of Canterbury and the newly established Law Commission. Each reported in 1966 and both called for radical reform. The Archbishop of Canterbury's Committee argued that a divorce decree should be seen simply as a judicial recognition of a state of affairs, and that the matrimonial offence should be replaced by a detailed inquest into the breakdown which would include ascertaining what attempts had been made at reconciliation and exploring the events which had destroyed the marriage.⁷

The Law Commission, in its report, took as its starting point the view that a good divorce law should seek:

- (i) To buttress, rather than undermining the stability of marriage; and (ii) When, regrettably, a marriage has irretrievably broken down, to enable the empty legal shell to be destroyed with the maximum of fairness, and the minimum bitterness, distress and humiliation.⁸

The Law Commission concluded that an offence-based divorce law fails to satisfy these criteria, since it discourages reconciliation, tends to embitter relationships, does not achieve fairness, and thereby increases the damaging effects on children when their parents split up. It did not accept the proposal of the Archbishop's Committee for an inquest, seeing this as humiliating and impracticable. A year later, both bodies issued an agreed statement proposing radical reform towards a no-fault principle. The breakdown of a marriage was to be established by one of a number of facts. The Government maintained a position of neutrality on the merits of the proposals, but the Law Commission's proposals were included in a private member's Bill which was introduced by Leo Abse MP, who outlined the defects of the existing legislation: first, it terminated dead marriages by channelling them into contestatory litigation, thus creating bitterness and hostility and minimising any chance of reconciliation; and second, it denied divorce to many people whose spouse refused a divorce, thereby condemning them to live in illegitimate second unions. Leo Abse suggested that the new proposals would strengthen rather than undermine the institution of marriage and be more supportive of family life.

Despite the radical nature of the proposals, however, what emerged was not no-fault divorce. The irretrievable breakdown of a marriage was to be proved by reference to one or more of five facts, which included the old fault-based grounds. Opponents to the Bill argued that divorce would be made easier and that more marriages would end as a result. Nevertheless, the Divorce Reform Act 1969 became law in January 1971, and has provided the basis for the current legislation in England and Wales enshrined in the Matrimonial Causes Act 1973. It was based on the belief that the court would need to be satisfied that the fact or facts on which irretrievable breakdown was claimed was or were so serious that further married life would be intolerable. In reality, inquiries are virtually non-existent if the respondent does not oppose divorce – and the advice given to respondents is usually not to oppose. Defended divorce has become a thing of the past, and 'quickie divorces' based on allegations of unreasonable behaviour or adultery are very much the norm.

During the 1970s and 1980s, as we have seen, the divorce rate continued to rise, and some opponents of reform blamed the 1969 Act for making divorce too 'easy'. Others felt that the legislation was not living up to its objectives: there was little attempt to identify

⁷ *Putting Asunder: A Divorce Law for Contemporary Society*, London (1966).

⁸ *Reform on the Grounds of Divorce: The Field of Choice*, Law Commission No. 6 (1966).

saveable marriages and to facilitate reconciliation, and bitterness, hostility and distress were not reduced. The promise of a no-fault system which would both support marriage and end dead marriages with the minimum of distress did not materialise, and the social and economic costs of a rising divorce rate were increasingly considered to be too high. Once again, steps were taken on the road to reform.

The Background to the Family Law Bill

In November 1995, for the first time in 138 years, the government of the day put forward proposals for divorce reform, which were outlined in the Queen's Speech. The Family Law Bill 1995 was introduced in the House of Lords after yet another period of lengthy and considered public debate and consultation beginning with the Report of the Matrimonial Causes Procedure Committee in 1985.⁹ The Committee concluded that the fault element in the existing legislation frequently exacerbated and prolonged the unhappiness experienced by divorcing couples. In 1988, the Law Commission¹⁰ published the first of two reports addressing the issue of divorce reform, arguing that the existing law fell far short of its objectives. In its second report,¹¹ published in 1990, the Law Commission concluded that reform was needed. It described the present system as confusing and misleading, as discriminatory and unjust, as distorting the parties' bargaining positions, as provoking unnecessary hostility and bitterness, as doing nothing to save marriages, and as making things worse for the children. In the view of the Law Commission, the present law had failed to meet either of its stated objectives. The defects cited were grave; and, above all, the present law was accused of failing 'to recognise that divorce is not a final product but part of a massive transition for the parties and their children'.¹² The Law Commission underlined the reality that divorce is almost always painful, that each party may be at different stages in the process when divorce proceedings are initiated, and that the law provides no opportunity for people to come to terms with what is happening in their lives or to reflect on the future. It acknowledged that some matrimonial proceedings will be bitterly contested irrespective of what the law sets out to achieve, but suggested that the courts should be kept to their proper sphere of adjudicating practical disputes, assuring due process and enforcing orders that have been made.

The Law Commission considered a number of options for reform, rejecting a return to a system based wholly on the matrimonial offence. It also rejected the suggestions of a judicial inquest, the granting of divorce on unilateral demand, divorce after a period of separation, and a mixed system allowing both fault and non-fault grounds. The preferred model for reform was one in which divorce was viewed 'as a process over time', and which granted a decree of divorce only after a period of consideration and reflection. The minimum overall period proposed for consideration and reflection was one year. The Law Commission was convinced that this model would find favour among the general public and among the professionals involved in the divorce process. The Law Commission went further, to suggest that counselling, conciliation and mediation services would be important elements in developing a new and more constructive approach to the problems of marital breakdown and divorce. While opportunities to use such services should be made available, participation was to remain voluntary (although it was proposed that the

⁹ Report of the Matrimonial Causes Procedure Committee (1985), *op. cit.*

¹⁰ *Facing the Future: Discussion Paper on the Ground for Divorce*, Law Commission No. 170 (1988).

¹¹ *The Ground for Divorce*, Law Commission No. 192 (1990).

¹² *Facing the Future* (1988), *op. cit.*, para 3.50.

courts should have power to refer couples to attend a preliminary interview to be given an explanation of the nature and purpose of mediation).

The Green Paper

The Government accepted the Law Commission's recommendations and embodied them in a Consultation Paper in 1993.¹³ The Government stressed its commitment to marriage and to the family, but acknowledged its limitations in being able to influence family relationships that had broken down, and recognised that 'changing the divorce law cannot save irretrievable marriages'.¹⁴ The Government believed, however, that 'the law and procedures can have a major effect on the way in which divorces are conducted, and on the impact of a divorce on those concerned'.¹⁵

The Green Paper laid out the objectives of the law and procedure as being:

- to support the institution of marriage
- to include practicable steps to prevent the irretrievable breakdown of marriages
- to ensure that the parties understand the practical consequences of divorce before taking any irreversible decision
- to minimise the bitterness and hostility between the parties and to reduce the trauma for children where divorce is unavoidable
- to keep to a minimum the cost to the parties and the taxpayer

A distinction was made between marriages which could be saved and those which were irretrievable. The Government's objective was to help to save the former, perhaps through the provision of counselling, and to slow down the process of divorce for the latter, making sure that people realise the full consequences of divorce for themselves and for their children. The belief was that a new divorce law could provide a system which could identify 'at an early stage those marriages that can be saved' and 'provide breathing space for examining the alternatives and for considering reconciliation'.¹⁶

Divorce law, then, was to reflect the seriousness and permanence of the commitment involved in marriage. It could not, however, prescribe happy marriages:

No statute, no matter how cleverly and carefully drafted can make two people love each other, like and respect each other, help, understand and be tolerant of each other or force them to live together in peace and harmony, while they are married and living together as husband and wife.¹⁷

¹³ *Looking to the Future: Mediation and the Ground for Divorce*, Cm 2424 (1993). Referred to subsequently in this report as the Green Paper.

¹⁴ *ibid.*, para 1.3.

¹⁵ *ibid.*, para 1.3.

¹⁶ *ibid.*, para 1.5.

¹⁷ *ibid.*, para 3.4.

It might be helpful to add that no statute, however carefully it is crafted, can make two people respect each other and force them to live in peace and harmony after they have divorced. There appears to be an expectation that if appropriate processes are put in place divorcing and divorced people will behave in a rational, responsible and conciliatory way. In promoting mediation in its proposals for reform, the Government believed that it could not only identify saveable marriages, but also enable spouses

to accept responsibility for the ending of the marriage, to address face to face questions of fault and blame and to deal with feelings of hurt and anger. Where the conduct of one spouse or another is an issue and is proving an impediment to an amicable settlement of the arrangements, mediation offers an opportunity to address what went wrong with the marriage.¹⁸

Mediation as it is practised in England and Wales is future-focused. It has not embraced attempts to deal with the ending of the marriage, and in this important respect the government of the day was almost certainly over-optimistic about the potential benefits of mediation. The Green Paper rightly describes mediation as an alternative to the adversarial method of resolving disputes or negotiating at arm's length through lawyers. Unfortunately, in its recommendation that mediation should be encouraged as part of a new and more constructive approach to divorce, the Government appears to have expected it to do rather more than offer an alternative dispute mechanism.

In order to encourage greater use of marital counselling (for reconciliation) and mediation (for dispute resolution), the Green Paper proposed that everyone contemplating divorce should be well-informed about the law and the procedures and consequences of divorce, and directed to services appropriate to their needs. This was to be achieved through the provision of a single first port of call for everyone wishing to initiate divorce. That first step would be a mandatory *personal interview*. This interview would:

- provide essential information about the divorce process, backed up with information packs and possibly a video
- offer advice about marriage guidance
- allow referrals to and enable appointments to be made with appropriate organisations and agencies
- influence the decision as to whether to mediate, to negotiate at arm's length through solicitors or to litigate
- include a preliminary assessment of the most appropriate way forward
- advise on the respective costs of different services
- advise on eligibility for state funding for those seeking the help of mediators and lawyers

The interviewer would provide general examples of how the law works in practice, but not of how the law might be applied to a particular case. The Green Paper made it clear

¹⁸ *ibid.*, para 7.5.

that legal advice should not be given, and defined legal advice as involving an explanation of how the law applied to the facts of a particular case and recommending a course of action.

A number of options were put forward as to who should conduct the interviews, including family court welfare services, mediation services or a new independent organisation. In the light of the circumstances disclosed at the interview, the parties would be informed that they could proceed on their own, take time to reflect and come back at a later date, be helped to make contact with one or more of the divorce-associated professionals, apply for public funding for mediation or legal advice, and/or complete the registration document that would initiate the divorce process. The entire interview was expected to take about an hour, and was clearly intended to be a very important gateway to information, help and non-legal advice, and to key agencies such as marital counselling, mediation and legal services. It was expected to be an interactive participatory interview, conducted in private on a one-to-one basis in a single first port of call.

The White Paper

After a period of consultation, the subsequent White Paper in which the Government laid out its proposals for legislation¹⁹ confirmed its commitment to there being a first port of call, and listed the advantages of this as providing an opportunity to consider whether divorce is the right course of action, ensuring that everyone obtained the same access to information about the divorce process and related matters, raising awareness of support services, and encouraging couples to consider family mediation. Nevertheless, the information given was to be 'entirely objective'. There was, however, a significant shift between the Green Paper and the White Paper in the Government's thinking about how to deliver the information. The proposal for an information interview had not met with overwhelming support. The Law Society, for example, in its response to the Green Paper, feared that the

provision of divorce information has been floated as a cheap and cheerful method of capping the Legal Aid budget.²⁰

The Law Society went on to suggest that

in an effort to cut solicitors out of the divorce process ... a home has had to be found for all of the functions – except advice – currently allotted to solicitors.²¹

The Solicitors' Family Law Association, in its response, believed that it would be impossible in practice to make a distinction between the provision of legal information and legal advice, and that family lawyers were the only professionals equipped to provide such a service, although it acknowledged that *if* information could be distinguished from advice, other professionals such as mediators and counsellors could be trained to give information.²²

¹⁹ *Looking to the Future: Mediation and the Ground for Divorce: The Government's Proposals*, Cm 2799 (1995). Referred to subsequently in this report as the White Paper.

²⁰ *Fairness for Families: The Law Society's Blueprint for Resolving Disputes on Family Breakdown*, The Law Society (1994), p. 12.

²¹ *ibid.*

²² Solicitors' Family Law Association, *Looking to the Future – Mediation and the Ground for Divorce*, (1994).

Not all the divorce-associated professions were as cautious, however. Relate, for example, in its response to the Law Commission's earlier proposals in respect of the provision of information, had suggested that accredited interviewers should be marital counsellors, mediators, probation officers or other professionals with a related casework qualification, including experience in working with couples.²³

Nevertheless, having noted concerns about the danger of information giving spilling over into advice giving, the Government moved away from a personal interview towards the proposal put forward in the White Paper for a group session which was viewed as 'a device for providing objective information face to face in the most expedient, comfortable and cost-effective manner', and as 'a much more sophisticated approach' regarding how much information might be presented (by the use of a video and talks by experts from different professions, for example). In proposing that attendance at a group session would be a condition precedent to starting the divorce process, the Government argued:

It will be essential that the information sessions present a fair and unbiased view of all the services available to couples and of the options open to them. Such a system should result in couples having a better understanding of the emotional, social and practical consequences of marriage breakdown and divorce. It should also mean that parents better understand the effects of separation and divorce on children, and especially the harmful effects on them of continuing conflict.²⁴

The focus was on helping couples to understand the consequences of their actions, and the emphasis was on maintaining 'a level playing field' for the various services from which they might seek help. The Government retained the objective of enabling couples with marital problems to be encouraged to seek help as early as possible, thus 'ensuring greater integration of Government policies supporting marriage with those on divorce'.²⁵ Apart from the shift to group information sessions, the Government's proposals largely reflected those of the Law Commission and those put forward in the Green Paper. The information session would mark the gateway to a 12-month period for reflection on whether the marriage could be saved, and consideration of the consequences of divorce before it happened. The Government listed ten major benefits of its proposals. It was suggested that the proposals would:

- ensure that couples whose marriages are in difficulty will be better informed about the options available to them
- introduce a system that is better at identifying saveable marriages
- facilitate referrals to marriage guidance when couples believe there may be some hope for the marriage
- make available every opportunity to explore reconciliation even after the divorce process has started
- ensure that there is an adequate period of time to test whether the marriage has genuinely broken down

²³ Relate Marriage Guidance, *A Year with Purpose: Relate's Response to the Ground for Divorce Law*, Commission Paper No. 192 (1991).

²⁴ The White Paper, *op. cit.*, para 7.21.

²⁵ *ibid.*, p. v.

- remove the acrimony and hostility inherent in the current divorce process
- minimise conflict and so reduce the worst effects of separation and divorce on children
- help and protect children by encouraging parents to focus on their joint responsibility to support and care for their children
- encourage couples to meet the responsibilities of marriage and parenthood before the marriage is dissolved
- allow couples to make workable arrangements through family mediation in respect of their children, home and other matters following separation or divorce

These benefits could be seen as providing markers against which the new legislation could eventually be judged. The Lord Chancellor, in his Foreword to the White Paper, spoke of having

a heavy responsibility to ensure our law recognises the importance of the institution of marriage and also to ensure that it does not impose unnecessary damage on the personal relationships with which it deals, particularly those of parents with their children.²⁶

These words are redolent of those of Lord Brougham, in the epigraph to this chapter, over 150 years earlier. The Government's proposals were embodied in the Family Law Bill, and many proved to be contentious, particularly for the Government's own supporters. In order to save the Bill from defeat the Government had to accept many amendments, particularly in the Committee Stage in the House of Commons.

From Family Law Bill to Family Law Act

Debates about divorce have, for centuries, aroused strong feelings about the place of marriage in society, and the debates in both Houses during the passage of the Family Law Bill were no exception. The then Lord Chancellor introduced the Bill on its Second Reading by reaffirming his commitment and that of the Government to marriage. He pointed out that consultations had revealed 'a very grave concern about marriage and the need for greater emphasis on and support for marriage'.²⁷ He went on to comment that the consultation about reform 'has been as much about marriage as it has been about the finer details of the divorce system'.²⁸ This duality also characterised all the ensuing parliamentary debates.

In order to promote the four key objectives of supporting marriage, promoting a conciliatory approach to divorce, reinforcing continuity in parenting and providing protection from domestic violence and child abuse, the Bill proposed the removal of the concept of fault as evidence of irretrievable breakdown. This was one of the most

²⁶ *ibid.*, The Lord Chancellor, Lord Mackay of Clashfern, p. ix.

²⁷ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 30 November 1995 at col. 700.

²⁸ *ibid.*

contentious elements, primarily because removing fault was considered by some as trivialising marriage:

Providing 'no fault' undermines marriage vows. What, after all, is the point of making a vow when there is no fault if you break it? ... The removal of fault undermines individual responsibility. By removing it, the state is actively discouraging a concept of lifelong commitment in marriage ... Furthermore, it undermines the legal basis of marriage by making the contract meaningless ...²⁹

The counter-argument referred to the inability of law to deal with the issue of blame:

To say that irretrievable breakdown should be the sole ground for divorce is not to deny personal responsibility for the breakdown of a relationship. It is not to deny the place of human fault and sin in the process of matrimonial breakdown. It is to say that a human court of justice is too blunt an instrument for apportioning blame in so complex an area of human behaviour ... what is the point of apportioning blame?³⁰

The latter view prevailed, and the no-fault provision was passed on a free vote in both Houses. Accordingly, the Act provides for one or both partners to begin the legal process of divorce simply by making a statement that the marriage has broken down. Only at the end of the legal process is a marriage to be assumed to have broken down irretrievably. This represents a considerable shift from the present system, where the specified fact 'proving' irretrievable breakdown is laid out at the very beginning of the process. Under the FLA, only after a period of reflection and consideration, and when all future arrangements have been made, is the marriage regarded as irretrievable and its dissolution as inevitable. Such a shift was intended to ensure that the door to reconciliation would be kept firmly open throughout the divorce process, and that the importance of attempting to save the marriage would be loudly signalled:

... the requirement that everyone should wait a minimum of a year before applying for an order ... together with the requirement that all arrangements will have to be decided before divorce, will do far more to reinforce and underline the institution of marriage and its inherent obligations and responsibilities, than the present system which allows quick divorce following allegations of fault.³¹

The period of reflection and consideration was one of the provisions which were the subject of considerable amendment in the House of Commons, resulting in the uncoupling of mandatory attendance at a meeting to receive information from the making of a statement of marital breakdown. The appropriate length of the period was a matter on which there was much disagreement, and concern about the impact of delay on children was an influential factor in the eventual decision-making. After much to-ing and fro-ing in debates, the Bill was amended to provide a minimum period of 12 months from attendance at an information meeting (9 months from the making of a statement of marital breakdown) before an application can be made for a divorce order, but where there is a child under the age of 16, or if one party applies for time for further reflection, then the minimum period is 18 months (15 months from the making of a statement of marital

²⁹ Baroness Young, Official Report (H.L.), 30 November 1995 at col. 733.

³⁰ The Lord Bishop of Birmingham, Official Report (H.L.), 30 November 1995 at col. 733.

³¹ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 30 November 1995 at col. 703.

breakdown). The period for reflection and consideration was to be used purposefully, and reflection was to be influenced in different ways: by the provision of information, through the opportunity to meet with a marriage counsellor, and through the use of mediation.

Information provision: a changing construction

As we have noted above, by the time the Family Law Bill was introduced in the House of Lords, the information interview had shifted to a group session. Concerns were expressed, however, particularly during the Committee stage in the House of Commons, about the seriousness of such a meeting and about the need for privacy:

... it could just mean turning up to a local citizens advice bureau – whether on one’s own or with other people – and being put in front of a video, or being given a leaflet entitled ‘How to get a divorce’ printed by the Lord Chancellor’s Department. That would not constitute what I consider to be a serious information meeting.³²

It seems that people could be herded into a room and addressed from the front or be given leaflets.³³

Furthermore, there was much discussion about the advantages of providing information which would direct people towards marriage counselling prior to the statement of marital breakdown being made. Hence, the notion of a compulsory group information session at the beginning of the divorce process gave way to that of a compulsory individual information meeting (at least one per marriage) which must be attended at least three months before a statement can be lodged. The intention was clear: an early meeting could focus on marriage support *before* steps are taken to initiate the divorce process. Suggestions that people should have a compulsory meeting with a marriage counsellor were withdrawn in favour of an information meeting which would direct people to counselling and marriage support services, which would either work towards saving the marriage or put a brake on the divorce process, slowing it down and enabling people to take stock. The period for reflection was brought forward, therefore, so as to start *before* formal legal proceedings could commence:

It is essential that the first visit should not be to a solicitor or a mediator, but to someone who is wholly neutral and will say, ‘Have you thought about the counselling option?’³⁴

People would attend a meeting to explore whether a marriage could be saved and if they say no, that is the end of the matter. At least they will know that they have to go to the meeting and why they are going – it is an opportunity and a window that will be opened. If people choose to go through it, that is a matter for them.³⁵

In support of this position, the Parliamentary Secretary acknowledged that the information presenter should possess counselling skills.

³² Mr Edward Leigh MP (Gainsborough and Horncastle), Official Report (Standing Committee E), 7 May 1996 at col. 136.

³³ Mr Paddy Tipping MP (Sherwood), Official Report (Standing Committee E), 7 May 1996 at col. 147.

³⁴ Mr Brazier MP (Canterbury), Official Report (Standing Committee E), 7 May 1996 at col. 142.

³⁵ Mr Boateng MP (Brent, South), Official Report (Standing Committee E), 7 May 1996 at col. 157.

The provision of marriage counselling

The strengthened focus on marriage support in an individual information meeting was further enhanced by other amendments. There was little disagreement during the course of the debates on the Family Law Bill that if some marriages were to be saved, emphasis must be placed on providing information about and encouragement to use marriage support services. During the Committee stage in the House of Commons, Mr Edward Leigh tabled a series of amendments which, in his view,

would ensure that the party or parties were given the opportunity for a voluntary meeting with a marriage counsellor, and that they were encouraged to hold such a meeting ... [and that] the meeting with a marriage counsellor was free of charge for those who qualify for legal aid.³⁶

He went on to acknowledge that marriage counselling may make no difference in respect of some 95 per cent of divorces, but that saving a few marriages would have a beneficial effect on society. The amendments found favour, and the Government expressed its commitment to doing what it could to save marriages wherever possible. The Government was persuaded that the information meeting could provide couples with the opportunity to take whatever steps they could to save the marriage, and that an opportunity for a meeting with a marriage counsellor would

strengthen the institution of marriage by providing parties with more time to reflect on the information they had received, and ... give those parties the opportunity to receive specialist assistance in the attempts to save their marriages.³⁷

The offer of a meeting with a marriage counsellor became enshrined in the legislation, although detailed work on the format of the meeting was left to the Lord Chancellor's Department in discussion with the marriage support organisations. Concerns were expressed in parliamentary debates about how such services would be monitored, the necessity of having appropriately qualified counsellors, and the emphasis which should be placed on saving marriages. Concerns were also expressed that the meeting with the marriage counsellor should not become

just another part of the divorce process, another box that must get ticked. That would detract from the perception that they [marriage counsellors] are outside the process [of divorce] and that people can go and see them voluntarily to seek alternatives.³⁸

Both the meeting with a marriage counsellor and further counselling would be free for those people eligible for non-contributory legal aid. The provision of public funding for counselling services was predicated on the understanding that

such services will be focused on marriage counselling and not on any other form of counselling that does not have the couple's possible reconciliation as a primary objective.³⁹

³⁶ Edward Leigh, MP (Gainsborough and Horncastle), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 136.

³⁷ The Parliamentary Secretary, Lord Chancellor's Department (Mr Jonathan Evans), Official Report (Standing Committee E), 7 May 1996 at col. 155.

³⁸ Julian Brazier, MP (Canterbury), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 154.

³⁹ The Parliamentary Secretary, Lord Chancellor's Department (Mr Gary Streeter), Official Report (H.C.), 17 June 1996 at col. 538.

MPs were realistic about what such opportunities would achieve for the majority of couples facing divorce, and the Parliamentary Secretary pointed out that

the notion that we can build into the Bill a mechanism that will transform parties seeking divorce into parties seeking reconciliation is unrealistic. We must therefore find ways of identifying the limited number of cases in which that may be a realistic prospect and help them to save their marriage.⁴⁰

Not all MPs restricted the use of counselling to attempts to save the marriage, however, and there was recognition of the value of encouraging someone to talk to a counsellor in order to ‘take stock’:

If people decide not to go through the process of counselling, it will still be helpful for them to have the opportunity to take stock of their marriage to talk to a counsellor. So often, when people are in trouble and have had a chance to talk they say, ‘I feel better for that’. The session would provide an opportunity to take the heat out of the system. People might not go for counselling to save the marriage, but they could have personal counselling to take the hurt out of an extremely stressful situation.⁴¹

Paul Boateng had expressed the view that the advantage of counselling,

whether for the purposes of exploring whether the marriage can be saved or for the purposes of coping with the trauma of divorce, is that it gives all the parties the opportunity to come to terms with [the causes of marital breakdown], either as a way of bringing them back together and saving the marriage, or of better equipping the parties to move forward into joint and agreed responses to the needs of the children, or into more successful second relationships ... From counselling one can best explore the hope of reconciliation, if such hope exists, and one can try to deal with the trauma that is the inevitable consequence of divorce.⁴²

Mr Boateng was reflecting on the need for people to deal with the ending of the marriage, and expressing the thought that counselling can also play an important role in that – a role that extensive research into Relate counselling has revealed and endorsed.⁴³

Nevertheless, despite the identification of other potential benefits, the (then) Lord Chancellor confirmed that

the Bill makes clear that it is marriage support services and marriage counselling that are in issue from the point of view of support ...

He continued:

When the Bill was in this House previously, I said I believed that marriage counselling was capable of being monitored in quite an effective way, because one can ascertain to what extent the consequences of counselling have

⁴⁰ The Parliamentary Secretary, Lord Chancellor’s Department (Mr Jonathan Evans), Official Report (Standing Committee E), 7 May 1996 at col. 150.

⁴¹ Mr Tipping MP (Sherwood), Official Report (Standing Committee E), 7 May 1996 at col. 148.

⁴² Paul Boateng MP (Brent, South), Official Report (H.C. Standing Committee E), 7 May 1996 at cols 132,133.

⁴³ McCarthy, P., Walker, J. and Kain, J., *Telling It As It Is: The Client Experience of Relate Counselling*, Newcastle Centre for Family Studies (1998).

produced continuation of marriages ... We shall put in place effective monitoring as part of the arrangements.⁴⁴

As we have found in the pilots, however, monitoring the consequences of counselling is far from straightforward.

Promoting conciliatory divorce

The focus on saving and supporting marriage remained at the heart of the debates on the Family Law Bill, with a very high level of consensus that the legislation should convey strong messages about the significance of marriage. In the early stages of debate anxiety was expressed that there was too little emphasis on reconciliation as an objective, and too much emphasis on mediation:

It is mediation on which the Bill focuses and I suggest that it is reconciliation on which it should focus.⁴⁵

To a large extent, the moving of marriage counselling to centre stage reshaped the Bill from one that began by being primarily focused on facilitating conciliatory divorce to one primarily focused on saving marriage, particularly in Part II. Certainly there was not the same universal enthusiasm for mediation as there was for marriage counselling, and there was a very real belief that mediation must remain a voluntary process which could not be expected to be appropriate for everyone. There were concerns that mediation might become the option that was inevitable if people could not afford legal advice: in other words, it would become a second-class service. Whereas the Law Commission and the Government's Green and White Papers all promoted mediation as central to a reformed process of divorce, members of both Houses were more circumspect about its role. The Government saw mediation as capable of reducing bitterness and tension, improving communication and reducing cost. Yet the Commons debates led the Government to table an amendment that there would be no presumption in favour of either mediation or legal representation, thus ensuring an even-handed approach to dispute resolution processes. Nevertheless, the requirement to attend a meeting with a mediator before a party can receive legally-aided representation remained and is already enacted. It was claimed that Section 29 meetings with mediators

will allow parties to make an informed decision on the basis of the facts, and in the process learn of the considerable benefits of mediation for the parties and the children.⁴⁶

Such a provision was not contentious, because it was agreed that

the parties should be free to make an informed choice between mediation and the courts, that requires such a meeting. I hope that in a large number of cases they will prefer mediation ... In pinning so much faith on mediation we are entering substantially uncharted seas.⁴⁷

As the MP for Meirionnydd Nant Conwy put it:

⁴⁴ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 27 June 1996 at col. 1063.

⁴⁵ Lord Ashbourne, Official Report (H.L.), 15 November 1995 at col. 171.

⁴⁶ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 27 June 1996 at col. 1104.

⁴⁷ Lord Irvine of Lairg, Official Report (H.L.), 27 June 1996 at cols 1105, 1064.

Mediation is a welcome principle and it will help in due course to take away a great deal of the acrimony from divorces ... The Bill could prove useful in increasing the success rate of mediation by ensuring an early referral to qualified mediators ... described ... as the 'central plank' of the Government's proposals. As yet, we do not know whether that central plank will be made of teak or balsa wood.⁴⁸

Teresa Gorman described mediation as the 'nouvelle cuisine' of the Bill, and suggested that most people prefer a 'good meal' and, if they can afford it, will go to a solicitor:

The Bill's presumption in favour of mediation is misplaced. At best it is idealistic. At worst, it is naïve.⁴⁹

Speaking for the then Opposition, Mr Boateng went further and argued for the creation of

a context in which there is genuine choice between court-based solicitors and mediation, in which there is an important possibility of moving from mediation to obtaining legal advice, assistance and, if necessary, representation, and back to mediation ... One can buy into mediation and, equally, one can buy into legal advice, assistance and representation as and when appropriate ...

There should be a genuine market in this service. The purpose of the information session is to inform the parties of the nature of that market and what it holds out. It should not be to drive people particularly those who are publicly assisted along a certain path ... It is quite wrong to say that because someone is eligible for legal aid he must go down one course and that someone who is not can do as he pleases ... it must be a genuine choice ... We look for the clearest possible indication from the Government that they accept the principle of a genuinely level playing field between mediation and court-based, lawyer-based solutions and services.⁵⁰

It was the notion of choice which prevailed and the 'level playing field' approach was acknowledged, with clear agreement that even if couples did choose to mediate they would most probably wish to seek legal advice. The extent to which this approach should be retained has emerged as a contentious issue during our evaluation.

The Search for Clarity and Focus

As in 1857, the Act which emerged from the parliamentary process in 1996 was substantially different from the Bill which the Lord Chancellor had introduced. Not all the changes were welcomed, and many members of the House of Lords expressed the view that the original provisions had been better. In respect of the period for reflection and consideration, Lord Irvine of Lairg commented:

... in some respects the Bill was a better Bill when it left this House ... I have expressed a number of times during our consideration of the Bill: that unnecessary delay and uncertainty would be in many cases detrimental to the

⁴⁸ Mr Llwyd MP (Meirionnydd and Nant Conwy), Official Report (Standing Committee E), 14 May 1996 at cols 249, 251, 252.

⁴⁹ Teresa Gorman MP (Billericay), Official Report (Standing Committee E), 14 May 1996 at col. 255.

⁵⁰ Mr Boateng MP (Brent, South), Official Report (Standing Committee E), 14 May 1996 at cols 259, 260.

interests of the children. I have confidence that the courts will be well able to identify the very many cases where that concern would be justified, so that the further six months should come out in those cases.⁵¹

Earl Russell was similarly concerned:

When a piece of legislation of this sort is introduced, it must be necessary to hope that it will last for at least a generation. I believe that the Bill the noble and learned Lord first introduced met that criterion. The Bill as we have it now, after bitter battles in the course of its passage, falls short of meeting it.⁵²

Despite these reservations, however, the amendments were accepted and a somewhat complex Family Law Act emerged. It has been described as ‘conceptually unusual’,⁵³ primarily because of the inclusion of a process which must be gone through before legal proceedings to terminate a marriage can be commenced, and because of the emphasis on counselling and support services which, for the first time, would be government-funded. As Cretney and Masson have pointed out, ‘the Family Law Act will revolutionise the concept of divorce’.⁵⁴ Nevertheless, they and others have remained sceptical about whether the predicted beneficial effects can be delivered. They point to an excessive reliance on the benefits of mediation, and to unrealistic assumptions about human behaviour:

We would all hope that the parties will indeed give anxious consideration to whether their marriage has broken down irretrievably and to the consequential arrangements. We must hope that mediation and counselling will be successful in this respect. But the evidence for believing that these expectations will be fulfilled is not overwhelmingly convincing.⁵⁵

Fears have been expressed that, notwithstanding ‘the admirable intentions of those who constructed the reform proposals’, the Family Law Act ‘will ensnare countless uncomprehending people in a monstrous and costly legal, social work and counselling nightmare’.⁵⁶ Part 1 of the FLA describes the four general principles underlying Parts II and III of the Act. These are:

- (a) that the institution of marriage is to be supported;
- (b) that the parties to a marriage which may have broken down are to be encouraged to take all practicable steps, whether by marriage counselling or otherwise, to save the marriage;
- (c) that a marriage which has irretrievably broken down and is being brought to an end should be brought to an end
 - (i) with minimum distress to the parties and to the children affected;
 - (ii) with questions dealt with in a manner designed to promote as good a continuing relationship between the parties and any children affected as is possible in the circumstances; and
 - (iii) without costs being unreasonably incurred in connection with the procedures to be followed in bringing the marriage to an end; and
- (d) that any risk to one of the parties to a marriage, and to any children, of violence from the other party should, so far as reasonably practicable, be removed or diminished.

⁵¹ Lord Irvine of Lairg, Official Report (H.L.), 27 June 1996 at cols 1070–1.

⁵² Earl Russell, Official Report (H.L.), 27 June 1996 at col. 1094.

⁵³ Cretney, S.M. and Masson, J.M., *Principles of Family Law* (6th edn.), Sweet & Maxwell (1997).

⁵⁴ *ibid.*, p. 374.

⁵⁵ Cretney, S.M., ‘Divorce reform in England: humbug and hypocrisy or a smooth transition’, in M.D.A. Freeman (ed.), *Divorce: Where Next?*, Dartmouth (1997), p. 52.

⁵⁶ Cretney and Masson, *op. cit.*, p. 382.

One could argue that the Act attempts to do too much, and that there were unrealistic expectations that one piece of legislation could save marriages, change the culture of divorce (one which has been dominant for centuries) and promote a new era of co-operative post-divorce parenting (what Smart has referred to as ‘social engineering’⁵⁷). In this sense, the Act can be seen as reasserting traditional family values within the context of divorce, and as presuming a standard model of family life and human behaviour which is capable of being shaped and influenced by certain interventions, and by new ways of approaching marriage breakdown. But, as was pointed out in debate:

The great problem with family law, which has beset every attempt this century to deal with family law reform, is that the rhetoric and reality seldom meet. The circumstances of breakdown are not altered by changing the rhetoric.⁵⁸

Information meetings emerged as the device for changing both the rhetoric and the reality, for identifying saveable marriages and for encouraging reflection and consideration on the steps which might be taken. There was an implicit belief that behaviour

is fundamentally rational, people will respond to information and reasoned argument; therefore, to achieve desired policy goals, all you need do is to explain them effectively and people will follow them.⁵⁹

Our evaluation of the pilots draws attention to the need to be clear about what information meetings can be realistically expected to achieve and about the focus which they should have. As Eekelaar has pointed out, ‘legal attempts to maintain particular patterns of behaviour, particularly with regard to family living, have not been very successful’.⁶⁰ The following observation of Paul Boateng during a Commons debate is particularly significant for a consideration of the pilots and the way in which their impacts may be judged:

It is an illusion to suppose that at the information meeting a magic wand can be waved that will direct people in the ‘right direction’ of mediators, lawyers and people concerned with reconciliation, because it will not happen.⁶¹

It was always the Government’s intention to pilot the novel interventions in the Act prior to its implementation. With a radically reconstructed piece of legislation to implement, it was left to the Lord Chancellor’s Department to interpret parliamentary intent and to establish pilot projects which would be evaluated. Operationalising Part II of the Act was to be no easy task.

⁵⁷ Smart, C., ‘Wishful thinking and harmful tinkering?’, *Sociological Reflections on Family Policy*, vol. 26 (1997), pp. 301–21.

⁵⁸ Mr Boateng MP (Brent, South), Official Report (Standing Committee E), 7 May 1996 at col. 133.

⁵⁹ Eekelaar, J., ‘Family law: keeping us on message’, *Child and Family Law Quarterly*, vol. 11, no. 4 (1999), pp. 387–96.

⁶⁰ *ibid.*

⁶¹ Mr Boateng MP (Brent, South), Official Report (H.C.), 25 March 1996 at col. 754.

Chapter 3

Establishing Pilots

Janet Walker

I am heartened to learn that many flowers will be encouraged to bloom.
Perhaps afterwards we can assess the results.¹

In January 2000, the Prime Minister commented that policy is not just a question of having an idea, but of pushing it through the system.² As we have seen in the previous chapter, changes made to the Family Law Bill as it progressed through Parliament were based on more than one idea, necessitating a good deal of ‘pushing’ to get it through several systems. Moreover, these ideas were not free from ambiguity and ambivalence, and the different interests which promoted them were not always compatible. What emerged was not going to be easy to implement and the government of the day deemed it important to try to get it right before introducing a raft of new provisions. This was particularly pertinent to the mandatory provision of information. Once on the statute book, information meetings required a policy of implementation. The emphasis needed to shift from the conceptual changes that are preconditions of policy innovation to policymaking as an institutional as well as an intellectual phenomenon.³

Governments have long been in the business of providing, directly or indirectly, information to citizens in general or to particular groups. Information is seldom value-free and often governments willingly engage in the gentle art of persuasion.⁴ The requirement in the FLA, however, that anyone wishing to make a statement of marital breakdown should (except in prescribed circumstances) have attended an information meeting not less than three months previously was considered unique, and no lessons were drawn from the past. Instead, lessons were to be derived from commissioned research which would investigate the extent to which innovative information meetings were structured in accordance with the four general principles laid out in Part I of the Act and advise on the steps necessary for implementation. This evaluation was to focus on a number of pilot projects devised by the Lord Chancellor’s Department.

Describing attendance at an information meeting, the (former) Lord Chancellor stated that giving information

is intended to be one of the ways whereby, before they take steps towards obtaining a divorce, couples will be made aware of the enormous emotional, social and economic upheaval involved in divorce and, very importantly, the services available to help and support couples.

¹ Lord Archer of Sandwell, Official Report (H.L.), 21 January 1996 at col. 839.

² The Rt Hon. Tony Blair MP, *Blair’s Thousand Days*, BBC, 30 January 2000 [interview].

³ Banting, K.G., ‘The social policy press’, in M. Bulmer (ed.), *Social Science and Social Policy*, Allen & Unwin (1996).

⁴ Eekelaar, J., ‘Family law: keeping us “on message”’, *Child and Family Law Quarterly*, vol. 2, no. 4 (1999), pp. 387–96.

Information-giving is intended to ensure that people get all the information available about the services on offer. It will communicate the facts that will help people make decisions on a basis of knowledge.⁵

During the passage of the Bill, the Lord Chancellor made it clear that a variety of options for information giving were being considered and that these would need to be tested. There being no existing blueprint for the best way of communicating the information, there was a general expectation that it would take some time before the best model or series of options was decided upon. The FLA nevertheless requires that regulations must make provision with respect to the giving of information about a range of topics listed in Section 8(9) as:

- (a) marriage counselling and other marriage support services;
- (b) the importance to be attached to the welfare, wishes and feelings of children;
- (c) how the parties may acquire a better understanding of the ways in which children can be helped to cope with the breakdown of a marriage;
- (d) the nature of the financial questions that may arise on divorce and separation, and services which are available to help the parties;
- (e) protection available against violence, and how to obtain support and assistance;
- (f) mediation;
- (g) the availability to each of the parties of independent legal advice and representation;
- (h) the principles of legal aid and where the parties can get advice about obtaining legal aid;
- (i) the divorce and separation process.

This list is not intended to be exhaustive.

During December 1996 the Lord Chancellor's Department laid down specific criteria for the delivery of a pilot information meeting. A number of agencies in the voluntary sector were then invited to tender to set up pilot projects and to deliver prescribed models of information meeting. In March 1997, the (then) Lord Chancellor announced the award of the first five pilots which would become operational in June 1997. In July 1997 a sixth pilot was announced, to become operational in October 1997. The period between drawing up the specifications and the opening of the first pilots was just under six months, during which time the models were developed and the scripts were written, presenters were selected and trained, and organisational arrangements were made for the management of the projects and the procurement of suitable venues for meetings. Everyone involved felt under pressure to establish a new service very quickly, but recognised that the government wanted the Act implemented as soon as was possible following a period of piloting.

⁵ Walker, J. and Hornick, J.P., *Communication in Marriage and Divorce*, BT Forum (1996).

Thereafter eight further pilots were launched, giving a total of 14 information meeting pilots in operation during the two-year period June 1997–May 1999. The pilots were based on a variety of geographical areas in England and Wales (11 in total), each with at least 6,000 divorces per year, and exhibiting an urban–rural mix and including people from a range of cultural backgrounds (Figure 3.1). They were:

- *Birmingham and Coventry*. Covering these two urban centres, and managed by a partnership arrangement between two Relate Centres led by Birmingham Relate.
- *East Anglia*. Covering urban and rural locations to include Cambridge, Norwich, King’s Lynn, Lowestoft, Great Yarmouth, Ely and Bury St Edmunds. It was managed by a consortium led by the Cambridge Family and Divorce Centre.
- *Leicester and the East Midlands*. Covering a geographical area which included Leicester, Derby, Burton-on-Trent and Nottingham. It was managed by Relate Leicestershire.
- *South Yorkshire and North East Derbyshire*. Covering Barnsley, Chesterfield, Doncaster, Rotherham and Sheffield, and managed by a consortium led by South Yorkshire Family Mediation based in Sheffield.
- *South Wales*. This pilot covered a large geographical area with extensive rural areas. It included Cardiff, Haverfordwest, Swansea, Bridgend, Blackwood, Carmarthen, Newport, Pontypridd, Llanelli, Merthyr Tydfil and Neath. It was led by Family Mediation Cardiff.
- *North East*. Covering a geographical area from the Tees to the Tweed which included Teesside, Darlington, Bishop Auckland, Consett, Durham, Sunderland, South Shields, Gateshead, Newcastle upon Tyne, North Shields, Morpeth, Hexham, Alnwick and Berwick. It was managed by a consortium led by Relate, Northumberland and Tyneside, and was known as Info-North East.
- *Greater Manchester*. Covering an area including Altrincham, Bolton, Bury, Leigh, Manchester, Oldham, Rochdale, Stockport, Salford, Tameside and Wigan. It was managed by Greater Manchester Probation Service.
- *London*. The London pilot covered central London, in which the Principal Registry of the Family Division is situated, Barnet, Brentford, Bromley, Edmonton, Ilford, Kingston upon Thames, Willesden and Wandsworth. The pilot was managed by NCH Action for Children. The capital inevitably posed a particular problem in respect of pilots since the Principal Registry of the Family Division is not a typical divorce registry.
- *South West*. Covering an extensive rural area which included Swindon, Trowbridge, Salisbury, Bath, Bristol, Weston-super-Mare,

Taunton and Yeovil. It was managed by Wiltshire Probation Service with the support of Avon and Somerset Probation Services.

- *Solent and Isle of Wight*. Covering Basingstoke, Bournemouth, Christchurch, Fareham, Isle of Wight, Poole, Portsmouth, Southampton and Winchester. It was managed by a firm of solicitors based in Christchurch.
- *Merseyside and North Wales*. Covering Caernarfon, Llangefni, Rhyl, Wrexham, Chester, Liverpool, Birkenhead, Southport, St Helens and Warrington. It was managed by a firm of solicitors based in Birkenhead.

During the piloting period, pilot agencies in three areas (East Anglia, Leicester and the East Midlands, and the North East) each conducted two pilot projects. In addition, the Greater Manchester pilot ran a special postal study which covered the London and Greater Manchester pilot areas. Information provision in the pilots was not integrated with existing services, but divorce-associated agencies in the private, voluntary and statutory sectors were invited to extend their services to establish this new innovation.

Interdisciplinary Co-operation

The Lord Chancellor's Department considered it to be essential that the pilots were given as much help and support as possible from the professional groups most closely associated with marriage breakdown and divorce, both locally and nationally. The Department proposed a system of local interdisciplinary fora (LIDF) and a National Interdisciplinary Forum (NIDF) to provide a vehicle for organised feedback from the various professions on the effects of information meeting pilots on each professional group and the relationships between them.

The LIDF were expected to promote an understanding of the provisions of the FLA and the pilots, thus ensuring a source of local support for the pilots. The National Council for Family Proceedings worked with local pilot managers to set up the LIDF in each of the first five pilots, and a list of organisations to be represented on each forum was agreed with the Department. To encourage local ownership of the pilots, each forum selected its own Chair, Deputy Chair and representative to the national forum. Later pilots were encouraged to establish an interdisciplinary support group along the lines of the original LIDF. The support groups varied in size and membership and were somewhat less structured than the original fora.

The National Interdisciplinary Forum was made up of representatives from all the local fora and interdisciplinary support groups, and senior members from various divorce-associated professions and agencies, chaired by the Rt Hon. Lord Justice Thorpe. Its task was to promote understanding and support at a national level. The key purpose both locally and nationally was to promote interdisciplinary co-operation, communication and understanding through the co-ordination of professional interests.

Members of the research team attended meetings of the LIDF as observers whenever possible, and received minutes and discussion documents from them. The Research

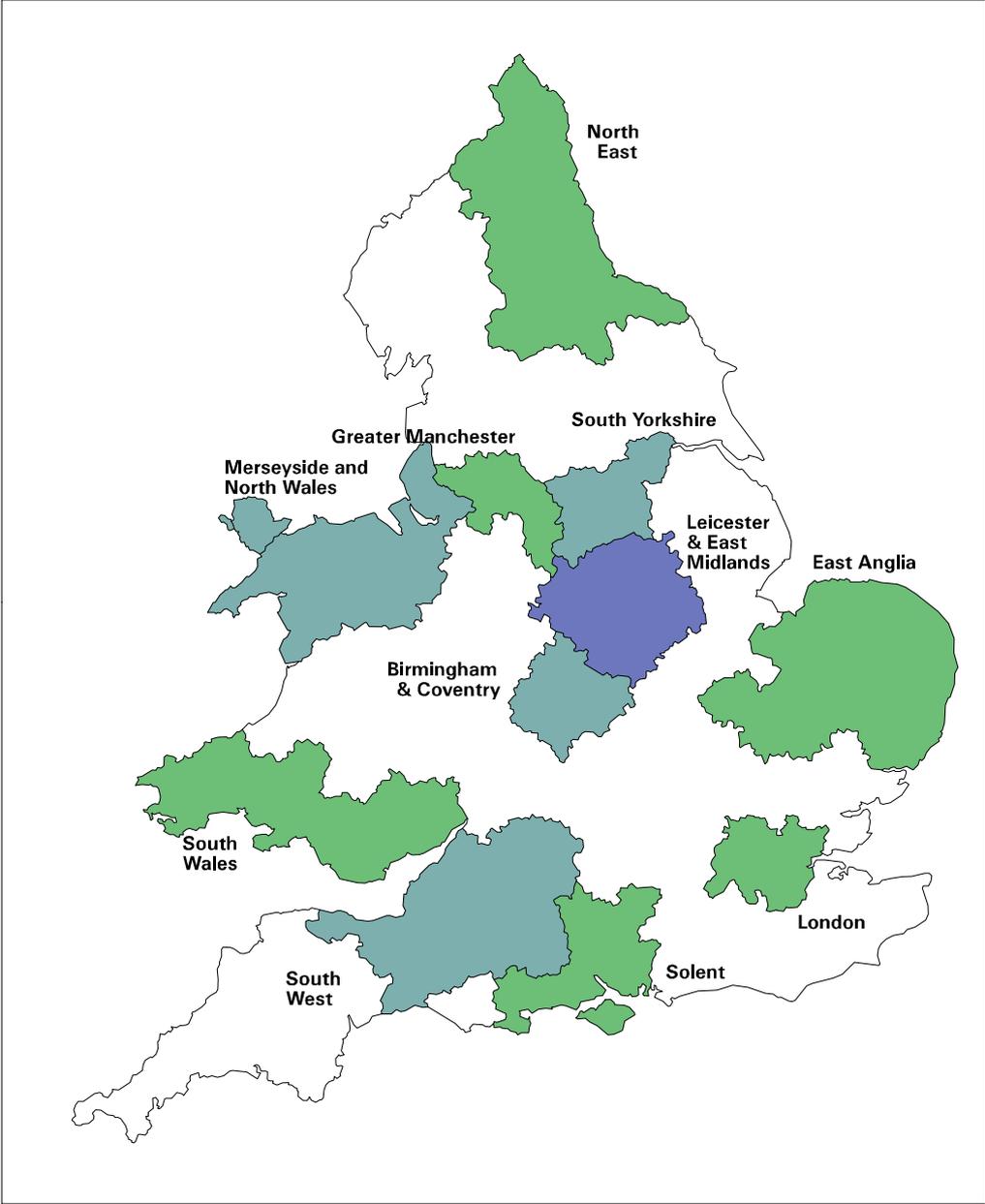


Figure 3.1 The pilot study areas

Director and/or the Principal Research Associate attended all the meetings of the NIDF in order to provide regular feedback on the evaluation of the pilots.

Developing Models

The pilot period provided a unique opportunity to test different ways of delivering the information. The FLA does not prescribe any model for delivering the information, beyond stating that different information meetings must be arranged with respect to different marriages. It was therefore open to the Government to test a number of models in various combinations, and to refine or abandon them depending on the research findings and policy considerations.

It is clear that the information meeting within the parameters of the FLA draws on a number of differing conceptions and can be shaped by different interests such as those concerned with preserving the institution of marriage against the rising tide of marriage breakdown and divorce, those preserving the interests of women in the face of abuse and violence, and those seeking to promote the best interests of children. The information meetings developed in response to those concerns. The models had to be developed from scratch, yet within an environment of competing interests and claims by long-established professional groups, such as lawyers, that the provision of divorce-related information is already one of their primary functions. In order to steer a course between different interests and views concerning the purpose and actual delivery of information, and also to pursue the twin objectives of saving marriages and facilitating less conflictual ways of ending them, the information meeting was officially conceived as structured, impersonal and routine. The pilots sought to test different models of delivery of such meetings within the constraints imposed by existing legislation, although attempts were made to ensure that those attending information meetings reflected as closely as possible those who would be obliged to attend under an implemented system.

The Lord Chancellor's Department made it clear that the information meeting was not counselling, not mediation, and not advice (legal or otherwise). Pilots were given no leeway in developing or modifying any of the models, all of which were structured and scripted centrally. Strict attention was given to the quality and nature of information to be conveyed. It was to be pure information, unsullied by any hint of possible, preferable options. Thus there was to be no hard sell given to mediation, and certainly no attempt to divert people away from one professional group (for example, solicitors) towards another (for example, mediators). The aim was to promote informed choice for as large a proportion of the population as possible. The emphasis was on maintaining a 'level playing field' for the various services as had been proposed in White Paper, and this was a key factor when the information meetings were designed and the scripts prepared.

The Family Law Act specifies a number of subjects about which information is to be given, but it does not specify the way in which this should be done. It is usual in many jurisdictions which have some kind of information-giving process for divorcing couples to be provided with written materials, often in the form of a booklet, and to be shown videos which talk about the divorce process, and about children. One important way of making it possible for people to look at the information in their own time after attending an information meeting is to provide them with the material in such a form that it is available whenever it is required. The Lord Chancellor's Department concluded that the information meeting should be supported by a range of leaflets covering in some depth the subjects referred to in the meeting. The National Council for Family Proceedings co-

ordinated the production, asking the key professional bodies (such as the Law Society, marital support agencies and so on) and leading experts to prepare leaflets relevant to their area of work or knowledge. The result was a series of carefully designed leaflets with a common logo which were grouped by topic in coloured plastic folders within an envelope-style plastic box, commonly referred to in the pilot projects as the 'sandwich pack'. During some models of meeting the attendee was guided through the leaflets so that he or she could locate them at a later date. Included in each pack was a directory of local services prepared by each pilot, listing the various types of services referred to in the leaflets. At the end of every type of meeting, the pack was given to the attendee to take away and keep. Descriptions of the leaflets are given in Annexe 2.

At the beginning of the pilot period, the Lord Chancellor's Department decided to develop and test two models, known simply as Model A and Model B (see Annexe 3 for a complete list of all the pilot areas and the models they offered). In all, six different models were tested, and these are discussed in turn.

Model A

Model A consisted of an individual information meeting of up to one hour in duration, and covered all the information topics prescribed in the Act (Section 8(9)). At the end of the meeting an information pack was given to the person attending to take away.

Model B

Model B was a two-stage information meeting. The first part was an individual information meeting of up to 30 minutes in duration, outlining all the matters set out in Section 8(9). At the end of the individual meeting the information pack was given to the person attending. The second part consisted of a group presentation held on another occasion, which involved a lecture-style presentation for up to twenty people, during which two presenters offered information about the process of divorce, its impact on children, and the various ways in which disputes may be resolved, with a particular focus on explaining mediation. During the presentation a short video was shown. This was commissioned by the LCD through the National Council for Family Proceedings as part of the information materials supporting the information meeting pilot.

Whereas Model A provided a single occasion for receiving the information, Model B assumed attendance on two separate occasions, and two distinctly different types of meeting and presentation. These two models were the ones tested in the first six pilots.

Model C

Taking into account the tensions between saving marriages and rendering the divorce process more civilised, while also considering the findings emerging from the evaluation,⁶ the Lord Chancellor's Department decided to test a new model of information meeting, known as Model C, which might reflect the concerns about supporting marriage more closely. During the passage of the Family Law Bill, the (then) Lord Chancellor believed that an information meeting would provide the start to a process of reflection and many

⁶ Walker, J. (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998).

members on all sides of both Houses expressed support for a process which encouraged people to question whether or not the marriage is saveable, and whether divorce is the only option. Lord Irvine of Lairg, the present Lord Chancellor, stressed that one of the purposes of the information meeting is to encourage the parties to take up the opportunity of marriage counselling with a view to saving the marriage. Hence the rationale for a minimum period of three months between someone attending an information meeting and being permitted to make a statement of marital breakdown.

Concern was expressed also about ensuring that those who attended the information meetings were ready to hear the information, and that information was given in such a way that people could understand and embrace it. Our very early analysis of the data from the first pilots⁷ suggested that people going to the Model B information meeting, which was in two parts, appreciated the chance to be given more information at a later date, after having had the opportunity to read the information in the packs and consider their own position. Indeed, people seemed to find both parts, the individual meeting and the group presentation, helpful. Moreover, some people who had been to Model A – the one-hour meeting – suggested that it would have been useful to have had a follow-up session at a later date. So, taking the spirit and philosophy of the Act with its strong emphasis on saving saveable marriages and encouraging reflection before divorce proceedings are commenced, and building on the early research evidence, the Department decided to test the two-stage model in a more structured way.

Model C consisted of a brief individual meeting for people who were contemplating divorce before they had commenced divorce proceedings. It focused specifically on the emotional aspects of marriage breakdown and the possibility of saving marriages, through, for example, the availability of marriage counselling and other support services. The information about children, domestic violence, the divorce process and legal and mediation services was introduced very briefly. At the end of that meeting, which lasted about twenty minutes, the full information pack was given out. The idea was to encourage people to ask themselves whether the marriage really is at an end, or whether there might be possibilities for reconciliation. If and when attendees decided to file for divorce, they were offered a second meeting – Stage 2 of Model C – which took the form of a group presentation of up to 1¼ hours in length, which covered all the topics listed in the Act, but gave increased focus to the divorce process, legal services, mediation, and how children's needs can be considered. It included the showing of a revised video. Like Model B, it was a lecture-style presentation for up to twenty people involving two presenters.

Model C, like Model B, also provided for information to be given in two stages, but with the timing of these more structured than in Model B. In Model C, the individual marriage-focused meeting occurred pre-proceedings, and the group presentation was offered post-proceedings. People coming to an information meeting who had not filed for divorce went to an individual meeting. If they went on to divorce proceedings they were invited to Stage 2 – the group presentation. On the other hand, people wanting to attend an information meeting who had recently filed for divorce went straight into the group presentation and were given their information pack at that meeting.

Model D

Although the FLA does not provide for mandatory attendance at a group presentation, as originally envisaged in the White Paper and the Family Law Bill, the advantages and

⁷ *ibid.*

disadvantages of attending a group presentation remained important considerations, particularly if a two-part model was found to be effective. Because Models B and C assumed attendance at an individual meeting prior to any attendance at a group presentation (although, in reality, relatively few people attended both), we argued that we could not know how far people's experiences of the group presentation were being influenced by earlier attendance at an individual meeting. In other words, the merits or otherwise of a group presentation could not be disentangled from a wider experience of receiving information before proceedings have been commenced. Given the unique possibility of testing a variety of models in the pilots, we advocated that group presentations should be tested as a stand-alone model. The Department agreed to this, and introduced Model D in Spring 1998.

Model D consisted of a group presentation only, for up to twenty people, for all those applying to attend an information meeting. The group presentation provided information about all the matters referred to in Section 8(9) of the FLA; presenters worked in pairs to a set script; and the presentation included the video used in Group C presentations. Model D took about 1¼ hours to deliver and an information pack was given at the end.

Model E

Later in the piloting period, the Department was particularly keen to test the use of interactive technology in the information meetings. It was possible that the use of a CD-ROM might both satisfy the need for strict quality control and provide the attendee with a level of flexibility to access the information which was considered most relevant. Models E and F focused on the provision of information through technology.

Model E was intended to replicate Model A, but using a CD-ROM instead of a presenter. Facilitators introduced the presentation to the attendee to a prescribed script, and assisted in the use of the CD-ROM. The meeting was expected to last about an hour, with the attendee left alone to use the CD-ROM for most of that time. Attendees were given the information pack by the facilitator at the end of the meeting.

Model F

Model F was based on Model C and provided for a two-stage meeting. The first stage replicated the individual meeting in Part C, but was delivered via a CD-ROM, which was expected to take about twenty minutes to complete. The focus was on marriage and marriage support services, and the facilitator gave an information pack to the attendee at the end of the meeting. The second stage of the model was for people who went on to file for separation or divorce, and was exactly the same as for the second stage of Model C. In other words, it was a group presentation run identically to that in Model C.

During the pilots, then, six different models of information meeting were evaluated, each model being operated in at least two pilot sites. Models A and E were individual meetings intended to cover all aspects of the information required by the Act. Models B, C and F were two-part meetings, with Models C and F providing a short individual meeting pre-divorce proceedings and a group presentation after proceedings had been commenced. Only in Model B could attendees access both parts at any stage in the process of marital breakdown. Model D was the only stand-alone group meeting in which no individual component was offered at any time.

Not all the models tested conformed to the requirements of the Act as it is currently constituted. Nevertheless, the establishment of pilots was designed to be experimental, and hence the government took the opportunity to try out a range of information provision. Prior to the establishment of the CD-ROM pilots, legal opinions were sought as to whether or not the provision of information in a meeting using a CD-ROM would constitute a 'meeting' for the purposes of the Act. The lawyers on the research team (Caroline Bridge and Richard Collier) gave a written opinion to the Lord Chancellor's Department, confirming that the use of a CD-ROM with a facilitator did not appear to be contrary to the spirit of the legislation. In their carefully considered opinion, the accessing by attendees of information through Models E and F would amount to statutory attendance at an information meeting.

Postal pack study

In addition to these six models, a special postal pack study was conducted within the London and Greater Manchester pilots after they had completed their work on Model C. The purpose of evaluating the provision of information by post was to enable us to attempt to disentangle the impact of attending an information meeting from the impact of receiving the information pack and this provision was, therefore, a strategy which we felt would provide useful data for policy purposes. People were invited to telephone a call-centre (located in the Manchester pilot) to request the pack if they were considering separation or divorce. This element did not constitute a model in its own right, but allowed us to focus on the provision of information through the written word only.

Meeting with a Marriage Counsellor

The testing of information meetings was not the only novel element of the FLA to be piloted. Part 1, Section 1(b) of the Family Law Act lays down the following principle:

The parties to a marriage which may have broken down are to be encouraged to take all practicable steps, whether by marriage counselling or otherwise, to save the marriage.

The proposal for a meeting with a marriage counsellor had put an additional provision on to the Statute (Section 8(6)(b)), which would have to be developed and tested prior to implementation. In February 1998, the Lord Chancellor's Department decided that it would test the provision and that this should be evaluated as part of the research programme. Five marriage agencies (Relate, Marriage Care, the Institute of Marital Studies (Tavistock), the Jewish Marriage Council and One-Plus-One) were tasked with developing a protocol for the meeting. The meeting with a marriage counsellor was tested in eight of the pilot sites and through the postal pack study. As with information meetings, the meeting with a marriage counsellor was an innovation, but it was structured around a solution-focused model⁸ which encouraged a greater level of dialogue with the attendee than was encouraged in the information meetings. Although the focus was on problem-solving, the meeting itself did not go into counselling. The meeting with a marriage counsellor was offered free of charge during the pilots, and attendees could attend alone or with their spouse.

⁸ See de Shazer, S., *Keys to Solution in Brief Therapy*, Norton (1986).

Aims and Objectives of the Pilots

The pilots were established to discern the most effective way of implementing the novel provisions within Part II of the FLA. It was the intention of the Lord Chancellor's Department to modify and refine the information meeting in the light of the research evaluation in order to develop the best possible model for implementation. In other words, the pilot projects were set up to test the 'who, what, where, when and how' of providing information meetings, and to find a suitable format for the meeting with a marriage counsellor, rather than to establish whether these provisions are a good thing *per se* or, for example, whether they could actually save marriages within the context of existing legislation. It had been recognised when the pilots were set up that the final form of the information meeting might not emerge until after implementation of Part II. During debate in the House of Lords, the (then) Lord Chancellor told their Lordships:

I do not believe that what we do at the beginning will necessarily be the final form. The regulation-making power will enable us to improve the information meetings in the light of experience of their interaction with the new law after it comes into force.⁹

During the pilots, it was understood that the information meeting had two principal objectives. The first was to direct a party's attention to the issues which should be considered when contemplating taking steps to end the marriage. The second was to provide information on the various options for the resolution of difficulties, including the availability of marriage support services, mediation and legal services. It was clear that the role of the information presenter was to give information, thereby providing knowledge, which is necessary in order for parties to be able to make informed choices in relation to their own circumstances, and definitely not to give advice concerning an individual's personal circumstances, nor to offer counselling, therapy or mediation.

With respect to the meeting with a marriage counsellor, the Lord Chancellor's Department, recognising that the necessary expertise lay with the marriage agencies, went only so far as to compile guidelines for the programme. These were as follows:

1. The package for the meeting with a marriage counsellor was to have a practice and training component.
2. The meeting should have two sections, one of which would be a standard introduction to marriage counselling and the other idiosyncratic to the specific counselling agency offering the meeting with a marriage counsellor.
3. The meeting should accommodate individuals and couples at any stage in the divorce/separation process.
4. The marriage agencies were invited to 'host' the meeting with a marriage counsellor in pilot areas of the country, but were asked to designate one agency to act as the lead agency for planning purposes.

⁹ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 22 February 1996 at cols 1184, 1185.

5. Account was to be taken of issues relating to domestic violence, and also of the eligibility of the client(s) for legal aid support.
6. The quality benchmark would be that an appointment for a meeting with a marriage counsellor should be offered within one working day of contact with the booking centre, and the meeting with a marriage counsellor would take place within seven days of contact being made (unless the attendee expressed a wish to delay the meeting with a marriage counsellor).

The Lord Chancellor's Department required counsellors to be trained to deliver the meeting using a script, in order that one of three outcomes would be achieved:

1. The attendee would leave the meeting feeling that they had received enough information to work on their marriage.
2. The attendee would agree to go to marriage counselling with a view to saving the marriage.
3. An attendee who had been uncertain of whether to divorce would be enabled to make a firm decision.

The research evaluation was designed, extended and modified during the pilot period to take account of the aims and objectives set out by the Lord Chancellor's Department for the information meeting pilots and for the meeting with a marriage counsellor.

Chapter 4

The Research Task

Janet Walker and Noel Timms

Action research's challenge is to define and meet standards of appropriate rigour without sacrificing relevance.¹

The evaluation was commissioned and conceived to inform policymakers about the implementation of the FLA. Within the means–ends spectrum of policy, it was firmly in the area of means, of providing answers to ‘how’ questions rather than to ‘whether’ questions. That information meetings and associated provisions were to become a feature of civil life was taken for granted. At the broadest level, there were two main priorities for the research programme:

1. To provide research data which could inform policy decisions to ensure that information meetings would be structured in such a way as to support the principles specified in Part 1 of the Act.
2. To evaluate aspects of the information meetings and the associated provisions in order to advise on the steps necessary for implementation of Section 8 of the FLA.

It was not part of our original brief to question the wisdom of Section 8 *per se*, but to examine different ways of providing the information. Nevertheless, we pointed out that if in the course of the research fundamental issues emerged about the wisdom of the provisions of Section 8, we would not be inhibited in reporting them. We started from the position that it would be naïve to believe that simply providing information was necessarily going to meet the needs and expectations of all those contemplating divorce, or address how a wide variety of people would approach and manage the dissolution of marriage. Information meetings, as conceptualised in the FLA, are themselves unusual. Designing a new procedure from scratch is in itself an experimental process: the pilot projects provided a test-bed. It was our firm belief, supported by independent academic assessors, that the testing of the implementation of new policies and legislative procedures required a formative evaluation approach underpinned by action-based research.

Research in Action

Most social scientists distinguish between three types of research: basic, applied and evaluation research. Our research programme integrated both applied and evaluation research. Applied research sets out to provide useful practical knowledge that can be applied to a social problem (in this case marriage breakdown and divorce). Action research is a category of applied research concerned with investigating an ongoing programme.² Evaluation research typically provides an account of the effectiveness of a

¹ Argyris, C. and Schon, D.A., ‘Participatory action research and action science compared: a commentary’, in W. Foote-Whyte (ed.), *Participatory Action Research*, Sage (1991).

² See Miller, D.C., *Handbook of Research Design and Social Measurement* (5th edn), Sage (1991).

programme. We adopted a model of evaluation which, through feedback, could inform and influence the future direction of information meetings. It offered phased assessments and appraisals to policymakers and administrators. As researchers we have had no vested interest in which option for the provision of information might be chosen.

Evaluation research is normally undertaken when a policymaker wants an independent assessment of a particular programme/intervention – a judgement is required as to whether a particular activity meets its objectives. Since there was no blueprint for this new intervention in the divorce process, the pilots were established to discover how best to provide the designated information, in what sort of formats, in what kinds of environment, by what types of presenters, over what period of time and so on. We were engaged to evaluate the pilot projects, but we were not attempting to evaluate the provisions of the Family Law Act *per se*, which would be possible (and necessary) only if the Act were to be implemented fully. We were trying to assess different forms of provision of information under conditions which could never replicate those which would pertain under the Family Law Act, but with a population which identified itself as ‘thinking about separation and divorce’ at the point of entry to the programme, most of whom would have been likely to access an information meeting if it had been a compulsory step on the road to divorce.

Evaluation research is typically multi-disciplinary, as ours has been, and early evaluation research (in the 1960s and 1970s) was dominated by the randomised, controlled, comparative group experimental paradigm. However, controlled, comparative research designs can only be implemented correctly under very specific circumstances: there are frequently ethical and legal limitations. For example, it is often difficult to create a control group: in this case, it was impossible to imagine anyone considering divorce who was in the position of having absolutely no information whatsoever, nor to envisage how one could measure levels of information accurately, nor to know with any certainty what its multiple sources were; equally, it would not have been ethically acceptable to refuse information to anyone seeking it.

An analogous problem exists in the medical evaluation of drugs in clinical trials. One systematic source of bias in many clinical trials is the need for ethical committee approval and informed consent. Ethical committee approval may be inconsistent, resulting in a non-random sample of practitioners or health care settings. The need for informed consent means that almost all medical research is based on selected samples of people who are willing to participate and have been alerted to the fact that a study is taking place. In other words, medical research involves the use of volunteers.

Like medical research, most socio-legal programme evaluation must perforce use non-experimental designs, and these typically involve qualitative approaches to evaluation as well as quantitative approaches. Qualitative methodologies (such as observations and in-depth interviewing) are able to stay close to reality, to explore the meanings attributed to experiences, and to promote an understanding of social processes through the researchers’ familiarity with field conditions. Qualitative methods are sensitive, also, to the nuances of constantly evolving programmes. In short, many evaluation studies use research designs which do not and cannot employ classic experimental approaches. The problem of self-selection of research samples is characteristic of non-experimental designs, however, and so researchers have to construct explicit models to address the potential limitations of a volunteer sample.

The research programme is best described as research in action – applied, multi-method, and designed to inform policy through carefully constructed, flexible evaluation. It is considered reasonable in evaluation research to test several different means of delivery in an intervention/programme, as we did. Our task was to ensure that a sufficient number of similar conditions existed in pilot projects to allow for multiple cross-case comparison in order to identify what works best. Action research involved the research team contributing where appropriate to the planning and development of the models to be tested, assessing their merits and demerits in such a way as to provide regular feedback so that improvement in design could be made at opportune moments during the study period (for example, when a new pilot was launched). Action research is not a soft option, however, and a ‘grounded’ theory approach³ needs to be no less robust than other methodological approaches in the social sciences. Grounded theory is inductively derived from the study of the phenomenon it represents. It is discovered, developed, and provisionally verified through systematic data collection and analysis of data pertaining to that phenomenon. Creativity is a vital component of this method, enabling the researchers to ask pertinent questions of the data and to elicit new insights.

Formative evaluation is in itself a rigorous process which requires careful recording of processes and outcomes, detailed analyses, and informed interpretation of the data during which attention must be given to the external influences on the findings. As with all research which attempts to evaluate programmes on the ground, this study has had to be contextualised within the bodies of knowledge which already exist. In this case, there is a considerable literature within a range of different disciplines (psychology, sociology, economics and law) relating to divorce and divorce process, help-seeking behaviour, the acquisition and understanding of new knowledge (information), and the meaning attributed to it by a wide variety of actors. Such contextualisation has been a cumulative process throughout the entire research period. The FLA marks an important move by the state into the regulation of ‘private’ worlds through a more carefully managed process of marital separation through to the final dissolution of a marriage, by which time all matters must have been negotiated, agreed or adjudicated. It was our intention to consider this shift within the wider debate surrounding support for marriage and family life, which has retained a high place on the political agenda under the new government which came into power shortly after the pilot programme had been initiated.

Social programme evaluations vary as regards the kinds of issues being investigated, the geographical scope of the services being studied, the type of information being sought and the way in which the data will be used.⁴ Nevertheless, there are some fundamental commonalities that distinguish evaluative research, including its ‘political inherency’. Social programmes, by definition, are responses to perceived needs or problems which are ‘proposed, defined, debated, enacted and funded through political processes ...’.⁵ Programme evaluation is ‘integrally intertwined’⁶ with political decision-making about societal priorities, resource allocation and power. As researchers we have needed to work closely with policymakers to establish trust and rapport, but, at the same time, to maintain distance to guarantee objectivity and neutrality. During the first nine months of our study we advised on the way in which different models of information meeting might be set up in order to render evaluation possible and meaningful, and on the changes which needed

³ For a discussion of ‘grounded theory’ see Strauss, A. and Corbin, J., *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*, Sage (1990).

⁴ Green, J.C., ‘Qualitative program evaluation’, in N.K. Denzin and Y.S. Lincoln (eds), *Collecting and Interpreting Qualitative Material*, Sage (1998).

⁵ *ibid.*, p. 374.

⁶ *ibid.*

to be made in order to ensure that a sufficient number of research subjects could be secured. Through dialogue with officials we were able to understand both the policy and the political considerations, and to involve them in an appropriate way in making significant decisions about the evaluation. In our view, useful evaluations must be designed and adapted situationally.⁷ This implies the need for a close, but not a collusive, relationship between the researchers and government officials, and a recognition of the tensions inherent in the Family Law Act. The evaluation is likely to be judged on its academic and empirical merit, and also on its utility. Our focus has always been on the intended use of the research data by the Lord Chancellor's Department and the Government. This has necessitated making deliberate, well-considered choices in our strategy and methodology and in the way we timetabled our work. Evaluation of information meetings is inevitably politically contextualised, with an emphasis on pragmatism and the production of 'useful' data.

We designed the evaluation programme to address the central questions of 'who, what, where, when and how' with respect to the implementation of information meetings, having regard to the concerns expressed during parliamentary debates, the questions posed by Peers and MPs, and the policy decisions which would need to be taken prior to implementation. In most programme evaluations there are multiple audiences who have vested interests in the programme being evaluated. This one is no different. We have attempted to provide answers to questions posed by those stakeholders who will have to take decisions based on the research findings. The evaluation results in 'empirically justified value judgements' about the merits of the programme being evaluated. The methodological approach was diverse, employing a variety of quantitative and qualitative modes of enquiry.

Research Constraints and Challenges

As a preliminary step in designing and developing an appropriate research strategy, we needed to consider both the constraints and the challenges which this evaluation posed, and to be realistic about what would be achievable. There were a number of factors which influenced or constrained the evaluation process, and which presented the team with methodological challenges. Indeed, designing research which tested the different elements of the information meetings was rendered complex owing to a number of features of the research environment. Ideally, any pilot should be designed to mirror reality as closely as possible. Since the legislation requiring attendance at an information meeting was not in force it was impossible during the pilots to test Section 8 as it might be implemented within the FLA. This was probably the most serious constraint for policymakers, pilot projects and researchers alike. We could replicate certain conditions only approximately, but the information meetings were inevitably being delivered in the context of existing, adversarial legislation, with no inbuilt period for reflection and consideration.

The Act *requires* attendance at an information meeting. We were advised that there could be no such requirement during the pilots. This presented us with two particular challenges. First, we could not know at the start of the study just how many people would opt to go to an information meeting, nor whether those who did so would be representative of those who would have no choice after the Act is implemented. In order to generate a sufficient throughput of people attending information meetings in the pilots, the invitation to tender issued to a variety of agencies by the Lord Chancellor's

⁷ For a discussion of utilisation-focused evaluation see Quinn Patton, M., *Utilisation-focused Evaluation* (3rd edn), Sage (1997).

Department required each pilot to be based on a geographical catchment area containing a divorcing population of approximately 6,000 couples per annum. We hoped that, during a nine-month pilot period, at least one partner from 600–1,000 of these couples might opt to attend an information meeting, given good publicity and the co-operation of local courts and divorce-associated professionals. In the light of other research studies with similar populations using survey methodologies, we anticipated that some 30 per cent of those attending a meeting would subsequently consent to participate in the research after they had been to an information meeting, giving us a potential follow-up sample in each pilot of between 180 and 300 people.

During the first six months of the pilots, it became clear that fewer than 10 per cent of the potential ‘at risk’ divorcing population were attending information meetings. (Despite the establishment of the Local Interdisciplinary Fora and support groups,⁸ there were very few referrals from divorce-associated professionals.) This might have presented us with a very serious research problem had the research consent rate immediately following attendance at an information meeting not been significantly higher than the anticipated 30 per cent. In fact, very few people declined to complete our exit questionnaire and, on average, some 65 per cent of those attending information meetings consented to be interviewed at a later date. As Table 4.1 shows, there was some variation in the consent rate between the models, with the CD-ROM meetings (Models E and F) yielding the lowest consent rate.

Table 4.1 Research consent for each model

Model	Consent rate %
Model A	69
Model B	69
Model C (individual)	70
Model C (group only)	71
Model D	62
Model E (CD-ROM)	58
Model F (CD-ROM)	54
Model F (group only)	73

Table 4.2 shows the consent rate for each type of information meeting, with the individual meetings yielding the highest rate. This is hardly surprising because in the face-to-face individual meetings the presenters explained the research evaluation programme to the attendee and invited them to participate. In group meetings there was no individual approach in respect of research participation, and in the CD-ROM meetings the facilitators had minimal contact with the attendees.

⁸ For a discussion of the objectives and membership of these groups see Ch. 3.

Table 4.2 Research consent for each type of meeting

Type of meeting	Consent rate %
Individual (face-to-face)	69
Group presentation only	65
CD-ROM presentation	56
Total	65

Secondly, we faced a particularly difficult problem in evaluating the information meeting, since it was attended on a voluntary basis during the pilot projects but would become a compulsory meeting in the divorce process if the Act were to be implemented. The dual questions of the propensity for someone to benefit from attendance at an information meeting and the likelihood of their volunteering to attend in the first place needed to be modelled simultaneously if we were to gain an understanding of how information meetings may operate, and ensure their efficiency and effectiveness in the future. In this study we have always been aware of a number of problems in sample selection which we have needed to take into account. Our work on generalisation is discussed in Chapter 5.

Although we were painstaking in our concerns about generalisability and did our utmost to develop specific models, it is very important to note that our routine methodology captured a wide range of characteristics of attendees at information meetings. We collected data relating to age, socio-economic group, gender, etc. on every applicant to the information meeting pilots, enabling us to describe the characteristics of the volunteer sample (not all of whom subsequently attended an information meeting having booked one) and consider them in relation to the married and divorced populations. All those who attended an information meeting would, in an implemented system, *have* to attend one. They are, therefore, a ‘real’ sample, not a contrived one. While it is important to acknowledge the limitations of the research, these should not detract from the wealth of information generated about how Section 8 might best be operationalised for implementation, even though, of course, further refinements and modifications would have to be made after implementation.

Elements in the Research Programme

During the pilot projects the research programme addressed eight main elements relating to the provision of information. These were:

1. The selection, training and practice experiences of the information presenters.
2. The delivery of materials through different models.
3. The expectations of the parties attending information meetings.
4. The impact on the parties of the delivery and receipt of information, verbal, written and visual.
5. The information materials – written, audio and visual.
6. The ensuing behaviour of the parties.

7. The implications for associated services and agencies.
8. The organisational arrangements for the management of information meetings.

For each element we began by outlining a number of research objectives and associated research questions, which subsequently guided our work. We did not see the original research questions as exhaustive and we expected other key questions to emerge, particularly as data were analysed and findings discussed. The original questions were based partly on the fact that at the beginning of the pilots we were testing two models only, and partly on our own understanding and expertise drawn from previous research and from the experience of other jurisdictions. By the time we were preparing our Second Interim Evaluation Report (September 1998), it was clear that some of the original research objectives and questions could be refined and tightened, and that others needed to be modified or abandoned in the light of interim findings. Additionally, during the first year of the pilots new models were developed, and new components, such as the provision of information meetings in prison establishments, were added to the research programme. As was appropriate, therefore, in an action-based research approach the knowledge gained from, and modifications made to, the pilots informed the research questions being addressed. We were able to refine some of the research objectives and questions in order to fit the needs of policymakers more closely, and to discard others which were no longer meaningful or helpful in the light of decisions already taken. Furthermore, we considered it essential that some issues should be given particular attention within the evaluation. The revised research objectives and questions which have guided our work are shown in Table 4.3.

We formulated a number of hypotheses prior to commencing the evaluation. We believed that the earlier in the process of marriage breakdown people accessed information meetings, the more likely it would be that the information would influence behaviour and provide the basis for decision-making and the taking of next steps, whether to save the marriage or to proceed with divorce. If it is intended that information meetings should result in changes in people's expectations about and experiences of the divorce process, then it would seem reasonable to hypothesise that there may be greater take-up of both marital counselling and mediation services. Nevertheless, we regarded it as being very difficult to establish whether this hypothesis could be verified during the pilots. Not only were information meetings taking place under the existing (adversarial) legislation, but we were limited as regards the length of time available to follow up the attendees. We also pointed out at the beginning of the research that establishing cause and effect would be highly problematic. Nevertheless, the focus of our evaluation changed after the Lord Chancellor had expressed his disappointment with the preliminary research findings in June 1999. Since then we have tried to ascertain the actions of attendees at various time intervals in order to explore the reasons for take-up of the various services. All the data suggest, however, that while attendance at an information meeting may have been highly significant for some people, for others it was likely to be but one event in a plethora of activities during a particularly stressful time in which multiple transitions were commonplace. Our research observations and interviews testified to the complexity of people's lives when their marriage is in serious trouble and divorce seems inevitable. We believe that it is important, therefore, to be realistic and modest about what the provision of information and compulsory attendance at a meeting might achieve.

Table 4.3 Research objectives and questions

(i) Selection, training and practice experiences of information presenters

Research objectives:	Research questions include:
1. To suggest criteria for appointment/selection of information presenters: (i) for individual meetings (ii) for group presentations (iii) for CD-ROM facilitators	1. What sort of response does open-market advertising yield? Who applies? Which professions are difficult to attract? Is it possible to achieve gender balance?
2. To advise on the competencies required by information presenters: (i) for individual meetings (ii) for group presentations (iii) for CD-ROM facilitators	2. To what extent should the professional backgrounds of information presenters influence training content?
3. To advise on the most appropriate training methods and content: (i) for individual meetings (ii) for group presentations (iii) for CD-ROM facilitators	3. How does professional knowledge/orientation influence the way in which information is given?
4. To consider the most efficient and effective way of deploying presenters.	4. What skills/knowledge are essential, and which are desirable, with reference to the different models of information meeting? Which aspects of training are most effective?
5. To consider the potential turnover rate and requirements for ongoing recruitment and training.	5. Should training be conducted nationally? Should it be residential, and over what period of time?
	6. What additional refresher top-up training might be necessary? When?
	7. Do presenters consider that information presenting should become a full-time career, or a part-time or sessional occupation?
	8. What are the advantages/disadvantages of presenters being drawn from the divorce-related professions? Can these professionals effectively 'change hats'?
	9. What are the essential qualifications for being an information presenter with respect to different models?
	10. How are skills and competencies to be determined/assessed: (i) after training? (ii) during practice?

Table 4.3 Research objectives and questions (cont.)

(ii) *The delivery of materials*

Research objectives:	Research questions include:
1. To determine the strengths and weaknesses of different models of delivery.	1. What are the advantages/disadvantages of one-hour individual meetings as against shorter individual meetings?
2. To explore the most appropriate combination of materials and modes of delivery for different groups of divorcing people, e.g. with respect to domestic violence, people in prison, members of ethnic minority groups, etc.	2. Does the appropriateness of the time allowed vary with the needs of the attendee?
3. To consider the value-added of attending a meeting as against the receipt of the information pack through the post.	3. What might be the advantages and disadvantages of group presentations offered: (i) as part of the information process? (ii) as the only form of meeting?
4. To distinguish between different models of presentation (personal, group, CD-ROM, etc.) and to consider the strengths and weaknesses of these different models for men and for women.	4. What are the advantages/disadvantages of using two presenters in a group presentation?
5. To consider the advantages/disadvantages of providing information in two stages: pre-proceedings and post-proceedings.	5. What difficulties and problems are encountered by (a) the presenters and (b) the recipients in each of the models? Are these different for men and women?
	6. How effective are the different meetings in informing users of the services available to them?
	7. Do people opt to attend a group presentation after attending an individual meeting? What is the motivation for doing so? What is the perceived 'added value'? Are there gender differences?
	8. What concerns are expressed about receiving information in a group presentation? What reasons are there for attending/not attending free-standing group presentations? Do these vary between men and women?
	9. To what extent can men and women make sense of and use information delivered: (i) through a CD-ROM? (ii) via a postal pack?

Table 4.3 Research objectives and questions (cont.)

(iii) The expectations of parties attending information meetings

Research objectives:	Research questions include:
1. To determine the extent to which the provision of information meets the expectations/needs of those attending.	1. What do men and women expect to achieve through attending an information meeting? What influences these expectations?
2. To consider how best to educate people about the information meetings and their primary purpose.	2. Do attendees seek advice? If so, what kind of advice?
3. To enquire whether/how the information provided contradicts/affirms people's existing knowledge and information, or that received from other sources, e.g. lawyers.	3. How do attendees understand the purpose of information meetings?
	4. What knowledge do people have (a) about the information meeting and (b) about the various topics covered during the information meeting before they come and afterwards?
	5. Are people content/disappointed? What influences their reactions?
	6. Do they feel better informed about different topics?
	7. What other information might they wish to have?
	8. Is the process sufficiently flexible to provide appropriate information to people at different stages in the process of separation and divorce?

Table 4.3 Research objectives and questions (cont.)

(iv) Information materials

Research objectives:

1. To determine the most appropriate information materials, and the most appropriate format/medium for the majority of potential attendees.
2. To define the various needs of particular groups of people, e.g. blind people, deaf people, non-English speakers and those with poor reading abilities, and Forces families.
3. To consider the advantages/disadvantages of presenting information via a CD-ROM and a video.

Research questions include:

1. How do users respond to materials delivered in a range of formats (e.g. written, audio, visual)? Can they understand them? Are they relevant?
 2. Can users manage a range of leaflets?
 3. How does the video enhance the written and verbal material? Are the messages consistent?
 4. Which languages should leaflets be printed in?
 5. Is the language used in the information materials class-biased?
 6. Are the materials relevant for and sensitive to the needs of different groups?
 7. To what extent can children understand the leaflets written for them? Is the format appropriate? Is the content appropriate?
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Table 4.3 Research objectives and questions (cont.)

(v) *The impacts on the parties of the delivery and receipt of information*

Research objectives:	Research questions include:
1. To determine the perceived relevance and usefulness of the information.	1. To what extent can people take in and understand the information given: (i) verbally? (ii) through written materials? (iii) through a video? (iv) through a CD-ROM?
2. To consider the ways in which (a) verbal materials (b) written materials (c) the video are considered to be complementary.	2. Are some people overwhelmed by the information?
3. To consider how different models of receiving information impact on attendees.	3. Which information is considered to be relevant/helpful/boring/unnecessary?
4. To examine the relevance of delivering different elements of the information at different stages in the divorce process.	4. Do attendees consider that aspects of the information have been received too late or too soon to be of relevance? 5. What opportunities are there for attendees to seek clarification of the materials? 6. Do people feel patronised/humiliated/empowered: (i) in individual meetings? (ii) in group presentations? (iii) using a CD-ROM? 7. What elements/aspects of different types of information appear to be most helpful/least helpful? 8. Is the experience of (i) individual meetings (ii) group presentations (iii) CD-ROMs enjoyable/upsetting/embarrassing? 9. How can information meetings be accessed safely when there is a risk/history of spousal abuse/violence? Do people feel safe? What are the risks?

Table 4.3 Research objectives and questions (cont.)

(vi) *The ensuing behaviour of the parties*

Research objectives:

1. To determine what people do with the information received in terms of the actions they subsequently take.
2. To determine whether the information received is sufficient to enable other services/processes to be accessed and used effectively.
3. To consider whether the offer of attendance at a meeting with a marriage counsellor influences attendees to reconsider a decision to separate/divorce.

Research questions include:

1. After attending an information meeting, is the information shared, used, discarded, rejected, tested, misunderstood, remembered?
2. Do people consider they have received sufficient information or do they seek further information and from whom?
3. Do people believe they have sufficient choice concerning the options available, or does the manner of the information meeting push them towards certain solutions/choices/services?
4. How many individuals and couples go to:
 - (i) a meeting with a marriage counsellor?
 - (ii) marital counselling? and with what purpose?
5. How many people consider mediation? How many couples attempt mediation?
6. How many people seek the advice of a solicitor and when? How many people seek legal representation?
7. Do parents:
 - (i) give the information leaflets written for children to their children?
 - (ii) talk to their children about their contents?
 - (iii) refer to/complete/use the parenting plans?

Table 4.3 Research objectives and questions (cont.)

(vii) The implications for associated services and agencies

Research objectives:	Research questions include:
1. To consider what preparations/arrangements counsellors, mediators and lawyers need to make in order to respond to changes in people's behaviour/expectations.	1. How many people take up the offer of: (i) a meeting with a marriage counsellor? (ii) counselling?
2. To determine the extent to which divorce-associated professions need to change their services as a result of the provision of information to prospective clients.	2. What effect might this have on waiting lists of marital counselling agencies? Are fast-tracking arrangements required?
3. To consider what liaison arrangements might need to be made between information meetings suppliers and other agencies, e.g. marriage counselling.	3. Will more counsellors need to be trained?
4. To consider the organisational arrangements necessary for providing and co-ordinating the meeting with a marriage counsellor.	4. What skills and training are needed by those conducting the meeting with a marriage counsellor? Is it an appropriate role for counsellors? Is professional supervision necessary and in what form might it be provided?
5. To review the role of the local and natural interdisciplinary fora established during the pilots.	5. How will the role of lawyers change? 6. Do lawyers consider that their clients are better informed? 7. Do mediators/lawyers consider that people make better use of their services? 8. Is the demand for mediation likely to increase? 9. What are the implications for interdisciplinary co-operation? 10. What role does the Local Interdisciplinary Forum play in supporting the information meetings?

Table 4.3 Research objectives and questions (cont.)

(viii) Organisational arrangements for the management of information meetings

Research objectives:	Research questions include:
1. To determine the strengths and weaknesses of different organisational, supervisory and accountability structures for the employment of information presenters and the delivery of information meetings.	1. What are the most effective supplier arrangements in respect of different models of meeting?
2. To provide models for determining the level of national coverage needed for full implementation of the FLA and for the selection of appropriate locations and venues for information meetings.	2. Where are the most appropriate locations for information meetings of different types? Is it better to find neutral, locally-based venues?
3. To determine the categories of persons who might need to be exempted from attendance, and mechanisms for ensuring information is made available to them.	3. How accessible (geographically, psychologically, physically, etc.) are the meetings?
4. To consider what special arrangements might need to be made in respect of people with special needs, e.g. the housebound, the disabled, prisoners, victims of domestic violence, members of ethnic minorities?	4. Which groups/categories of people will find it impossible/unacceptable to attend a meeting, and what arrangements should be made for them?
5. To determine the costs associated with the delivery of information: (i) through an individual meeting (ii) through a group presentation (iii) through a CD-ROM and the associated costs of other provisions, e.g. the meeting with a marriage counsellor.	5. How are people with special needs to be provided for? 6. How often do presenters need to meet, be supervised, report to the supplier? 7. What arrangements should be made for quality assurance of information meetings?

Primary Data Sources

In order to address the research objectives and associated questions outlined in Table 4.3 we identified a range of data sources (Table 4.4). There were four primary sources: information presenters and facilitators, those attending information meetings, staff in pilot sites and professionals in the pilot areas.

Information presenters

Data were obtained from information presenters at five different times:

1. Before training (via a questionnaire).
2. Immediately following training (via a questionnaire).
3. Three to four months into practice (via a questionnaire).
4. At the end of each pilot (via focus groups and questionnaires).
5. At the end of each information meeting (via a questionnaire, and via discussion following the research observation).

There was ongoing informal contact with all the presenters during the pilots, when members of the research team observed their training and then observed information meetings. Complementary data were obtained from facilitators in the CD-ROM pilots, although we did not observe Models E and F CD-ROM meetings because attendees were left alone to work through the program at their own pace and we believed that the presence of a researcher would be highly intrusive. Moreover, the facilitators, in contrast to presenters, had a very limited role to play.

Those applying to or attending information meetings

Data were obtained at six key times:

Time 1. Extensive data were obtained by pilot project booking clerks about everyone who booked an information meeting. Although not everyone kept their appointment, this enabled us to know a good deal about those who did and did not attend an information meeting subsequently.

With respect to those who attended an information meeting, data were collected on a number of further occasions:

Time 2. Attendees were asked to complete a brief exit questionnaire, and at the same time were asked to give their consent to participate in the ongoing evaluation.

Time 3. Within a few weeks of their attending an information meeting, as many attendees as possible who had consented to participate in the research were followed up by means of a telephone interview.

Time 4. Some five to seven months after an initial telephone interview, a further contact was made for a second telephone interview.

Time 5. Selected subsamples for further in-depth interviewing were drawn in April and May 1999 from those who had participated in both telephone interviews.⁹

Time 6. A series of time-slice surveys (12 months, 18 months and 24 months after attendance at an information meeting) were conducted in January 2000 to obtain a longer-term view of processes and outcomes.

Staff in pilot sites

We had contact on a weekly (if not daily) basis with pilot project managers, administrators and other key personnel. Members of the research team spent time at the pilot sites discussing management and organisational issues, and looking at the organisational structures which developed in each pilot. Towards the end of each pilot, focus groups were held with pilot staff to discuss the experience of delivering information meetings.

Professionals in the pilot areas

Data were obtained from key professionals in each area at the following times:

Time 1. Early in the life of the pilot via consultation meetings organised by pilot managers.

Time 2. After the pilots had ended.

We undertook a second-stage consultation with professionals after the pilots had ended, in order to maximise the possibility that attendees would be in contact with these professionals in the intervening period. We received all the papers produced by the Local Interdisciplinary Fora and observed some of their meetings. We also included members of the Lord Chancellor's Advisory Board on Family Law and of the National Interdisciplinary Forum in the consultation process.

⁹ The in-depth interviews focused on three specific topics: saving marriage; promoting conciliatory divorce; and promoting continuity in parenting. Each participant in an in-depth interview was asked about only one of these topics, enabling us to concentrate on a specific aspect of the research in each case.

Table 4.4 Primary data sources

Elements to be studied	Data sources
(1) Selection, training and practice experiences of information presenters, facilitators and counsellors	<ul style="list-style-type: none"> • Selectors • Presenters • Facilitators • Counsellors • Trainers • Researchers (observations) • Project managers • NCFP
(2) The delivery of materials	<ul style="list-style-type: none"> • Researcher observation • Presenters, facilitators and counsellors • Attendees
(3) The expectations of parties attending information meetings and the meeting with a marriage counsellor	<ul style="list-style-type: none"> • Attendees • Presenters, facilitators and counsellors • Professionals in the community
(4) Information materials	<ul style="list-style-type: none"> • Presenters and facilitators • Trainers • Professionals in the community • Professional bodies • Attendees • Groups of people with special needs
(5) The impact on the parties of the delivery and receipt of information, and the meeting with a marriage counsellor	<ul style="list-style-type: none"> • Attendees • Professionals representing/working with clients • Children of divorced parents • Presenters, facilitators and counsellors
(6) The ensuing behaviour of attendees	<ul style="list-style-type: none"> • Attendees • Local agencies and professionals
(7) The implications for associated services and agencies	<ul style="list-style-type: none"> • Attendees • Local professionals and agencies • Representatives of marriage agencies • Local Interdisciplinary Fora • National Interdisciplinary Forum • Discussions and sharing information with LAB researchers • Local and national databases
(8) The organisational arrangements for the management of information meetings and the meeting with a marriage counsellor	<ul style="list-style-type: none"> • Local Interdisciplinary Fora • Project managers/staff • Presenters, facilitators and counsellors • Attendees • Groups of people with special needs

Meeting with a Marriage Counsellor

With respect to the meeting with a marriage counsellor, data were obtained via the following means.

Marriage counsellors

Time 1. Pre-training feedback (supplied and administered by the training provider).

Time 2. Post-training feedback (supplied and administered by the training provider).

Time 3. Exit questionnaire completed after each MWMC.

Time 4. Follow-up questionnaire, 6 months into practice.

Time 5. Focus groups conducted at the end of the pilot period.

Attendees at a MWMC

With respect to those attendees who took up the offer of a meeting with a marriage counsellor, data were collected at the following times:

Time 1. On making an application to attend, the booking clerk recorded personal data about each applicant.

Time 2. Those who attended the MWMC were asked to complete a brief exit questionnaire and to give their consent to follow-up interviews.

Time 3. Between 4 and 6 weeks after attending an MWMC, attendees who had consented to participate in the MWMC research were contacted by telephone for an initial telephone interview.

Time 4. A subsample of those who had given a telephone interview was selected in April 1999 for further in-depth interviews.

Time 5. A postal follow-up survey of all those who had attended a MWMC and consented to participate in the follow-up research was undertaken in January 2000.

Supervisors, agency managers, chief executives of marriage agencies and pilot support staff

Data were obtained through focus groups at the end of the pilots. In addition, an interview was conducted with the manager from the central booking service.

Consistent Methodology

Our methodology was consistent throughout all the pilots and during the evaluation of other provisions such as the meeting with a marriage counsellor. We routinely obtained data from information presenters and facilitators, counsellors delivering the meeting with a marriage counsellor, supervisors, administrators and managers in pilot sites, professionals and attendees. We felt strongly that in order to understand what went on in different models of information meeting in different pilots, and during the meeting with a marriage counsellor, we needed to observe them for ourselves. An important part of our methodology, therefore, consisted of non-participant observation during which we kept detailed field notes. During the evaluation we observed over 215 individual meetings and 55 group presentations, and 19 meetings with a marriage counsellor.

Special Studies

During the pilots, in addition to the main evaluation programme described above we undertook a series of special studies in order to address a number of key issues pertinent to the implementation of Part II.

Safety and domestic violence

Concerns had been expressed, particularly by agencies established to support women who have been abused, that people who have experienced emotional, psychological or physical abuse, or who have fears for their personal safety, may find it difficult or dangerous to access information meetings safely or to take the information materials home; alternatively, they might feel embarrassed or threatened by the possible disclosure of violence. Working in consultation with the Women's Aid Federation of England (WAFE) we trained administrators in each pilot to ask routinely about safety issues as someone telephoned to book an information meeting. During training, information presenters were urged to be mindful of the need to consider personal safety matters for those who attended, and for themselves. Our own research interviewers received advice from members of WAFE, and the questions asked of attendees during follow-up interviews were approved by them.

There were five tasks for the evaluation in respect of domestic violence:

1. To consider the safety of the attendee and presenter before, during and after the meeting.
2. To examine the merits of different modes of information delivery.
3. To ascertain the appropriateness of the information and the materials.
4. To determine the training needs of presenters in giving information about violence and abuse.
5. To discern whether and in what circumstances domestic violence might constitute grounds for exemption from attendance at an information meeting.

We recognised that the principle of equal access to information demands that attendance at an information meeting must not pose a threat in terms of physical safety, either to the attendee or to the presenter. Consequently, the issue of safe venues as well as that of safety at the venue was central to our evaluation. The information provided must address safety and violence issues accurately, and with sensitivity to the needs both of those who abuse and of those who are abused. In this respect, the research was assessing different models of information meeting and modes of delivery against the needs of those experiencing domestic violence as victim or perpetrator. It was not the brief of the research team to test the usefulness of an information meeting *per se* as a help mechanism for those experiencing domestic violence; nor did we aim to test the impact of the information by tracking those who went on to obtain a non-molestation or occupation order under Part IV of the Family Law Act. In other words, it was not the remit of this research to consider whether the provision of appropriate information caused action to be taken to stop the violence, although we recognised that such information may emerge during follow-up interviews with attendees.

In order to explore the extent to which the information supplied was appropriate, and how information meetings might be made as safe as possible, meetings were held in 'safe' locations, and discussions with women who had suffered abuse took place in refuges and a women's centre in one of the pilot areas (Leicester and East Midlands). Discussion was structured around consideration of at least five specific areas of concern: the safety of attendee and presenter (primarily, appropriate venues); the appropriateness of different modes of delivery of information (individual meetings, group presentations, CD-ROMs); the appropriateness of the actual information given (leaflets and video); the skills needed by presenters when giving information to a person worried about safety; and the extent to which domestic violence might constitute an exemption to compulsory attendance at an information meeting.

We reported in some detail on our study of domestic violence and safety issues in our Second Interim Evaluation Report.¹⁰ After that we focused on extracting and analysing data from interviews with attendees, and revisiting qualitative data gained from focus group discussions. We have shared our findings and recommendations with the agencies in the Leicester pilot and WAFE and taken their responses into account before presenting this final report.

Cultural variations and ethnicity

Information must be available and relevant to people from all walks of life and all cultural and religious backgrounds. The available evidence suggests that members of some ethnic minority cultures do not seek help outside the family or community group and that they would be less likely to volunteer to attend information meetings during the pilots despite the fact that certain pilot areas were selected to give a broad social and cultural mix and that the information pack was made available in five minority languages.

In order to further understanding of the constraints on and needs of men and women from minority cultures, a special study involving representatives from a range of ethnic

¹⁰ Bridge, C. and Mitchell, S., 'Addressing special needs', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report*, Newcastle Centre for Family Studies (September 1998), pp. 221–44.

minority communities was undertaken in the Leicester and East Midlands pilot. During the pilots we set out to examine the following:

1. Definitions of ethnicity.
2. Diversity of family forms relevant to information provision.
3. Conflict of laws.
4. Venues for information meetings.
5. Selection and training of presenters in respect of ethnic diversity and understanding.
6. Cultural appropriateness of information as specified under the FLA.
7. Style and mode of information delivery.
8. Cultural appropriateness of the meeting with the marriage counsellor and parenting plans.

We reported our preliminary concerns about the problem of ascertaining the appropriateness of information meetings and materials to people whose native culture and/or language may not be English in our Second Interim Evaluation Report.¹¹ Consultations continued throughout the piloting period.

The needs and interests of children

Children were not themselves expected to accompany a parent to an information meeting, yet concern for their wishes and welfare had been a powerful driving force in the proposals for reform. There is considerable political and public will to find ways in which parents can be supported to meet their children's needs both to receive clear, accurate, age-appropriate information during the separation and divorce process and to be enabled to enjoy a positive relationship with each parent beyond divorce.

In the pilot study we were keen to elicit the views of children whose parents had experienced separation or divorce on both the information leaflets prepared for parents about children and on those directed at children for their own use. Focus groups were set up to begin this process in December 1997, and a preliminary discussion on this subject was included in our First Interim Evaluation Report.¹² Following analysis of the data, the Lord Chancellor's Department commissioned the revision of the leaflets for parents and for children and the revised leaflets have since been piloted in schools, and through focus groups and a panel survey.

In addition to the development of appropriate information materials for parents and children, there has been a growing interest in many jurisdictions in the use of parenting

¹¹ *ibid.*

¹² Spinks, R., McCarthy, P., Richards, M., Mitchell, S. and Stark, C., 'Reading and seeing the information', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998), pp. 133–56.

plans as a tool for parents to use, either working together or with lawyers or mediators, to help them make the key decisions about the future care, education and welfare of their children.¹³ For the purposes of the pilot projects, Professor Martin Richards, a member of the research team, who has done extensive monitoring of the use of parenting plans in Australia, advised on the design and content of a parenting plan which was piloted within the information meetings in some pilot areas. Parenting plans were not introduced in any of the first six pilots, but were introduced part-way through the Model C pilots. They were included in the information provided at Models D and F group meetings, but were not included in the CD-ROM meetings.

Prisoners

One of the populations which is particularly vulnerable to relationship breakdown is that of prisoners. Separation through a prison sentence puts considerable strain on a marriage, and divorce is commonplace. During the pilots it seemed important to establish whether information meetings could be provided within prison establishments. It took a long time to secure the necessary permissions to include prison establishments in the pilot evaluation, but permission was obtained for pilots to offer information meetings in a number of different establishments in the North East, East Anglia, Solent and the Isle of Wight, Merseyside, and Leicester and the East Midlands. We designed specific research tools for this study and intended to follow up attendees through questionnaires since telephone interviews would be problematic to arrange. Despite considerable enthusiasm from prison governors and staff in the pilot establishments, the take-up rate among prisoners was low. We were, nevertheless, able to obtain sufficient data from focus groups and consultations with prisoners and prison staff to make recommendations about the provision of information to prisoners.

Access to justice: gender

We were mindful of the growing literature in family law and the social sciences pertaining to gender, and the extent to which legislative processes and policy reforms are gendered in terms of their conceptual framework and their implementation. Information meetings must be of relevance to, and equally accessible by, men and women. The work on gender has permeated our research design and our analyses in an implicit rather than an explicit way throughout the study. It has informed our thinking about the relationship between gender and a number of different factors, which include:

- the dissemination of publicity for information meetings
- choice of information meeting venues
- the information materials
- the use of CD-ROMs
- the presenters: selection, training, skills, presentation

¹³ For an explanation of parenting plans see Fisher, T., *NFM Guide to Separation and Divorce*, Vermilion (1997), Ch. 12.

- the expectations of the men and women who attend information meetings
- satisfaction with and impact of the meeting
- attendance and non-attendance at (i) information meetings, (ii) meetings with a marriage counsellor, (iii) mediation, (iv) solicitors' offices
- attitudes towards the information meeting (preferences) and the information given
- subsequent behaviour
- consent to participate in the research
- attitudes about divorce and divorce process
- use of parenting plans

All these issues are addressed in this final research report.

Postal pack study

During analyses of research interviews with attendees it became clear to us that many of them were finding it difficult to disentangle their perceptions of attending an information meeting from their views on the information pack. In other words, it is sometimes difficult to know whether their subsequent behaviour related to their experience of attending and/or to their being given extensive information to take away. We considered that the only way to examine this would be to offer the information pack without an associated meeting. It was decided to conduct a special postal pack study within the London and Greater Manchester pilot areas, through a call centre in the Manchester pilot office. People receiving the packs were offered a meeting with a marriage counsellor, enabling us to discern whether the take-up rate is lower when people have not been asked, either by a presenter during an information meeting or through a CD-ROM program, to consider whether their marriage is really over.

We collected data about all recipients of an information pack through the post in exactly the same way as we did for the pilots themselves. We also sought consent to follow up the recipients through telephone interviews, using the same methodologies as in the main study.

Unmarried parents

A policy decision was made to afford unmarried parents the opportunity to attend the group presentations if they were making or about to make private applications under the Children Act 1989 in respect of arrangements for children. Those people entering the study in Models B, C, D and F who were not married constituted a separate sample, although we employed an identical methodology throughout. In reality, only relatively

few attendees have fallen into this special study category. They were not included in our main sample and we report on them separately in Chapter 8.

Mapping and Modelling

An integral element in the evaluation has related to the location of information provision. In its planning for implementation of Part II, the Lord Chancellor's Department needed to make predictions about the level of national coverage needed, and about the most appropriate organisational structures, locations and venues. The primary challenge we faced was to identify a methodology which could determine the number of information meeting sites which would be needed to provide an adequate implementation of a chosen information meeting model. The methodology we chose was location-allocation modelling.

As part of the process of applying a location-allocation methodology, we addressed a number of subsidiary questions:

1. What is the geographical distribution of people who are likely to have to attend an information meeting?
2. How far will different types/categories of people be prepared to travel to attend an information meeting?
3. What kinds of locations are suitable as sites for the delivery of information meetings?

In answering these questions, we wanted to determine the trade-off between the number of sites and the distances some people would have to travel, in order to calculate the optimum number of locations which would be cost-effective so far as the provision is concerned yet would not impose unreasonable burdens on people in terms of the time taken and the costs associated with attending an information meeting.

During our study, supplementary questions turned on the comparison between the level of accessibility which information meeting sites would need to have and the level of accessibility of existing provision of other support services such as marital counselling and mediation. This led us to consider whether any implementation of policies which place considerable weight on the use of marriage support and/or mediation services needs to consider the variation across England and Wales in the level of accessibility of those services.

An additional component in this modelling exercise was to map and profile the pilots and their areas. During the early months of the pilots, methodological work centred on building up procedures for handling, linking, analysing and displaying very diverse types of information. Accomplishing some of these tasks was relatively straightforward using GIS facilities, but others required intensive inputs. In practice, a 'customised' information system has been developed for the research team and the Lord Chancellor's Department so as not only to provide the necessary mapping functions but also to build up the range of non-GIS data handling and analysis facilities which were needed for the profiling and modelling research. In our Second Interim Evaluation Report the pilot areas were profiled, key characteristics of the research sample were identified, and the findings

reviewed.¹⁴ Since then, a number of modelling options have been discussed with the Department, and in our Third Interim Evaluation Report we provided an overview of progress and a discussion of the site selection criteria which had been agreed.¹⁵

The Costs of Providing Information Meetings

Throughout the parliamentary debates on the Family Law Bill questions were raised about the costs of information meetings, and the anticipated sources of funding. During 1998 Professor Dolton undertook the first part of a detailed cost study of the various models of information meeting. The purpose was to estimate the average cost of each type of meeting in order to inform policymakers of the relative financial implications of implementing any chosen model on a nation-wide basis.

The complex task of attempting to estimate an average cost for different types of information meeting, for which we used accounting data obtained from the Department and data obtained by the research team, has been conducted at the cutting edge of econometric research. A draft preliminary report relating to Models A and B was submitted to the Department in December 1998. The very complex groundwork having been done in respect of Models A and B, similar calculations were carried out in respect of Model D and of the costs of providing the meeting with a marriage counsellor. During 1999 the Lord Chancellor's Department decided not to proceed with the costs study in respect of the other models. The work on this element of the research programme is the subject of a separate final report but is referred to here in Chapters 7 and 16.

Reflections on the Research Task

We anticipated that the task of evaluating information meetings and associated provisions would not be an easy one. When we began our research we did not know how many pilots there would be nor how many models the Lord Chancellor's Department would develop and test. Our primary evaluation incorporated the study of eight elements within a prospective framework which has ultimately involved seven phases within the research programme since March 1997 (Table 4.5).

Table 4.5 Research phases

Phase	Dates
One	March–April 1997
Two	May–October 1997
Three	November 1997–March 1998
Four	April–December 1998
Five	January–September 1999
Six	October 1999–March 2000
Seven	March–August 2000

¹⁴ Coombes, M. and Raybould, S., 'Mapping and modelling', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report*, Newcastle Centre for Family Studies (September 1998), pp. 273–93.

¹⁵ Coombes, M. and Raybould, S., 'Mapping and modelling', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999), pp. 204–25.

During the first two phases our emphasis was on establishing a consistent and robust methodology, designing a wide variety of data collection instruments, and undertaking data collection across the first six pilots. During Phases Two, Three and Four we collected our new data and began to analyse some of the data, primarily to address issues raised by the Lord Chancellor's Department during planning for the new pilots, and to prepare the First and Second Interim Evaluation Reports. During Phase Five we continued to collect new data across all seven ongoing pilots and presented the Third Interim Evaluation Report which included preliminary comparative analyses across all six models of information meeting as well as preliminary analysis from the meeting with a marriage counsellor. By the time we began Phase Six all the pilots had ended, although we were still engaged in fieldwork and data collection through time-slice surveys and focus groups with children. Phase Seven has been the only phase in which we have had to focus exclusively on analysis of an extraordinarily rich data set and to reflect on the findings. Inevitably, we have not been able to analyse all the available data in the time available, but have focused on key questions and issues.

It was after the presentation of our Third Interim Evaluation Report in January 1999 that it was agreed by the Lord Chancellor that a summary of the emerging research findings should be published, particularly as it had become clear that the piloting process was continuing longer than might have been anticipated, thus delaying implementation. Announcing the publication of a Summary of the evaluation in June 1999, the Lord Chancellor expressed himself as being disappointed by the research results in respect of the numbers of people using certain services following an information meeting. The focus given by the Lord Chancellor to marriage support and to mediation services in particular inevitably placed greater importance on the data available in respect of these outcomes.

The Lord Chancellor's announcement was widely interpreted as signalling a strong possibility that Part II of the FLA may not be implemented at all. This being the case, we deemed it necessary to broaden the research remit beyond providing answers to questions solely concerned with the mechanics of implementation. With the agreement of the Minister, Jane Kennedy MP, the Lord Chancellor's Department, our Research Advisory Group, and the Lord Chancellor's Advisory Board on Family Law we have interrogated the data from the pilots in a number of different ways in order to shed light on the Lord Chancellor's concerns that the provision of information should encourage shifts towards greater use of marriage counselling and mediation services, thus emphasising the significance of the first two principles underpinning the Family Law Act.

This multi-faceted evaluation programme does, in our view, provide clear messages about how Part II might best be implemented should that be the Government's decision. Equally, the evaluation findings suggest ways in which the principles in Part I of the Act might be better supported irrespective of whether or when Part II is implemented. We do not consider it part of our extended remit to comment specifically on the matter of the ground for divorce and the fault/no fault debate. The evaluation was not designed to give particular consideration to this issue since implementation was not in doubt when the study was formulated. It is important to note, however, that all the research during the past three years (including that directed by Professor Gwynn Davis in respect of Section 29 of the FLA) has been conducted against the background of current legislation, within which the majority of divorces are obtained using fault-based facts and with little encouragement for couples to reflect on the steps they are taking. The research can and does address many very important questions on which policy decisions can be made.

Inevitably, it does not tell us what might happen if the whole of the FLA were to be implemented, although it does provide significant indicators.

Developing a Conceptual Framework

In designing an appropriate research programme to meet the research objectives, the research team did not set out with any pre-determined views about how Part II of the FLA might best be implemented, not with any preconceptions about the findings that might emerge from the various pilots. We took no particular theoretical stance, preferring to employ a grounded theory approach which means that our conceptual and theoretical frameworks have been inductively derived from the study, and discovered, developed and verified through systematic data collection and analysis of those data. Creativity is a vital component of this method, enabling us to ask wide-ranging questions when interrogating the data in order to elicit new insights. As we began our process of contextualisation, we prepared a number of working papers which addressed theoretical issues and provided us with a framework for data collection and analysis.

We began the process of contextualisation by drawing on ideas derived from the study of policymaking, consideration of the management of innovation, and observation of contrasts between the assumptive worlds of officials and organisations and those of potential users of the provisions of Part II. From the beginning the research task was strictly limited to an exploration of clearly specified models of information delivery. It was not part of our work to emphasise any single measure, the result of which would cast doubt on the possibility of implementation of the Act. However, it seemed prudent to bear in mind that any government department might not be single-minded in the pursuit of an agreed strategy of implementation. In addition, the possibility of disagreement and of policy change could arise from the very conduct of projects described as ‘pilot’, and, of course, particularly from any change of government, in view of the contested nature of the passage of legislation which we described in Chapter 2.

The FLA formed the basis for organisational innovation undertaken on a considerable scale. New roles were created: information presenter, facilitator, and attendee; and new organisational forms were designated: the information meeting, the meeting with a marriage counsellor, Local Interdisciplinary Fora (LIDF) and the National Interdisciplinary Forum (NIDF). Competing professional interests were to be managed in this inter-disciplinary effort. Counselling agencies, for example, constituted a kind of interest group. Policymakers sought to control other interest groups in different ways, primarily through an emphasis on interdisciplinarity which promoted an even balance between the agencies. One way in which the Department did this was by providing a series of negative distinctions: the information meeting was *not* advice giving nor a counselling session, whereas the MWMC was conceptualised as ‘not’ counselling. This assumed universal agreement concerning the meaning of advice, counselling and the content of an information meeting. The possibly different interests of men, women and children were to be accommodated by stressing the importance of safeguarding equality of access to the information meetings, and by emphasising the role of parents in the present and the future.

Policymaking involves organisational change. It also involves a consideration of the different ideas of policymakers and of those for whom policy is developed. The FLA assumed that the simple provision of specific items of information would constitute a remedy for straightforward ignorance, but the idea of information is not easily separated

in ordinary discourse from 'knowledge' and 'understanding'. Information, if received, would seem to result in one form of knowledge, namely, knowing that certain services exist. However, knowledge is used in at least two other senses: know-how, and knowledge through acquaintance. These notions have helped us to identify different kinds of ignorance and different ways in which attendees appropriate the information given.

In the pilot areas access to information meetings was advertised as available irrespective of the point reached by individuals in the identification or resolution of problems in the marriage. It seemed to us possible that the official world and the world of attendees might envisage differently timed sequences in marital and familial processes. On the one hand, the FLA can be interpreted as pointing participants towards the future, as persuasively progressive. On the other hand, attendees may desire some consideration of the past in the achievement of justice, or may be required to reflect on the past in any counselling to 'save' the marriage. Similarly, attendees may entertain a notion of the critical path towards ending a relationship and a marriage which differs from that contained in the Act, which advances a period of time both for reflection and as a test of marital breakdown. There is no doubt that the FLA marked an important move by the state into the regulation of 'private' worlds through a more carefully managed process of marital separation up to the final dissolution of a marriage, by which time all matters must be negotiated, agreed or adjudicated. Cretney and Masson described the Act as being 'conceptually unusual', in that it

seeks to promote a remarkable collaboration between the legal process necessary to terminate the legal status of marriage, and various applied social work measures intended to minimise the damage done to children and adults by marital breakdown and its consequences.¹⁶

They quote Lord Carr of Hadley, who pointed out during a parliamentary debate that, for the first time in our history, the Government is seeking to

put on the statute book a process which must be gone through before divorce can be obtained; which is designed to question whether the divorce is necessary.¹⁷

Whereas the majority of people contemplating divorce under the existing legal procedures are likely to consult a solicitor as a 'first port of call', the provision of information in a compulsory meeting was somehow expected to reduce the reliance on the legal profession as a primary source of information, although lawyers would still be the custodians of legal advice. The importance of information emerged partly as a result of research which drew attention to widespread and persistent ignorance about the process and potential benefits of mediation.¹⁸ Information provision was seen as a way of addressing comprehensively the range of assumed ignorance about marriage breakdown. Counselling was to be implicitly encouraged as a sound method of problem-solving, and mediation was to be

¹⁶ Cretney, S.M. and Masson, J.M., *Principles of Family Law* (6th edn.), Sweet & Maxwell (1997).

¹⁷ Lord Carr of Hadley (Home Secretary 1972-4), Official Report (H.L.), 23 January 1996 at col. 942.

¹⁸ See e.g. Conciliation Project Unit (Ogus, A. *et al.*), *Report to the Lord Chancellor on the Costs and Effectiveness of Conciliation in England and Wales*, Lord Chancellor's Department (1989); Walker, J., McCarthy, P. and Timms, N., *Mediation: The Making and Remaking of Co-operative Relationships*, University of Newcastle upon Tyne (1994); Simpson, B., McCarthy, P. and Walker, J., *Being There: Fathers After Divorce*, University of Newcastle upon Tyne (1995); McCarthy, P. and Walker, J., *The Longer-term Impact of Family Mediation*, Joseph Rowntree Foundation Findings, Social Policy Research 103 (September 1996); *Public Attitudes to Marriage, Divorce and Family Mediation*, research survey conducted for the Lord Chancellor's Department (March 1994).

presented as a helpful method of alternative dispute resolution. Yet at the same time, access to courts was to be enhanced by efforts to offer people informed choice between options. Interdisciplinary fora were expected to facilitate a more civilised approach to marital problems.

In our view, the establishment of information meetings was not merely a question of inserting a new step at the beginning of the legal process of divorce; information meetings were expected to change the way in which other services were used, and thereby impact on their potential effectiveness. The lack of relevant information about processes and options within the present system has long been regarded by many as a serious matter. It has meant that many people experiencing marriage breakdown, and some of those professionals tasked with advising, representing and helping them, have been either ignorant of or confused by new approaches such as mediation.

Nevertheless, we asserted that it would be naïve to believe that simply providing information and special opportunities to meet with a marriage counsellor were going to meet the needs and expectations of all those contemplating divorce. We stated at the beginning of our evaluation¹⁹ that the way in which information is given is a critical issue since most people facing divorce are experiencing emotional turmoil and are not necessarily in the best frame of mind to take in and act on the information provided. We recommended from previous research that information would have to be presented in a variety of accessible, understandable forms, emphasising the needs for those who do not read easily, or whose first language is not English. It must also be relevant to people from different socio-economic groups and different cultures, and to those holding values other than those normally construed as being 'traditional' and 'middle class'.

We suggested that ensuring that information is available to people in the best place at the optimum time constitutes a particular challenge for policymakers. Our evaluation confirms that this challenge did indeed emerge as a crucial one within the pilots. In addition to the research questions delineated earlier in this chapter, we asked the question 'Could information be presented too soon for it to be of maximum effectiveness?' It has turned out to be an important question, as has the question of whether information can be presented too late to be of much use. In our Third Interim Evaluation Report²⁰ we described information meetings in the context of the divorce process as an initiative of considerable complexity in terms of their legislative intent, their delivery by presenters and facilitators, and their reception by users and other concerned parties. In order to understand both the innovation, and the ways in which different groups were responding, we began to devise a framework outlining conceptions and interests.

As we have noted in Chapter 2, during parliamentary debates on the Family Law Bill, the term 'information meeting' emerged as the most acceptable label for a new provision which would give parties who believe that their marriage may have broken down access to information which may then help them to resolve their difficulties. Its simplicity, as the evaluation shows, is deceptive. While evidence has been growing in recent years that the majority of people facing marriage breakdown and divorce appear to lack information about the options open to them, and may not always be aware of the impact of divorce on

¹⁹ Walker, J., 'Evaluating the pilot projects', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998), pp. 9–32.

²⁰ Walker, J. and Timms, N., 'Reviewing the evidence', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999), pp. 225–39.

themselves and on their children, simply providing a standardised information set is not necessarily going to meet everyone's needs. We all have some notion of what to expect when we are told that we are going to be given information, and we have some notion of what going to be a meeting might be like. Yet putting these two conceptions together and turning the concept of an information meeting from a 'good idea' into 'reality' has not been as straightforward as might have been imagined. The Act lists a range of information that has to be provided regardless of personal circumstances or the specific problems which may press on those attending.

Addressing ignorance

Information is commonly regarded as a 'social good', but we need to ask whether the need for knowledge is spread more or less equally across the topics prescribed in the FLA. It is understandable that mediation as a fairly recent innovation in alternative dispute resolution still gives rise to confusion, but it is less likely that those contemplating divorce are completely ignorant of the emotional, psychological and economic impacts of marriage breakdown on themselves and their children, or of the role of solicitors. We believed it to be important, therefore, to attempt a more rigorous understanding of levels of ignorance.

Through the rich qualitative data obtained through extensive interviews with attendees, we identified an exclusive set of categories and of elements associated with them. We delineated three conditions of ignorance each of which relates to a specific group of attendees as far as the self-attribution of ignorance and interests is concerned. Those attending information meetings in the pilots tended to fall into one of these categories at the time of attending:

- those who did not know what to do
- those who did not know how to proceed
- those who did not know how to deal with specific issues

Not knowing what to do

Some attendees categorised their situation as one of rather helpless ignorance. Such ignorance may result from wholly or largely unforeseen happenings, or it may proceed in the shadow of officialdom and the law, which has now come to have significance for them. The breakdown of the marriage may have been a relatively recent realisation, and consequently attendees may not know what to do about it. Alternatively, the marriage may have been difficult for a while, but they have not known what to do about the situation, beyond realising that they might have to do something.

Not knowing what to do is associated with a search for a cluster of support–advice–counselling–guidance. Information provision needs to take account of this rather 'helpless' or 'directionless' stage.

Not knowing how to proceed

People in this group were fairly certain about the direction their lives were taking – primarily into and through the divorce process – but uncertain about how to take the necessary steps. Whereas those in the first group may have been floundering because the direction seemed unclear or uncertain, those in this second group were looking for information about the options available and about the best way forward, and also to find out what would be fair, legal and appropriate.

Not knowing how to deal with specific issues

The third group of attendees who can be distinguished in terms of ‘not knowing’ were those who had become sufficiently clear and agreed about the discernible future that their ignorance took a specific form. For example, they did not know what to do about finance, or what arrangements they should make in relation to children, or what their rights were in respect of the matrimonial home. These attendees were usually seeking the solution to identified problems. They may have been well down the road to divorce by the time they accessed an information meeting, and may have been limited in the choices they could make about the steps to take. This group was looking for information that would be instrumental in moving them on along their chosen path.

Of course, these categories and their associated elements do not capture reality for any individuals permanently since most people move in one direction or another through the divorce (or marriage-saving) process. Nevertheless, it has provided a helpful framework for understanding attendees’ needs and for making sense of their reactions and responses to the information meeting. All the evidence about marriage breakdown and divorce indicates that the transition from one state to another is usually a long process involving mixed emotions, indecision and reflection. Going to an information meeting may mark a watershed, from which decisions and actions flow, or it may serve to slow things down even further, giving people ‘permission’ to take their time. This is precisely one of the outcomes desired by the policymakers and parliamentarians who hoped to prevent over-hasty divorces. Information meetings may allow attendees to consider whether or not they actually want to use any services at all and to realise that they do not have to be caught up in some inexorable normative process. The differing levels of ignorance, or in other words the different agendas, needs and expectations of those attending information meetings, have considerable implications for the timing, content and implications of information provision. This is a theme to which we return on numerous occasions throughout this report.

Chapter 5

Information Meeting Applicants and Attendees

Peter McCarthy

Human knowledge is personal and responsible, an unending adventure at the edge of uncertainty.¹

Applications To Attend an Information Meeting

People who wished to attend an information meeting made an appointment by telephoning the pilot headquarters. At the time they phoned they were asked a series of questions that provided information of use to the pilot management, relating in particular to whether they would feel safe attending a meeting, and the medium by which they would prefer to have their appointment confirmed. They were also asked a series of questions eliciting information which enabled us to understand something of their socio-economic background, and what other steps they had taken in the divorce process. The information we gained forms the basis of this chapter, which describes the characteristics of those who applied to attend an information meeting, those who attended, and those who applied to attend but did not turn up. Data on attendees are also employed in Chapter 6, which discusses the extent to which it is possible to generalise our findings to an implemented system from data obtained from those who attended an information meeting during the pilots.

During the pilot programme, 9,990 married people applied to attend an information meeting. Table 5.1 provides information about the number of applications processed by each pilot site in relation to each of the models that were tested. It shows that there was considerable variation between models and between pilot sites. The number of applications may not be a reliable indicator of the rate of throughput, however, since some pilots operated over a longer period than others. For instance, the two pilots testing Model F experienced similar numbers of applications per week, but the Leicester and East Midlands site generated a higher total number of applications because it ran four months longer than the North East Model F pilot. Similarly, the South West pilot generated fewer Model D applications than the East Anglia pilot, but the latter ran for an extra four months. However, both Model E pilots operated over the same period of time, and the Solent pilot generated 70 per cent more applications than did the Merseyside pilot. Differences between the six pilot sites offering Models A and B were discussed in our Second Interim Evaluation Report. Clearly, one of these pilots, Leicester and East Midlands, received more applications than the other pilots. It received the highest number of applications per week, but this was influenced by the fact that it remained open beyond the point when the others had ceased to offer these meetings, as well as continuing to offer Model A meetings in connection with the special study on ethnicity.

There were particularly low numbers of applications for group presentations in Model C and Model F, which were available only to people involved in divorce proceedings. This was exacerbated by a high drop-out rate between application and meeting. It is clear that there was insufficient interest among people involved in divorce proceedings to make

¹ Bronowski, J., *The Ascent of Man*, BBC (1973).

Table 5.1 Distribution of applications to attend an information meeting by model and pilot site

	A	B	C (individual)	C (group)	D	E	F (individual)	F (group)	Total
Birmingham	277	329	–	–	–	–	–	–	606
Leicester	416	512	–	–	–	–	622	214	1,759
East Anglia	349	378	–	–	1,067	–	–	–	1,794
South Yorkshire	206	315	–	–	–	–	–	–	521
South Wales	262	301	–	–	–	–	–	–	563
North East	222	455	–	–	–	–	402	210	1,285
Manchester	–	–	227	198	–	–	–	–	422
London	–	–	456	232	–	–	–	–	668
South West	–	–	–	–	958	–	–	–	958
Merseyside	–	–	–	–	–	520	–	–	520
Solent	–	–	–	–	–	894	–	–	894
Total	1,732	2,290	683	430	2,025	1,414	1,024	424	9,990

Note: (1) Three people in Manchester and 20 people in London applied for both parts of the Model C process, and 5 people in Leicester and 4 in the North East applied for both parts of Model F; (2) we did not record applications to attend a Model B group presentation since all applicants had attended an individual meeting previously.

these models viable, although an attempt was made to boost throughput by sending information about the meetings to all couples beginning divorce proceedings at courts located within the pilot areas.

There was also a particularly low response to the provision of Model C individual meetings. This was particularly acute in the Greater Manchester pilot, which received only 227 applications, although the London area’s applications were not that much higher when its much larger catchment population is taken into account.

Gender of applicants

Women were more likely than men to make an appointment to attend an information meeting: 36 per cent of those who made appointments were men and 64 per cent women. There was little variation between pilot sites with regard to proportions of men and women. There was, however, some variation between the different models. As Figure 5.1 shows, men made up a much higher proportion of those applying to attend group meetings than they did of those applying to attend individual meetings. This was particularly the case with regard to group presentations provided in Models C and F, which were available only to people already involved in divorce proceedings.

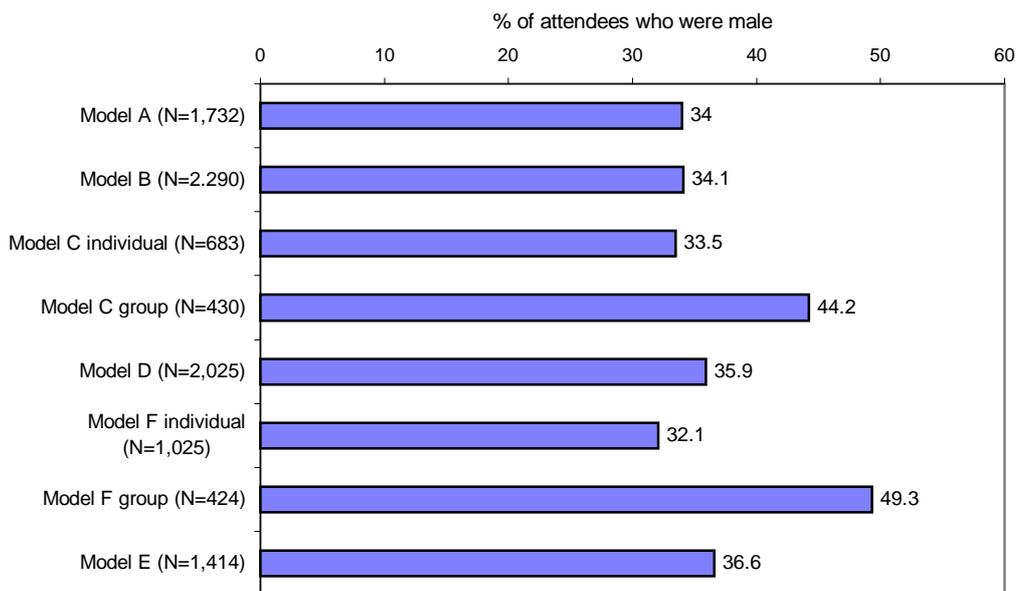


Figure 5.1 Male applicants as percentage of total within each model

Divorce is acknowledged to be a process, rather than a discrete event, and it seems that the stage people have reached in that process significantly influences whether they will seek certain kinds of help. People seek help when they feel it to be appropriate. Men may have been more likely to apply to attend group presentations simply because two types of these meetings – Models C and F – were offered only to people who had started divorce proceedings and male applicants were more likely than females to have reached that stage when applying to attend. Divorce proceedings were already in train for the 25 per cent of men and 16 per cent of women who made an appointment to attend an information

meeting. This suggests a tendency for men to seek help later in the process of marriage breakdown than women, a suggestion which is supported by the finding, shown in Table 5.2, that men were more likely than women to be already separated from their partner at the time they applied to attend an information meeting.

Table 5.2 Residence of applicants

	Males %	Females %	All applicants %
Living with spouse	38.0	47.3	44.0
Living apart from spouse	62.0	52.7	56.0
Total (100%)	3,478	6,288	9,766

Note: the residence of 134 applicants was not known.

Moreover, as Table 5.3 demonstrates, in the majority of those cases in which parties were involved in divorce proceedings it had been the wife who had initiated them. Only 28 per cent of men, as against 77 per cent of women, involved in divorce proceedings had themselves initiated those proceedings. Thus, in 75 per cent of the cases in which divorce proceedings had started before one of the parties made an appointment to attend an information meeting it was the wife who had filed the petition. It seems, therefore, that women involved in divorce proceedings applied to attend an information meeting in order to follow up the initiative they had taken to seek a divorce, whereas men typically contacted an information meeting pilot in response to action taken by their wife. This suggests that women tend to be proactive and men reactive.

Table 5.3 Applicants involved in divorce proceedings

	Males %	Females %	All applicants %
Petitioner	28.0	77.4	54.5
Respondent	71.6	22.6	45.3
Joint application	0.4	0.0	0.2
Total (100%)	842	976	1,818

Under the requirements of Part II of the FLA, only the party wishing to initiate divorce proceedings has to attend an information meeting. Our evidence suggests that in most cases that party will be the wife. This may mean that husbands will be less well-informed about the divorce process unless they wish to make an application to the court in respect of ancillary matters or to contest any such application. If they do, they will be obliged to attend an information meeting first (Section 8(3)). Evidence suggests that men tend to be more reluctant than women to make use of related services such as counselling.² If one of the functions of the information meeting is to divert people into marriage counselling or alternative modes of dispute resolution, it is imperative that ways should be found of persuading the most reluctant partner (usually the husband) to participate. It is difficult to

² McCarthy, P., Walker, J. and Kain, J., *Telling It As It Is: The Client Experience of Relate Counselling*, Newcastle Centre for Family Studies (1998).

know how this is to be achieved if one partner does not have to attend an information meeting, or is not routinely provided with the same information.

Children

Some applicants (108) did not provide information about children. Of those who did, 12 per cent had no children and 14 per cent only had children aged 18 or over. Thus, 74 per cent of applicants had children aged under 18. Indeed, 25 per cent of applicants had children under five and 57 per cent had children under twelve. Family sizes varied considerably and there were two applicants who each had eight children. As Table 5.4 shows, where parents were living apart, children mostly lived with mothers. Only 14 per cent of mothers, as against 72 per cent of fathers, who lived apart from their spouse described themselves as non-resident parents.

Table 5.4 Parental status of applicants who had children under 18 and were living apart from their spouse

	Males %	Females %	All applicants %
Resident	21.4	83.6	58.6
Non-resident	72.0	13.7	37.1
Shared parenting	6.6	2.7	4.2
Total (100%)	1,719	2,561	4,280

Source of information

Almost two-thirds of applicants (65%) had learned of the existence of information meetings via the media, and there were no differences in this respect between men and women. The next most important sources of information were the courts (12%), counsellors (5%), Citizen's Advice Bureaux (4%) and friends (4%). Despite efforts made by pilot managers to encourage the participation of local solicitors, only 2 per cent of applicants were referred to the information meeting by a solicitor. It seems that men were more likely than women to have been referred by a court – 15 per cent as against 10 per cent – since men seemed more likely to take up offers to attend an information meeting that were sent out via local courts. This may be connected with the tendency of men to seek information later than women.

Attendance at an Information Meeting

Not everyone who made an application to attend an information meeting actually went to a meeting. Approximately one in four (26%) of those who applied to attend an information meeting failed to keep their appointment. When arranging an appointment applicants will have been informed about the type of meeting they would be attending, and this seems to have had an impact on whether they would turn up. We attempted to

understand the factors associated with non-attendance by means of a logistic regression³ analysis, the results of which are shown in Table 5.5. The analysis suggests that non-attendance can be explained in terms of a range of factors including age, gender, type of meeting, current living arrangements, presence of children, age of children, social class, number of marriages, previous experience of counselling, and how the applicant learned of the existence of information meetings.

As Table 5.5 demonstrates, attendance rates varied considerably between models. They were particularly low for those group presentations that were provided specifically for people who had started divorce proceedings (Models C and F). For instance, approximately half of those who applied to attend a Model C group presentation failed to turn up. Model D, which consisted only of group presentations, had a better attendance rate than Models C and F, with 68 per cent attendance, but this still fell some way short of the attendance rate experienced within the individual meeting models, including those at which information was provided by a CD-ROM. It is noteworthy that the highest attendance rate was that related to Model A, the individual meeting scheduled to last the longest. It seems that people thought that this meeting was the one most worth turning up for, and, as is shown later in this report,⁴ it is this type of meeting that received the most positive response from attendees.

Men were marginally more likely than women to keep their appointments: 76 per cent of men kept them, as against 74 per cent of women. Gender differences in attendance rates were consistent across models, with men being most likely to keep appointments, whatever type of meeting they had applied for. The only gender difference regarding attendance that was statistically significant was that which related to attendance at CD-ROM meetings. A total of 848 men applied to attend a CD-ROM-based meeting and 81 per cent attended, a significantly higher attendance rate ($p < 0.001$) than that for the 1,592 female applicants, 74 per cent of whom attended.

As we have noted in Chapter 4, booking clerks endeavoured to elicit information about whether attendance at a meeting might be problematic in terms of an applicant's safety, so that arrangements could be made to minimise the risk involved. Six per cent of female applicants, and 2 per cent of males, indicated that they would be concerned about their safety when attending an information meeting. Such concerns seem to function as a slight deterrent to keeping appointments, for men as much as for women. The attendance rate among the 422 applicants who had expressed concerns about safety was 68 per cent, whereas of those who apparently had no such concerns 75 per cent kept their appointment.

The majority of applicants (86 per cent) were in their first marriage, while 13 per cent were in their second marriage and the remainder had been married three times or more. Those who were in their first marriage were more likely to keep their appointment (75% attended) than were those who had been married more than once (69% attended).

A total of 2,068 applicants had previously been to marriage counselling and 80 per cent of these subsequently attended an information meeting. Those who had been to marriage counselling were more likely to keep their appointment than those who had not; 72 per cent of the latter turned up.

³ For a description of logistic regression see Annexe 5.

⁴ Chs 7-9.

Table 5.5 Logistic regression of the likelihood of applicants attending a meeting after making an appointment

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Gender:</i>				
male	.109	.056	.051	1.12
female				
<i>Concerned about safety:</i>				
yes	-.232	.118	.050	0.79
no				
<i>Living with spouse:</i>				
yes	-.232	.054	.000	0.79
no				
<i>Meeting attended:</i>				
Model A	.283	.098	.004	1.33
Model B	.018	.090	.840	1.02
Model C individual	.045	.122	.711	1.05
Model C group	-1.497	.135	.000	0.22
Model D	-.609	.086	.000	0.54
Model F individual	-.114	.105	.278	0.89
Model F group	-1.242	.140	.000	0.29
Model E			.000	
<i>Been to counselling:</i>				
yes	.374	.067	.000	1.45
no				
<i>Consulted solicitor</i>				
yes	-.067	.058	.244	0.93
no				
<i>Age of youngest child:</i>				
under 5	.445	.086	.000	1.55
5–11	.502	.082	.000	1.64
12–17	.656	.096	.000	1.93
over 17	1.084	.120	.000	2.96
no children				
<i>Source of information:</i>				
media	-.344	.113	.002	0.70
court	-.229	.137	.091	0.79
solicitor	-.164	.203	.410	0.84
counsellor/mediator	.073	.169	.687	1.06
CAB	-.042	.168	.806	0.94
friends/relatives	-.130	.154	.396	0.86
other				
<i>Social class:</i>				
A	.881	.138	.000	2.41
B	.884	.073	.000	2.42
C1	.813	.077	.000	2.25
C2	.574	.083	.000	1.78
D	.314	.097	.001	1.40
E	.208	.129	.106	1.23
not economically active				
<i>Number of marriages:</i>				
one	.321	.072	.000	1.38
more than one				
<i>Age of applicant</i>				
	.026	.232	.002	

Number of cases = 9,497; Nagelkerke's R^2 = .094; -2LL = 10,684.84; LL Chi-squared = 934.75.

Applicants were most likely to keep appointments if a divorce-related professional had referred them to the meeting. Of the 42 applicants who were referred by a mediator, 88 per cent kept their appointment, while 85 per cent of the 489 referred by a counsellor and 75 per cent of the 220 referred by a solicitor turned up. Attendance was less likely among people who had been informed via the court about the existence of the information meeting: only 63 per cent of the 1,155 people who applied to attend a meeting after being informed of its existence by the court turned up for their appointment. The main source of information about the meetings was, as suggested earlier, the media (local radio, newspapers and advertising). A total of 6,399 applicants had heard about information meetings via the media, and 74 per cent of them kept their appointment.

The results of our logistic regression analysis (Table 5.5) suggested that people in paid employment were more likely to keep appointments than were those who were not economically active at the time. There was also evidence of an association between keeping appointments and socio-economic classification. People employed in professional occupations were the group most likely to keep appointments (82% kept their appointment), while people in unskilled jobs were least likely to turn up (only two-thirds attended the meeting they had arranged).

Applicants without children were less likely to keep appointments than those with children, although those who had only grown-up children were the most likely to turn up. It was noticeable that the parents least likely to keep appointments were those with very young children. This may suggest that there were difficulties with childcare arrangements. Although a budget for crèche facilities was written into the pilot proposals, there was no requirement that such facilities had to be provided across all the pilots. Each pilot needed to demonstrate that it could provide crèche facilities if they were asked for. We know that in some pilots crèche facilities were offered to information meeting applicants, although they were not available at every venue. We are not aware of crèche facilities having been used at any time during the pilots. We refer again to issues in respect of children in Chapter 23. Only 70 per cent of people who had children aged under five turned up for the meeting they had arranged, and in this respect there was little difference between men and women. On the other hand, 79 per cent of the parents of children aged 11–17 kept their appointment.

When the Lord Chancellor's Department developed information meetings that used a CD-ROM, concerns were expressed as to whether this kind of technology might be off-putting and perceived as being too difficult to use. We therefore asked people who made an application to attend a CD-ROM meeting how much experience they had of using computers. Around three-quarters had some experience, and they were more likely to keep their appointment: 78 per cent of those with some computing experience turned up, as against 73 per cent of those with no such experience.

Varying Attendance Rates

If Part II of the FLA is implemented, the party who makes an application for divorce will be required to attend an information meeting. It will not be compulsory for the other party unless they make separate applications about issues relating to the divorce. Although it will be possible for couples to go to an information meeting together, or for each to go to separate meetings, it seems likely that in most cases only one party will attend. The pilots were attended by at least one party from 7,436 marriages.

When the pilots began, we had no way of knowing how many people would attend an information meeting, or what stage of the divorce process attendees would have reached. Nevertheless, it was expected that each pilot would have a throughput equivalent to 10 per cent of the divorces taking place at divorce courts located in their catchment area. Table 5.6 shows the estimated number of divorces in each pilot area, the number of marriages from which at least one partner attended an information meeting, and the percentage attendance in relation to the number of divorces. The data reveal that attendance rates, measured in this way, varied significantly. The rate for the London pilot was 2.9 per cent, while for the Solent pilot it was as high as 14.1 per cent. The low throughput in London might be misleading, since it is affected by the presence of the Principal Registry of the Family Division, which is the largest divorce registry in the country and likely to deal with a significant number of divorces involving people living outside the London area. It seems likely, therefore, that the lowest throughput actually occurred in the Greater Manchester pilot, where the attendance rate was only 3.6 per cent. However, that pilot ran for thirteen months, and for four of those months offered meetings only to people involved in divorce proceedings, while other applicants were simply sent a postal pack.

Table 5.6 Divorces in the pilot areas, and information meetings attended

Pilots	Couples who divorced during the pilot period ¹	Meetings attended	Meetings attended as % of divorces
South West	5,074	589	11.6
Birmingham	3,738	483	12.8
East Anglia	9,642	1,353	14.0
South Wales	4,717	454	9.6
Leicester	12,452	1,291	10.4
London	16,031	467	2.9
Merseyside	5,334	399	7.5
Manchester	7,671	273	3.6
North East	11,414	1,008	8.8
South Yorkshire	3,848	429	11.1
Solent	4,914	692	14.1

¹ Some of the pilots covered longer time periods than others. Data provided by ONS.

Profile of Attendees

As Table 5.7 shows, a total of 7,863 married people actually attended an information meeting. Of these, 5,553 attended an individual meeting only, 1,879 went to a group presentation and 431 people attended both an individual meeting and a group presentation (mainly both parts of Model B). Although Model B was intended to be a two-part process, with an individual meeting followed by a group presentation, the majority of attendees

did not go on to the group presentation.⁵ While 1,937 people attended the first part of Model B, only 399 attended both parts. As regards Models C and F, a group presentation could only follow the individual meeting if an attendee or their partner had petitioned for divorce after the individual meeting. Only 23 Model C attendees and 9 Model F attendees attended both an individual and a group presentation. This suggests either that very few individual meeting attendees filed for a divorce during the pilot period, or that most of those who did file for divorce decided not to attend a second meeting. Of those who went to an individual meeting, 1,956 had attended a meeting at which a CD-ROM provided information, with a facilitator in attendance, while 4,028 attended a meeting at which a presenter provided information. The majority of those who attended a meeting went without their spouse. A total of 427 attendees were accompanying a spouse who had made the initial appointment. Thus 7,009 applicants attended alone.

Gender of attendees

As might be expected given the data about applicants already reported, there were substantially fewer male than female attendees. Although men were more likely than women to keep appointments, only 38 per cent of those who attended a meeting were male while 62 per cent were female. The proportion of male attendees at group presentations was higher, however. Of those who attended a group presentation 41 per cent were male. The higher percentage of men attending a group presentation seems to be explained by two factors. First, as was suggested earlier, a higher proportion of men were already involved in divorce proceedings, and in areas in which Models C and F were provided people involved in divorce proceedings were eligible to attend a group presentation only. Secondly, men were more likely than women to take the opportunity to attend a group presentation after having gone to an individual meeting. Of the 431 people who experienced both parts of the process – an individual meeting and a group presentation – 44 per cent were men. A total of 1,204 men and 2,239 women attended an individual meeting in Models B, C or F, and of these 16 per cent and 11 per cent respectively went on to attend a group presentation.

Attendees' perceptions of safety

Forty-one men and 246 women attended an information meeting despite having expressed concerns about their safety when they made the appointment. Eleven men and the same number of women had specifically requested that their spouse not be allowed to attend the same meeting. Out of the 203 women who were allocated to an individual meeting after having expressed concerns about safety, 52 actually attended a meeting with a male presenter or facilitator. Although they appeared not to regard this as a problem, we would suggest that this situation is not ideal, and that some consideration should be given to whether this should be discouraged in an implemented system.

In questionnaires completed after each information meeting, individual meeting presenters recorded any concerns they had about an attendee's safety. Tellingly, they were more likely to express concerns than the attendees themselves. Presenters expressed concerns about the safety of 7 per cent of men and 15 per cent of women. There was a

⁵ We noted, during the first few months of the first five pilots, that an apparent misunderstanding existed among presenters concerning the fact that Model B was designed as a two-part process. We met with pilot staff in order to clarify Model B in the hope that this would increase the numbers attending.

Table 5.7 Distribution of attendees by model and pilot site

	A	B (individual only)	B (both parts)	C (individual)	C (group)	D	E	F (individual)	F group	Total
Birmingham	247	207	57	–	–	–	–	–	–	511
Leicester	369	277	121	–	–	–	–	490	117	1,369
East Anglia	299	276	79	–	–	850	–	–	–	1,504
South Yorkshire	186	240	16	–	–	–	–	–	–	442
South Wales	225	212	38	–	–	–	–	–	–	475
North East	198	326	88	–	–	–	–	338	121	1,067
Manchester	–	–	–	207	80	–	–	–	–	284
London	–	–	–	360	138	–	–	–	–	478
South West	–	–	–	–	–	605	–	–	–	605
Merseyside	–	–	–	–	–	–	411	–	–	411
Solent	–	–	–	–	–	–	717	–	–	717
Total	1,524	1,538	399	567	218	1,455	1,128	828	238	7,863

Note: Three people in Manchester and 20 people in London attended both parts of the Model C process, and 5 people in Leicester and 4 in the North East attended both parts of Model F.

less than perfect correlation between presenters' and attendees' assessments of risk, however. For instance, presenters did not identify concerns about the safety of 59 of the 203 female attendees who themselves had registered safety concerns at the time they arranged the meeting, while the presenters registered concerns about 380 females who did not themselves indicate that they had concerns. It is also worth noting that facilitators of CD-ROM meetings were much less likely to express concerns about attendees' safety. They expressed concern with regard to only 2 per cent of male attendees and 4 per cent of females, and their expression of concern was a poor predictor of whether an attendee had already expressed concern when arranging the meeting. Not surprisingly, perhaps, concerns about the safety of attendees became more apparent during meetings based on face-to-face contact than in those using a CD-ROM. Although it is unclear whether the concerns presenters identified are a reliable indicator of risk, it seems that the format of the CD-ROM meeting is not one that facilitates the identification of safety issues.

Differences between types of meeting

As Table 5.7 demonstrates, there was some variation between pilot sites and models in terms of the number of meetings provided. In particular, throughput was low in Models C and F, where attendees were allocated either to an individual meeting or to a group presentation according to whether they were involved in divorce proceedings. This distinction presented particular difficulties with regard to the provision of group presentations. Insufficient applicants were already involved in proceedings to give group presentations numbers of attendees comparable with those in Model D, where all applicants were referred to a group presentation. It is worth noting that of the 1,455 people who attended a Model D group presentation only 276 were involved in proceedings at the time they arranged to attend the information meeting. We attempted to boost the throughput of people involved in proceedings by asking that all those applying for a divorce at courts within each of the pilot areas should be sent invitations. More than 41,000 invitations were sent out across all the pilot areas, but they led to only 996 applications and a total of 598 attendances. Although this response was disappointing in research terms, it is clear that group presentations relating to Models C and F could not have taken place without the 130 and 182 attendees respectively who went to a meeting after having received an invitation from the court. In this respect, the exercise of sending invitations to people involved in divorce proceedings proved worthwhile, although it demonstrated a lack of interest in information meetings on the part of those who had already begun divorce proceedings and who had, in most cases, already been advised by lawyers.

Children

The majority (83%) of attendees had children from their current marriage, and 9 per cent had children from a previous relationship. In all, 89 per cent had children from either their current or a previous relationship. Some of these children were over 18, however. Indeed, one offspring of a marriage was over 50. Figure 5.2 shows family composition by age of youngest child. It reveals that 15 per cent of attendees had adult children only, while 24 per cent had children under 5, 55 per cent had children under 12, and 74 per cent had children under 18.

It seems that people who attended an information meeting were significantly more likely than divorcing couples in the general population to be parents. More than four in ten

(42%) of the couples who were divorced in 1996–7 at courts within the pilot areas did not have children aged under 18,⁶ as against only 26 per cent of those who attended an information meeting. This may suggest that parents with dependent children feel a greater need for information about ending a marriage than do those who do not have responsibility for children.

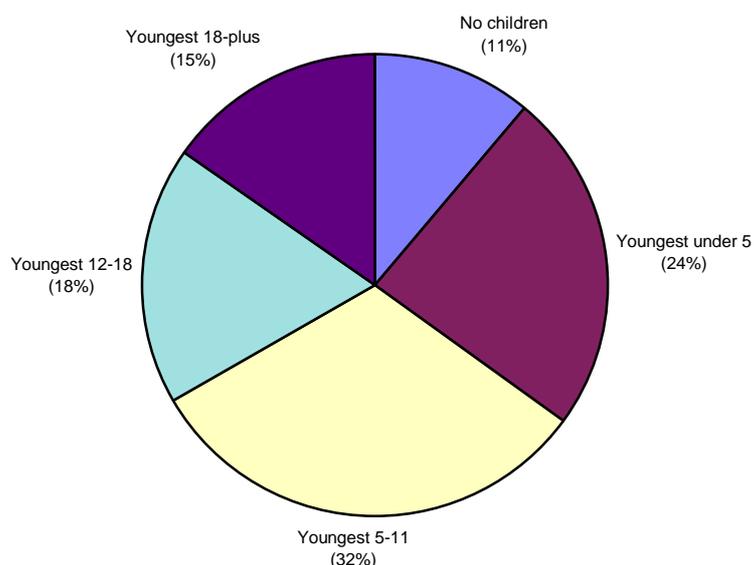


Figure 5.2 Family composition by age of youngest child (N = 7,793)

Ethnicity

The vast majority of the people who attended an information meeting described themselves as white. As Table 5.8 shows, however, this is much as might be expected given the ethnic structure of the population. Although it would have been helpful, in research and policy terms, to have secured a larger sample of attendees from minority ethnic backgrounds, it is fair to observe that the sample was not heavily skewed in favour of white people. There was some variation between pilot sites, but this closely mirrored the ethnic profiles of the populations in the respective parts of the country. The proportion of non-white attendees was, for instance, 10 per cent in Birmingham and Coventry and 25 per cent in London, while it was less than 3 per cent in the North East, South Yorkshire, Merseyside and South West pilots.

⁶ Data kindly provided to us by John Haskey, Office for National Statistics (now National Statistics).

Table 5.8 Ethnic composition of attendees and of the general population

	Attendees %	Great Britain ¹ %
White	94.5	93
Black-Caribbean	1.0	1
Indian	1.5	2
Pakistani/Bangladeshi	0.4	2
Others	2.6	3
Total	7,591	20,396

1. Source: ONS (2000) *Living in Britain: Results from the 1998 General Household Survey*, Table 3.18.

The low throughput of people drawn from ethnic minorities is reflected in the fact that all but six of the individual meetings were conducted in the English language (there were three meetings in Punjabi and one each in Gujerati, Urdu and Welsh), while an interpreter was employed on only ten occasions. Moreover, only 20 information packs written in a language other than English were taken away, 8 being in the Welsh language, 4 in Punjabi, 5 in Gujerati and 3 in Urdu.

During its second phase, when it was providing Model F meetings, the Leicestershire and East Midlands pilot recruited an ethnicity consultant in order to promote higher take-up from ethnic communities. If this had been successful one would have expected the throughput of non-whites to have risen throughout the pilot period. Figure 5.3, however, which shows weekly attendance and the 4-week moving average for whites and non-whites separately, indicates that no such increase occurred with regard to individual meetings. (We might have expected the scope for improvement to be greater given that these meetings were available to people who had not at that time filed for divorce.)

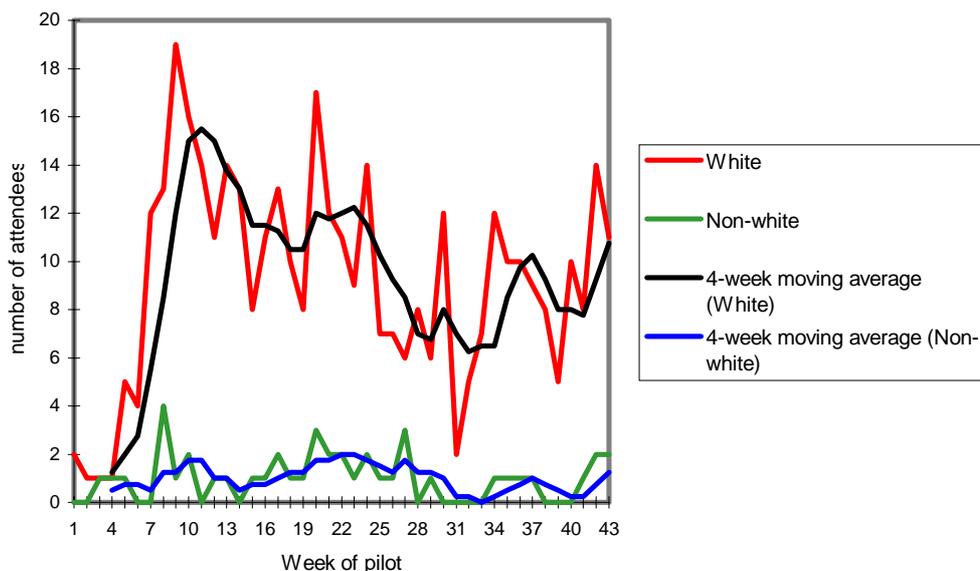


Figure 5.3 Throughput of white and non-white attendees at Model F individual meetings at the Leicestershire and East Midlands pilot

We also examined the trend for group presentations and found similar results. Nevertheless, a marginally greater proportion of non-whites was in attendance than in the first phase of the pilot. Table 5.9 compares the ethnic make-up of information meeting attendees during two pilot phases in Leicestershire and the East Midlands. It suggests a limited increase in the proportion of minority ethnic groups attending group presentations in Phase Two of the pilots.

Table 5.9 Ethnic composition of Leicestershire and East Midlands attendees at two pilot phases

	Phase 1 Models A and B	Phase 2 Model F
White	94.5	90.9
Black-Caribbean	0.8	1.0
Indian	3.0	5.1
Pakistani/Bangladeshi	0.8	1.0
Other	0.8	0.5
Total (100%)	730	591

Age of attendees

Table 5.10 Ages of attendees and of the divorcing population 1996-7¹

Age	Males		Females	
	<i>attendees</i>	<i>divorcees</i>	<i>attendees</i>	<i>divorcees</i>
Under 26	0.4	3.5	0.7	7.9
26-30	4.0	15.8	7.2	20.8
31-35	15.8	22.3	16.1	22.8
36-40	22.5	18.8	22.5	17.5
41-45	20.4	14.2	21.6	12.5
46-50	16.4	11.8	15.3	9.6
51-55	10.6	6.7	10.0	4.8
56-60	4.4	3.7	4.1	2.3
61-65	2.1	1.8	1.6	0.9
over 65	2.4	1.2	0.9	0.7
Total (100%)	2,686	173,005	4,699	173,005
Mean	43.46	39.35	41.99	36.86
Standard deviation	9.33	9.94	8.65	9.44

1. Divorces at courts within the pilot areas (data provided by ONS)

The ages of information meeting attendees ranged from 20 to 87. As Table 5.10 shows, information meeting attendees tended to be older than people within the pilot areas who divorced in 1996–7. It seems, therefore, that younger people whose marriages face difficulties might be less inclined than older people to obtain information before proceeding with divorce. Younger people, of course, are less likely to have children.

Duration of marriage

As one might expect, duration of marriage correlates with age. However, the degree of correlation among information meeting attendees is affected by the presence of people who have married more than once. Thirteen per cent of information meeting attendees had been married before, which is significantly less than the 20 per cent of the divorcing population who were not in their first marriage. There were 24 attendees who were still in the first year of their current marriage and, at the other end of the scale, 10 who had been married for fifty years or more. As Table 5.11 shows, attendees tended to have been married for longer than were people who divorced in 1996–7 at courts within the pilot areas.

Table 5.11 Duration of marriages of attendees and of the divorcing population 1996–7¹

Duration of marriage (years)	Attendees %	Divorcees %
under 5	10.9	23.2
5–9	19.8	28.3
10–14	20.0	17.1
15–19	18.5	12.1
20–24	14.2	8.8
25–29	9.1	5.8
30 +	7.5	5.6
Total (100%)	7,721	172,973
Mean	15.39	11.85
Standard deviation	14.00	8.84

1. Divorces at courts within the pilot areas (data provided by ONS).

Age at marriage

The majority of attendees were married when between the ages of 21 and 30. Ten were over 60 when they married, but all were entering marriage for the second or third time. The oldest of these had been married for the second time at the age of 74. Six per cent of male, and 18 per cent of female, attendees were married before the age of 21. As Table 5.12 indicates, however, information meeting attendees were less likely to have married before reaching the age of 21 than were those in the populations of the pilot areas who

divorced in 1996–7.⁷ Nevertheless, the differences between attendees and divorcees in terms of age at marriage were, as Table 5.12 indicates, not particularly large.

Table 5.12 Age at marriage of attendees and of the divorcing population

Age at marriage	Males		Females	
	<i>attendees</i> %	<i>divorcees</i> %	<i>attendees</i> %	<i>divorcees</i> %
under 21	5.9	11.3	18.0	27.9
21–25	41.2	41.9	46.3	40.7
26–30	30.3	24.7	20.7	17.5
31–35	12.5	10.8	12.0	7.0
36–40	4.5	5.2	5.8	3.4
41–45	2.9	2.9	1.7	1.9
46–50	1.0	1.6	1.1	0.9
51–55	0.9	0.8	0.4	0.4
Over 55	0.7	0.8	0.1	0.3
Total (100%)	2,659	173,005	4,663	173,005
Mean	27.53	27.05	25.26	24.56
Standard deviation	6.88	7.36	6.06	6.56

1. Divorces at courts within the pilot areas (data provided by ONS).

Employment status

Most attendees, both men and women, were in paid employment when they attended an information meeting (Table 5.13). Only 5 per cent of men and 4 per cent of women described themselves as unemployed, although 15 per cent of women and a few men described themselves as home-makers. Part-time employment was common among female attendees, 38 per cent of whom had part-time jobs. Male attendees were more likely than members of the general population to be in full-time employment, while female attendees were more likely to have a part-time job. The different degrees of economic inactivity directly reflect the presence of a higher proportion of retired people within the general population.

The information attendees provided about their usual occupations (Table 5.14) suggests that information meetings were attended by people from across all socio-economic groupings, although there was an over-representation of people from the higher status groups, especially with regard to female attendees.

⁷ The comparative data for employment status and socio-economic status relate to the general population, not the divorced population.

Table 5.13 Employment status of attendees and of the general population

	Males		Females	
	<i>attendees</i>	<i>Great Britain</i> ¹	<i>attendees</i>	<i>Great Britain</i> ¹
	%	%	%	%
Employed full-time	73.7	58.8	32.2	35.3
Employed part-time	3.1	4.8	37.7	26.5
Self-employed	10.9	12.8	5.8	4.7
Unemployed	4.9	7.0	4.2	4.1
Inactive/other	7.4	16.6	20.1	30.0
Total (100%)	2,869	–	4,807	–

1. Source: *Social Trends 28*, ONS (1998), Table 4.2.

Table 5.14 Socio-economic status of attendees and of the general population

	Males		Females	
	<i>attendees</i>	<i>United Kingdom</i> ¹	<i>attendees</i>	<i>United Kingdom</i> ¹
	%	%	%	%
Professional	9.8	8	4.7	3
Managerial and technical	29.2	29	40.0	28
Skilled non-manual	19.0	12	31.5	37
Skilled manual	27.0	31	13.2	8
Partly skilled	10.3	15	7.8	19
Unskilled	4.7	5	2.9	6
Total (100%)	2,528	–	3,944	–

1. Source: *Social Trends 28*, ONS (1998), Table 1.11.

Timing of the information meeting

It is clear that many of those who attended an information meeting were well down the road to divorce. More than half (55%) had already separated from their spouse, and 16 per cent were already involved in divorce proceedings. Of those who were involved in divorce proceedings 78 per cent were already living apart from their partner, but it is noteworthy that 8 per cent of those who were living with a spouse were involved in divorce proceedings. This is significantly less than the 23 per cent of those living apart who were involved in divorce proceedings, but it does indicate that people do not necessarily separate before commencing divorce proceedings.

Many attendees had already sought help in connection with their marriage before going to the information meeting. For instance, 21 per cent had been to marriage counselling, 3 per cent had been to mediation and 35 per cent had consulted a solicitor. Not surprisingly, those who had already separated from their spouse were more likely to have consulted a solicitor: 45 per cent had done so, as against 23 per cent of those who were still living with their spouse.

Half the attendees had previously not used a solicitor, a mediation service or a counsellor, and were not already involved in divorce proceedings. They were, therefore, using the information meeting as a first port of call. Although those who were using the meeting as a first port of call were more likely to be still living at the same address as their spouse than those who had consulted other agencies, as many as 45 per cent of them were separated from their spouse. This suggests that many people do not seek any help or information from the divorce-associated professionals until late in the process of relationship breakdown. Indeed, other research has shown that a quarter of those who attend marriage counselling are already separated.⁸

Attending an Information Meeting

During the pilot programme, almost 10,000 people applied to attend an information meeting, and almost 8,000 actually attended one. The difference between the numbers of applicants and of attendees seems to be influenced by the different types of meeting on offer. People who telephoned a pilot site to make an appointment to attend a meeting received more information about the type of meeting they would be attending than they had previously, and this information seems to have had an impact on whether they would attend. They were most likely to opt out of the meeting if they learned they would be attending a group presentation, while those who learned they would be attending a CD-ROM-based meeting were less likely to turn up than were those who were told they would be attending a face-to-face meeting with an individual presenter.

The likelihood of applicants turning up appears to say something about what they felt about the different types of meeting on offer. They clearly preferred a face-to-face meeting to a group presentation, and also to one at which they would be required to use a computer. We discuss the experiences of those who attended the different types of meeting in later chapters.

Although female attendees outnumbered males by almost two to one, women were less likely than men to keep appointments. It seems that an applicant's propensity to attend was influenced by how far they had got in the process of divorce. Those who were living apart from their spouse and who had already attended marriage counselling were the most likely to keep appointments.

The overall sample size of 7,893 people who attended an information meeting is, by most standards, a large one. It is, however, made up of people who volunteered to attend a meeting, whereas the pilots were testing an intervention that is intended to be a mandatory requirement for all those who intend to divorce. We have shown that our sample might contain some bias. Information meeting attendees tended to be older than the average divorcee, and in marriages of longer duration. They are also more likely to have children than are people who divorce. In the following chapter, we examine the extent to which this bias might affect the conclusions that we are able to draw about information meetings.

⁸ McCarthy, P. and Walker, J., *Relationship Counselling at Relate: Analysis of the Client Information System*, Report to Relate: Marriage Guidance, Relate Centre for Family Studies (1996).

Chapter 6

Generalising from the Research

Peter McCarthy, Peter Dolton, Tim Barmby, Mike Coombes and Simon Raybould

... the pilot schemes ... involve voluntary attendance. They will not in any sense involve the kind of persuasion that is envisaged in the Bill as there will be no power to apply persuasion of that kind ... I still think that these pilot schemes will be extremely valuable. They may not tell us all that there is to know, but I believe that they will provide some useful guidance.¹

If Part II of the Family Law Act 1996 is implemented, attendance at an information meeting will be an essential step in the process of divorce. All who wish to make an application for divorce, apart from those in exempted categories, will be required to have attended an information meeting at least three months previously. The information meeting, therefore, will be compulsory for the majority of people who intend to divorce. During the pilots, however, attendance at an information meeting was purely voluntary. The availability of meetings was advertised throughout the pilot areas and interested parties arranged to attend one by telephoning a pilot agency.

One of the most substantive restraints on the information meeting pilots was the inability to test Section 8 of the Act as it would exist in an implemented system. As was suggested in Chapter 4, ideally we would have chosen to treat the introduction of the information meeting as a social experiment in which we could have tested the impact of compulsory attendance. Since it was not possible to implement Section 8 in any form, the pilots had to be offered on a voluntary basis. A social experiment proved impossible, providing us with a major challenge. We were charged with testing what was intended to be a mandatory provision using a sample of volunteers. Although such problems are not uncommon in social policy, and are often faced in the field of psychology² and in the conduct of clinical trials in medicine,³ they are far from trivial. Our concerns have been with overcoming the inherent problems, and from the start of the project we were determined to do as much as possible to address the potential limitations connected with a volunteer sample. We employed a number of strategies to deal with the question of generalisability.

In taking on the task of evaluating information meetings we were convinced that the pilots were worth doing. Nevertheless, we were concerned about reliance on volunteers and we prepared position papers outlining the issue of generalisability early on in the project. These were discussed, modified, and shared with the Lord Chancellor's Department, the Chair of the Lord Chancellor's Advisory Board on Family Law (Sir Thomas Boyd-Carpenter) and the Minister of State (the Rt Hon. Geoffrey Hoon MP). The use of volunteers to evaluate what will be a statutory provision is clearly problematic, but

¹ Lord Archer of Sandwell, Official Report (H.L.), 22 February 1996 at col. 1182.

² Dollinger, S.J. and Leong, F.T.L., 'Volunteer bias and the five-factor model', *The Journal of Psychology*, vol. 127, no. 1 (1993), pp. 29–36.

³ Rapoport, M.H., Frever, T., Baboir, S., Seymour, S., Zisook, S., Kelsoe, J. and Judd, L.L., 'Comparison of descriptive variables for symptomatic volunteers and clinical patients with anxiety disorders', *Anxiety*, vol. 2 (1996), pp. 117–22.

whereas much research merely acknowledges the problems, we have continued to address them openly. In this chapter we describe the steps we have taken to measure their impact.

The Propensity To Volunteer

Since all those who attended meetings were volunteers, it is important to consider the extent to which attendees were representative of those who would have used a compulsory system. The question is whether it is possible to extrapolate from findings based on volunteers to people who would have to attend a meeting in an implemented system in which attendance would be a requirement for anyone wishing to obtain a divorce. This is an important question, but one that is not easily answered. If we had data from a population of people who we could feel confident would have attended a mandatory information meeting, we might be able to make statements about how representative the sample of volunteers were in terms of observable characteristics of both samples, although there would clearly be a problem with regard to those factors that were not observable.⁴ We could not, however, say anything about how reluctant conscripts would react to having to attend a meeting. People who go to a meeting because they are compelled to may have different expectations from those of people who go out of choice.

Nevertheless, we believed that it was important to provide indications wherever possible of selection bias regarding the extent to which the people who volunteered are representative of all potential users. To be confident about how much bias is present in our sample we would need to make comparison with data from a population of people that would have attended an information meeting if they had been mandatory rather than voluntary during the pilot period. So far as we are aware no such data exist. We have used various data sources to draw comparison, but we cannot be sure whether our comparative data are representative of the range of potential attendees. In particular, we cannot be sure who would attend a mandatory meeting, which occurs *before* divorce proceedings can officially be commenced. Under the Act, anyone whose marriage is in trouble could access an information meeting if they thought that they might, at some time in the future, wish to make an application for divorce. For some people this is likely to be a first step in the divorce process. Although the Act provides for a minimum time between attendance and the making of a statement of marital breakdown, it does not prescribe a maximum period. In other words, there is no ‘sell-by date’ for the certificate of attendance. People who attend could be at any stage in the process of marriage breakdown: for some, the difficulties may be relatively recent; others may have been living a separate life from their spouse for some considerable time.

We feel confident that most of those who attended an information meeting during the pilots were, very largely, a subset of those who would have done so if the FLA were already implemented. They had all reached a point in their marriage at which they felt divorce was a real possibility and had reached the opinion that they required information to help them make decisions. They may, of course, represent a biased sub-group of all of those who would have gone to a mandatory meeting, as we indicate in Chapter 5, where comparisons are drawn between certain socio-demographic characteristics of attendees and those of people in wider populations. The indications from that exercise suggest that information meeting attendees in the pilots were drawn disproportionately from non-manual socio-economic groups, although all the standard groupings were represented

⁴ See Annexe 6 for a discussion of this issue.

among attendees. Comparison with data on divorced people indicated that women were more likely than men to go to an information meeting, and it seems that older people, people in their first marriage and those who had been married longest were all more inclined than others to seek information.

We have been concerned to examine whether the kind of bias that we know to be present within our data could be expected to have a significant impact on our measurement of outcomes. There can clearly be bias associated with unobservable differences between volunteers and conscripts, an issue that we discuss later in this chapter. Our analysis of the impact of observed bias is dependent on our being able to compare outputs using data provided by information meeting attendees with those that would have been achieved if the distribution of specific variables had been the same among attendees as it was in the selected wider population. The wider population that we employed for this exercise was drawn from a data set provided by the Office for National Statistics (ONS). Unfortunately, this data set contains only limited information about divorcing couples, such as age at divorce, age at marriage, details of children, ground for divorce, previous marital circumstances and duration of marriage. It does not contain information about the socio-economic characteristics of divorcing people, but we have been able to take such factors into consideration by way of a geodemographic analysis, which we describe later in the chapter.

The ONS data set relates only to those cases subject to a decree absolute and, therefore, contains no information about couples who either decide not to go ahead with divorce or never get round to applying to have their divorce made final. Since the data set excludes those people who decide not to complete the divorce process it cannot be taken as an unbiased sample of prospective attendees. If Part II had been implemented before they or their spouse decided to apply for a divorce, people who received a decree absolute would presumably have attended an information meeting (or at least one person per couple would have done), but so would other people who subsequently decided not to go ahead with divorce. Moreover, the requirement to attend an information meeting may lead some people to decide not to pursue the option of divorce, although this will not necessarily mean that they do not separate. Nevertheless, the ONS data represent the best available comparator population. We actually used the divorces processed in the pilot areas in 1996 and 1997, during which 173,005 decrees absolute were awarded. The weighting was based, therefore, on the notion that the divorcing population within the pilot areas could have attended an information meeting, and those who petitioned at courts outside the pilot areas were extremely unlikely to have done so. It might, of course, have been appropriate to use the whole population of divorcees, to allow generalisation beyond the pilot areas, but examination of that population suggests that it would have made little difference to the weights produced.

The analysis of generalisability involved weighting our data on attendees so that three selected variables were distributed in the same way that they were distributed in the ONS data. We weighted, by duration of marriage, whether there were children under 18 and the age of spouses at the time of marriage. The first two variables are factors shared by couples, but age at marriage is an individual factor. It was, therefore, necessary to calculate weights for men and women separately. We know that the sample of attendees significantly over-represents women. As was shown in Chapter 5, 62 per cent of information meeting attendees were women, but would this be any different in a mandatory system? Attendance would be obligatory only for the person intending to

apply for divorce, and we know that more than two-thirds of petitioners are female.⁵ Thus, it seems likely that more women than men would attend information meetings following full implementation of the FLA. We doubt that the greater propensity for women to attend voluntary meetings can be taken as an indicator of bias associated with women being more likely than men to volunteer. Nevertheless, we computed a second weighted variable that assumes half the attendees are male and half female.

The weights employed, which are simply the ratio of proportions within the population to those in the sample, are shown in Tables 6.1 and 6.2. Each cell indicates the amount by which the cases within it would have to be multiplied in order to be the same proportion of the sample of attendees as they are of the population of divorcees. Values of more than 1.0 indicate that a category is under-represented in the sample of attendees, while values of less than 1.0 indicate over-representation; the higher the value, the more a category is under-represented. It is interesting to note that the high values concentrate around the top left-hand corner in each of the tables. This indicates that the people who married young and had been married for a short period were least inclined to attend an information meeting. It is also noticeable that these values are highest among those without children. Thus, those least likely to volunteer to attend an information meeting appear to be people who married young and had childless marriages of short duration.

Table 6.1 Weights for male attendees

		Duration of marriage (years)					
<i>age at marriage</i>		<i>0–5</i>	<i>6–10</i>	<i>11–15</i>	<i>16–20</i>	<i>21–25</i>	<i>over 25</i>
Parent of children under 18	under 21	4.13	6.74	2.79	1.03	1.21	0.74
	21–25	3.45	1.25	0.75	0.53	0.52	0.39
	26–30	1.03	0.71	0.49	0.38	0.30	0.47
	31–35	0.75	0.81	0.39	0.54	0.39	0.45
	36–40	0.67	0.89	0.67	0.92	0.47	–
	over 40	0.71	0.77	0.51	0.54	0.37	–
Not a parent of children under 18	under 21	13.8	12.5	1.13	2.11	–	1.65
	21–25	7.57	7.15	2.87	1.74	1.25	0.82
	26–30	3.32	3.32	2.09	2.19	0.93	0.54
	31–35	1.97	1.56	2.31	1.21	0.94	0.84
	36–40	3.46	2.24	3.07	3.00	0.89	0.80
	Over 40	2.23	2.32	1.13	1.03	0.93	0.30

Note: Dashes indicate that there were no attendees in that category.

⁵ 70 per cent of 1997 divorces were awarded to the wife. ONS, *Marriage, Divorce and Adoption Statistics*, Series FM2, No. 25, HMSO (1997), p. 101 (Table 4.20).

Table 6.2 Weights for female attendees

		Duration of marriage (years)					
<i>Age at marriage</i>		<i>0–5</i>	<i>6–10</i>	<i>11–15</i>	<i>16–20</i>	<i>21–25</i>	<i>over 25</i>
Parent of children under 18	under 21	13.54	4.21	2.55	1.12	0.76	0.64
	21–25	2.20	1.26	0.63	0.44	0.33	0.26
	26–30	1.17	0.70	0.48	0.39	0.31	0.41
	31–35	0.94	0.54	0.48	0.34	0.19	–
	36–40	0.63	0.46	0.38	0.41	–	–
	over 40	0.44	0.50	0.23	–	–	–
Not a parent of children under 18	Under 21	20.44	5.96	8.83	2.92	1.69	0.87
	21–25	3.22	3.32	2.2	2.31	0.93	0.52
	26–30	2.90	2.19	1.84	1.17	0.98	0.43
	31–35	2.64	3.61	2.03	2.05	0.67	0.89
	36–40	2.23	1.52	2.42	0.92	0.92	0.90
	over 40	1.70	1.45	0.77	0.87	0.60	–

Note: Dashes indicate that there were no attendees in that category.

Almost a quarter of divorcees had no children and had been married for less than ten years, while the corresponding proportion among attendees was only 7 per cent. In other words, divorcees were over three times more likely than information meeting attendees to have been married less than ten years and to be childless. The implication of this finding is that following implementation of Part II, information meetings would cater for a significantly higher proportion of childless couples in marriages of relatively short duration than did the pilot meetings. This may have implications concerning the relevance of much of the information provided, unless meetings are tailored to individuals. One might argue that this group of attendees would need less information than do other attendees. They will have no childcare arrangements to resolve, and may have less joint investment in property than people who have been married for longer periods. They may also have less commitment to the marriage than people who have been married for longer periods.

Setting aside the reservations that divorcees do not represent an ideal comparator population, the next step is to use them as a ‘benchmark’ population by which to calculate weighted results, to see if these differ substantially from the findings from unweighted data. We compared weighted and unweighted results across a range of outcome measures, and tended to find consistent results indicating that the effect of volunteer bias on outcome was marginal. The largest variation we found between weighted and unweighted frequencies was just two percentage points, but most were considerably less than that. For illustrative purposes, a selection of comparative results is shown in Table 6.3. These suggest that weighted results produce responses that are marginally more negative towards group presentations, but the differences are not sufficient to indicate that weighted data would have led to different conclusions about group presentations.

Table 6.3 Comparison between weighted and unweighted scores

		Unweighted	Weighted but not for gender	Weighted for gender also
		%	%	%
How useful was the individual meeting?	Very useful	55.4	55.5	55.2
	Fairly useful	42.1	41.7	42.0
	Not at all useful	2.6	2.7	2.8
	Total (100%)	5,756	6,094	6,013
How useful was the group meeting?	Very useful	38.4	37.8	37.9
	Fairly useful	58.4	58.4	58.3
	Not at all useful	3.2	3.8	3.8
	Total (100%)	2,232	2,164	2,195
Would you recommend the individual meeting to others?	Yes, definitely	64.3	64.1	64.2
	Yes, possibly	32.1	32.4	32.2
	Probably not	3.2	3.2	3.3
	Definitely not	0.4	0.3	0.3
	Total (100%)	5,486	5,802	5,726
Would you recommend the group meeting to others?	Yes, definitely	55.0	53.6	53.3
	Yes, possibly	40.5	42.2	42.4
	Probably not	4.1	3.7	3.8
	Definitely not	0.4	0.5	0.5
	Total (100%)	2,235	2,169	2,201
How much better informed about mediation were you after the group meeting?	A lot	59.7	58.4	58.1
	A little	31.5	31.6	31.9
	No more	5.7	4.8	5.2
	Don't know	3.1	5.1	4.9
	Total (100%)	2,051	1,998	2,019
Likelihood of the attendee consulting a solicitor after the meeting (from telephone interview)	More likely	28.8	31.1	29.9
	Less likely	14.5	15.0	15.3
	No difference	51.3	48.9	50.1
	Don't know	5.4	5.0	4.7
	Total (100%)	2,138	2,098	2,088
Likelihood of the attendee using marriage support after the meeting (from telephone interview)	More likely	21.8	22.1	21.6
	Less likely	4.4	4.3	4.3
	No difference	69.7	69.8	70.3
	Don't know	4.1	3.8	3.7
	Total (100%)	2,723	2,692	2,678

Modelling the Propensity To Volunteer

We attempted to take account of the fact that the people who attended an information meeting during the pilots may have had an inherently greater propensity to volunteer than those who did not attend. Establishing whether this was so was one of the issues that we attempted to address throughout the research. We developed a questionnaire which we hoped might identify factors associated with the propensity to volunteer. The aim of this was to obtain details about measurable characteristics of individuals that might allow us to distinguish which of them would be most likely to volunteer to attend an information meeting.

We hypothesised that certain personal characteristics impinge on the decisions of a 'rational agent' regarding how to act during the process of divorce. These characteristics included the person's own income, their partner's income, whether or not they are co-resident with their spouse, whether they are home owners, and whether they are parents. We also speculated that the decision to attend an information meeting may be different depending on family and personal socio-demographic characteristics such as age, gender, ethnicity, educational background and social class, as well as a tendency to seek help from related services such as marriage counselling. In addition, there may be other significant factors which are not directly measurable, but which affect whether a meeting will be attended voluntarily. Some people may simply be more inclined than others to volunteer. We tried, therefore, to identify key latent characteristics of individuals that would allow us to classify them as potential volunteers. Such categorisation is inevitably crude and stylised, but we focused on five groups of variables which we devised in the hope that we could capture vital qualities in the make-up of volunteers. The categories with which we were concerned were as follows: ⁶

- *Information gatherers* – people who need to know what is happening in the world around them, and who tend not to make important decisions without gathering all the information that may be of relevance to their decision process and their perceptions of the possible consequences. Such people tend to use all types of media (newspapers, television news, Ceefax, etc.) in their quest for information.
- *Responsible parents* – those people who accord high priority to the role of parenting, and are willing to commit the necessary time to related tasks.
- *Participants* – the kind of people who feel most comfortable when they have an active involvement in social processes.
- *Help seekers* – people who feel inclined to consult with experts, or people in authority, about their problems.
- *Good citizens* – the kind of people who have a strong social or moral conscience about helping others, a commitment to a fair and just society, and a strong sense of duty.

⁶ Particulars of how these concepts were operationalised are provided in Annexe 7.

We also constructed an index that we described as ‘privacy consciousness’, which defined the type of person who is reluctant to share information with other people and, therefore, possibly less likely than others to attend meetings. We operationalised this by constructing an item non-response measure for the sample observed, which was simply the cumulative non-response to all applicable questions.

Our work on generalisability had three components:

1. A questionnaire administered in the North East pilot to attendees at information meetings and to people who went to see a solicitor but did not attend an information meeting.
2. A questionnaire administered to court samples of divorcing people in eight pilot areas, some of whom would attend an information meeting and some of whom would not.
3. A questionnaire administered to people attending an information meeting or consulting a solicitor in the two solicitor-led pilots in Merseyside and North Wales, and Solent and the Isle of Wight. The majority of this group would not have attended an information meeting.

For the first and third components, the volunteering questionnaires were completed by people who attended either a Model A or B meeting run by the North East pilot or a Model E meeting provided by either the Solent or the Merseyside pilot. It was also our intention to have these questionnaires completed by a corresponding sample of people who sought legal advice about divorce but did not attend an information meeting, although meetings were available within their area. The hope, initially, was that solicitors practising in the area covered by the North East pilot would give questionnaires to their clients, and that this would provide us with a reasonable sample of non-attendees. However, although the exercise had the backing of the local branch of the Solicitors’ Family Law Association, few solicitors were willing to participate and we received only 16 completed questionnaires. We then decided to repeat the exercise in the Solent and Merseyside areas, hoping that there might be more co-operation there, given that legal firms managed these pilots and that the Lord Chancellor’s Department had required them to seek the support of colleagues in other firms in respect of the generalisability component. As an extra inducement, we offered to pay solicitors a fee of £5 for every completed questionnaire. There continued to be little co-operation, however, and only 49 questionnaires were completed and returned to us. Thus, the attempt to engage solicitors in the generation of a ‘comparator’ sample led to only 65 completed questionnaires, despite the fact that more than 3,000 were distributed. This was obviously very disappointing. We were wholly dependent on the co-operation of family law solicitors in the pilot sites to obtain a sample of those who did not attend an information meeting. Their lack of co-operation may, in part, be a reflection of their lack of enthusiasm for the notion of information meetings as specified in the Act.

Through the second component, we then attempted to generate a sample of non-attendees by way of questionnaires posted directly to divorce petitioners and respondents, using addresses obtained from court files. As part of an exercise aimed at boosting attendance at information meetings, members of pilot management teams extracted addresses from recent divorce applications in order to send both parties an invitation to attend an

information meeting. These addresses, which were made available for research purposes, were used to select a sample of 2,000 people involved in divorce proceedings. Although 2,000 questionnaires were sent out, we received only 202 completed questionnaires, of which 18 were completed by people who attended an information meeting. We felt that these 18 attendees might be representative of an interesting group, and so we decided to boost the number of respondents in this category by sending questionnaires to a sample of people who attended an information meeting after receiving an invitation via the court. We sent questionnaires to 240 people and received 137 responses.

Our analysis of the data relating to the propensity to volunteer, therefore, drew on various distinct groups of potential divorcees. The respondents entered the sample of people who completed volunteering questionnaires in one of five ways:

1. By attending either a Model A or B meeting at the North East Pilot.
2. Through attending a Model E meeting at either the Solent or the Merseyside pilot.
3. By filing for divorce at a divorce court within the area covered by one of the information meeting pilots.
4. By filing for divorce at a divorce court, and subsequently attending an information meeting.
5. By consulting a solicitor about divorce in the North East, Solent or Merseyside pilot areas.

As Table 6.4 shows, sample respondents were not spread evenly between the five different groups, owing primarily to the difficulty of generating reasonable numbers of respondents within some of the groups, most notably those consisting of people who had not attended an information meeting.

Table 6.4 Numbers in each of the sample groups

	Attendees	Non-attendees
1. North East	536	0
2. Merseyside and Solent	1,048	0
3. Court-based sample	18	184
4. Court-based booster sample	137	0
5. Solicitor-based sample	0	65
Total	1,739	249

It was relatively easy to generate respondents for Groups 1 and 2, in which all respondents had attended an information meeting and, in a sense, had volunteered to participate in the research. They completed questionnaires immediately after the meeting they attended. The comments of presenters, however, indicated that they found it more difficult to persuade attendees to complete these questionnaires as opposed to the much

shorter exit questionnaires completed in other pilots. The response rate for the survey of people who attended a meeting after receiving an invitation via the court (Group 4) was relatively healthy. The difficulties were primarily associated with Groups 3 and 5. We suspected that the ideal sample of people who did not go to a meeting would be those who sought legal advice about divorce, since they seemed closest in intent to those people who attended an information meeting. They were taking what is the customary current first step in the divorce process. Gaining contact with this group depended on co-operation from solicitors, but this proved not to be forthcoming, perhaps because solicitors felt they might lose out if an information meeting replaced them as the first port of call. Our study of the views of professionals suggested that many solicitors had concerns about information meetings that would probably make them unlikely to assist in the pilot process.⁷ We attempted to find other ways of making contact with non-attendees but could find no totally satisfactory alternative. We opted to send questionnaires to people involved in divorce proceedings, although we had doubts about the validity of using this group as it consisted of couples in which one party was sufficiently committed to divorce as to have actually started the process. By contrast, only 18 per cent of information meeting attendees had actually gone that far in the divorce process. Thus, people who had gone so far as involvement in divorce proceedings were arguably less representative of people who might attend mandatory information meetings than those who had only gone as far as consulting a solicitor. They were particularly likely to be different from information meeting attendees in terms of their knowledge of the divorce process, as the majority of people in divorce proceedings will already have obtained legal advice.

In any case, it proved difficult to get divorcing people to complete questionnaires. Although we sent out 2,000 questionnaires, we received data from only 184 people who had decided not to attend an information meeting after receiving an invitation to do so via their local court. There must be serious doubts as to whether those that returned questionnaires can be regarded as a representative sample of the divorcing population.

Analysis of the five groups who completed volunteering questionnaires assumes that they constitute a viable sample of the population at risk. However, this might not be a reasonable assumption, particularly as the sample groups do not each provide equal proportions of the populations represented. We have a relatively high proportion of attendees represented, but an extremely low proportion of the at-risk population who did not go to a meeting. Nevertheless, the sample does contain some representation from each of the groups that we sought to reach, that is:

- those who were involved in divorce proceedings but had chosen to disregard the possibility of attending an information meeting
- those who were involved in divorce proceedings and had decided to attend an information meeting after getting a letter informing them of their existence
- those who heard about the existence of information meetings through the media and decided to attend

⁷ We discuss the views of professional groups in Ch. 32.

- those who approached a solicitor for legal advice about divorce, and may not have known about the existence of information meetings

Ideally, we would have liked to generate a sample that would have reflected the distribution of these categories within the divorcing or potentially divorcing population, but we know of no sampling frame that would have enabled us to do that. Unfortunately, we know little about the whole population of those who are seriously considering divorce. Moreover, even if we knew more, that population may not be representative of potential information meeting attendees, given that one of the purposes of the meeting is to encourage some people not to go ahead with divorce. The pilots were attended by people who indicated that they wanted to divorce and by people who either did not want to divorce or were uncertain about what they wanted, and we would expect this to be the case with mandatory meetings.

Statistical estimation

We have examined our survey data in order to estimate differences between attendees and non-attendees although, as we pointed out above, there are problems in evaluating representativeness with samples that might not themselves be representative. Table 6.5 provides variable definitions, and means and variances for the variables employed in the analysis. Table 6.6 reports the results of probit estimations⁸ of the decision to attend an information meeting using data from the whole sample.⁹ It was envisaged that the analysis would address the following broad questions:

1. To what extent was the decision to attend an information meeting related to variables designed to pick up the individual's attitude to 'information gathering', or to pick up whether they can be regarded as a 'good citizen', a 'responsible parent', a 'help seeker' or 'privacy-conscious'?
2. To what extent are individuals driven by economic considerations?

As was to be expected, the probit analysis indicated that people in the court-based samples were the least likely to attend an information meeting. This is not surprising given that it was a group in which non-attendees were specifically targeted, whereas all the people in Groups 1 and 2 (Table 6.4) – which make up 80 per cent of the sample – had attended an information meeting.

Table 6.6 provides additional evidence (equation 1) that parents were more likely to attend than those without children. However, results in equations 2 and 3 suggest that parents were less likely to attend an information meeting if their children were over 18, which may contradict our earlier finding (Chapter 5) that people with adult children who apply to attend a meeting are more likely to turn up than those with young children and those with no children. People who had previously tried marriage counselling were

⁸ For a brief explanation of probit estimation see Annexe 8.

⁹ We also conducted analysis employing the court-based sample only (Table 6.4, Groups 3 and 4) and using only the information meeting and solicitor samples (Table 6.4, Groups 1, 2 and 5). These results are presented in Annexe 8, Tables A8.1, A8.2.

significantly more likely to attend an information meeting than those who had not (equations 1, 2 and 4). There appears to be an association between age and attendance at an information meeting (equations 1, 2 and 4). Older people seem more likely to choose to go to a meeting than younger married people, a finding which confirms that derived from our earlier comparison between attendees and divorcees.

Table 6.5 Variable definitions and summary statistics

Variable	Definition	Mean	Standard deviation	Valid observations
Attended	Whether attendee went to information meeting [=1]	0.87	0.33	1,988
Gender	Whether attendee was female [=1]	0.38	0.49	1,988
Child	Whether attendee has children [=1]	0.81	0.39	1,988
Court	Whether observation was derived from court-based sample [=1]	0.17	0.38	1,988
Solent & Merseyside	Whether observation was derived from Solent/ Merseyside [=1]	0.55	0.49	1,988
Own house	Whether attendee was home owner [=1]	0.72	0.45	1,988
Own salary	Own salary (£1,000s)	14.48	10.35	1,984
Partner's salary	Partner's salary (£1,000s)	18.61	12.46	1,803
Same address	Whether attendee was living at same address as partner [=1]	0.38	0.48	1,689
Age	Age (in years)	40.96	9.28	1,877
Marriage guidance	Whether attendee had been to marriage counselling [=1]	0.37	0.48	1,988
Youngest child > 18	Whether youngest child was at least 18 [=1]	0.31	0.46	1,973
Privacy index	Cumulative item non-response	1.0	2.28	1,988
Information gatherer	Index of information gathering	15.87	5.77	1,988
Good citizen	Index of citizenship	3.52	1.36	1,988
Parents' evening	Whether attendee went to parents' evening [=1]	0.43	0.49	1,982
Help seeker	Index of propensity to seek help	0.71	0.71	1,988
Participant	Index of participation	1.73	1.01	1,988
Social class	Whether social class is professional or managerial [=1]	0.41	0.49	1,692
Ethnic	Whether attendee is a member of ethnic minority [=1]	0.04	0.20	1,988
Parents divorced	Whether attendee's parents were divorced [=1]	0.17	0.38	1,988
Advanced education	Whether attendee had education up to or beyond A level [=1]	0.35	0.48	1,988

The analysis suggests an association between attending an information meeting and both current living circumstances (equations 1 and 4) and tenure (equations 1, 2, 3, 4). People who were still living together at the time they completed questionnaires, and those who were living in housing that was owner-occupied, were more likely than others to attend an information meeting. This may suggest that attendance at a meeting is driven, to some extent, by economic considerations. For most couples, the marital home will be their most significant economic asset. They may, therefore, be inclined to seek information about their rights to this asset before making a decision regarding whether to leave the home or to make an application for divorce. This may explain why people with marriages of longer duration are most likely to attend an information meeting, as they are likely to have more valuable joint assets than people who have been married for shorter periods. On the other hand, 'longer marriages' and 'still living together' may simply indicate continuing commitment, which may suggest that attendance at an information meeting is an attempt to avoid divorce.

Characteristics of volunteering

Table 6.6 indicates that we cannot be confident about the significance of the indices that we constructed to measure propensity to volunteer. There are, however, indications from our analysis of subsets of the data¹⁰ that privacy-consciousness, and a tendency towards information gathering, may be associated with attendance at an information meeting. The privacy index tends to relate positively to attendance at a meeting, indicating that those who are most privacy-conscious (as measured by the item non-response score) are more likely to go to an information meeting.

We might have expected people who are concerned about privacy to be reluctant to attend meetings where the focus may be on them. On the other hand, they may prefer attending an information meeting where they receive rather than provide information to attending a meeting where they might feel pressured towards disclosure. It is possible, however, that those differences are related to the circumstances in which questionnaires were completed. The privacy index becomes significant when analysis distinguishes between people who completed questionnaires at an information meeting and those who completed them at a solicitor's office. It may be that the two different environments promote different degrees of caution as regards what information is volunteered in questionnaire responses.

¹⁰ See Annexe 8.

Table 6.6 Probit estimation of likelihood of an attendee going to an information meeting

	Equation 1 <i>coefficient</i>	Equation 2 <i>coefficient</i>	Equation 3 <i>coefficient</i>	Equation 4 <i>coefficient</i>
Constant	-0.3664	-0.3536	-0.311	-0.3848
Solent & Merseyside	-0.0401	-0.0344	0.0544	-0.0533
Court	-1.822 **	-1.8442 ***	-1.8588 ***	-1.8668 ***
Gender	-0.0230	0.4339	0.3928	0.3675
Child	0.5879 ***	0.2252	0.2997	0.2251
Own house	0.3175 **	0.2750 **	0.3494 **	0.3078 **
Own salary	0.0767 **	0.0723	0.0677	0.0551*
Own salary * gender	–	-0.032	0.0054	–
Partner's salary	–	0.0401	0.0694 *	0.0482
Partner's salary * gender	–	0.0840	-0.1112 **	-0.969 **
Same address	0.5039 ***	0.2597	0.2807	0.4133 **
Age	0.0251 ***	0.0369 ***	0.0353 ***	0.0358 ***
Marriage guidance	0.3668 ***	0.3566 **	0.1945	0.2311 **
Privacy index	0.0991	0.2702	0.3439 **	0.1730*
Youngest child >18	–	-0.474 **	-0.5591 **	-0.4869 **
Own house * same address	–	0.2150	0.0945	–
Privacy index * gender	–	-0.0977	-0.0622	–
Information gatherer	–	0.0025	-0.0064	–
Good citizen index	–	-0.0167	-0.0353	–
Parents' evening	–	0.0353	-0.0395	–
Participant	–	-0.0292	-0.0248	–
Help seeker	–	-0.1059	0.0150	–
Social class	–	–	-0.0006	–
Ethnic	–	–	0.1406	–
Parents divorced	–	–	-0.0162	–
Advanced education	–	–	-0.023	–
Observations	1,688	1,519	1,343	1,519
LR Chi-square	528.16	478.09	442.11	475.46
Pseudo R ²	0.3974	0.4161	0.4383	0.4138
LnL	-400.5356	-335.4564	-283.241	-336.3478

Significance levels * < .1; ** < .05; *** < .01.

Geodemographic Analysis of Generalisability

A further approach to the question of generalisability involved a geodemographic analysis based on the addresses of people who were involved in divorce proceedings within the pilot areas. These were, in fact, the addresses of a 10 per cent sample of couples who had received an invitation to attend an information meeting via the local court.¹¹

¹¹ A discussion of the sample of people receiving a court-based invitation appears in Ch. 8.

Since the duration of the exercise of sending out invitations via divorce courts was not consistent across pilots, a 10 per cent sample within each pilot could not provide a consistent proportion of the throughput of divorce cases. Table 6.7 shows the number of cases selected in each pilot area compared with the recorded number of divorce applications received by courts in these areas during 1996.¹² This suggests that there is a noticeable, though not a huge, variation in sample sizes between areas, a difference that is taken into account in our analysis.

Table 6.7 Comparison of number of cases in 10 per cent sample with annual number of divorces

	Ten per cent sample	All divorces 1996	Sample as percentage of divorces
Leicestershire and East Midlands	369	8,242	4.5
East Anglia	358	6,382	5.6
North East	518	9,331	5.6
Manchester	438	8,273	5.3
London	335	22,913	1.5
South West	161	6,802	2.4
Merseyside and North Wales	257	9,788	2.6
Solent	158	7,612	2.1
All pilot areas	2,594	79,342	3.3

The geodemographic approach to understanding generalisability involved seven key steps:

1. Obtaining information on the relevant wider population.
2. Identifying the research data set (or subset) that is the basis for the key findings.
3. Selecting a variable to indicate those people more likely to be non-responders.
4. Identifying the distribution of people, in terms of this variable, in the data set from step one.
5. Repeating step four with the data set from step two.

¹² The shortfall in the London pilot was primarily due to the fact that the exercise in sending out invitations did not include people who were involved in proceedings at the Principal Registry of the Family Division, which is the largest divorce registry.

6. Comparing the two distributions (in effect, dividing the results of step four by those of step five).
7. Applying the results of step six as weighting factors to the research data set.

It is an approach that is no less dependent than others on the researcher obtaining data from a population that can be assumed to be a reliable representation of the population at risk. As was suggested above, we know of no data set that meets this requirement. The 10 per cent sample of people who received an invitation to attend an information meeting via a divorce court serves as a substitute (or proxy) for such a population. It represents the wider population alluded to in step one.

The research sample in step two of the analysis is the full set of the 7,863 married people who attended an information meeting in those areas that participated in the exercise of sending out invitations to people involved in divorce proceedings. The key variable we chose with which to make comparison between the sets of data (step three) is the Townsend Index of deprivation, which provides poverty/affluence scores based on the types of area in which people live.¹³ The analysis uses the postcodes of people in each data set to locate them within the street-level areas used for the 1991 Census data set. Census information on the socio-economic characteristics of people living within each area then allows a Townsend Index score to be calculated. Scores which are positive (greater than zero) indicate areas where there tend to be fewer than average car owners and owner-occupiers, and higher than average numbers of unemployed people and people in overcrowded housing. Applying an area's Index value to everyone living within that area is thus judging people by the company that they keep. It is a form of generalisation that will rarely give a truly accurate estimate of an individual's level of affluence or deprivation, but one that has been shown through its use in many other studies to provide a reliable indicator.

Implementation of the Townsend Index at steps four and five requires that each person in either data set has a postcoded address that can be traced to a Census area. As regards the sample of attendees, postcodes were obtained when an application to attend a meeting was made, and they were recorded for all but 4 per cent of attendees. As regards the court-based sample, postcodes were occasionally included in the addresses taken from court files, but mostly they had to be determined from an unpostcoded address. In most cases this was possible, and less than 5 per cent of the parties involved could not be allocated a postcode. Those to whom a postcode could not be allocated included cases where an address was not provided in order to protect the anonymity of people who were identified from court files as possible victims of domestic violence. Twenty-three individuals could not be allocated a postcode because they were in prison, and 54 were at an unspecified address abroad.

¹³ The Townsend Index is based on four separate deprivation variables: (1) the percentage of economically active residents who are unemployed; (2) the percentage of households with no car; (3) the percentage of households that are not owner-occupied; and (4) the percentage of households which are overcrowded, i.e. with more persons than rooms.

Results of geodemographic analysis

Figure 6.8 shows the distribution of Townsend Index scores for people petitioning for divorce and for those attending an information meeting. It is immediately apparent that the sample of attendees contains a higher proportion of people with negative Index scores than does the sample of petitioners. This indicates that attendees tended to be drawn disproportionately from the more affluent areas, and supports the view that dependence on volunteering leads to an under-representation of poorer people.

Table 6.8 Weights based on Townsend Index scores

<u>Townsend Index score</u>	<u>Weight</u>
Below - 3.5	0.67
- 3.5 to - 2.5	0.81
- 2.5 to - 1.5	0.86
-1.5 to - 0.5	1.06
-0.5 to 0.5	1.03
0.5 to 1.5	1.18
1.5 to 2.5	1.06
2.5 to 3.5	1.31
over 3.5	1.74

Table 6.8 shows the weighting factors needed to adjust the research data on people attending an information meeting to match the Townsend Index scores of the sample of petitioners. The weights suggest that people living in the most affluent areas were more than twice as likely as those who lived in the most deprived areas to attend an information meeting. Does this difference suggest that the impact the information meetings had is not representative of the impact they would have in an implemented system where people would be required to attend whether or not they lived in deprived areas? In order to address that question we have examined both weighted and unweighted data, and examples of this are shown in Table 6.9.

We employed two sets of weighted data. The differences between the two data sets resulted from alternative approaches to cases in which the postcode was missing. The first set of weighted data (weighted with replacement) assigned weights for each case with missing data on the basis of the mean weights for the pilot in which it was located. The second unknown (weighted without replacement) simply disregarded cases with missing postcodes. Table 6.9 demonstrates that weighting on either basis, like weighting using ONS data, made only marginal differences to the findings. Consequently, it seems that weighting the data by Townsend Index scores would not produce substantially different outcomes from those provided by unweighted data. The sample does have some bias in terms of socio-economic status, as measured by the Townsend Index, but the evidence suggests that it is a bias that does not have a significant effect on the evidence presented in this report about what people think about the meeting, nor on what they do afterwards.

Table 6.9 Comparison between weighted and unweighted scores

		Unweighted	Weighted with replacement	Weighted without replacement
		%	%	%
How useful was the individual meeting?	Very useful	55.4	56.2	57.3
	Fairly useful	42.1	41.3	40.4
	Not at all useful	2.6	2.5	2.3
	Total (100%)	5,756	5,779	4,996
How useful was the group meeting?	Very useful	38.4	38.6	38.1
	Fairly useful	58.4	58.2	58.6
	Not at all useful	3.2	3.1	3.2
	Total (100%)	2,232	2,142	1,895
Would you recommend the individual meeting to others?	Yes, definitely	64.3	64.9	65.8
	Yes, possibly	32.1	31.6	30.9
	Probably not	3.2	3.1	2.9
	Definitely not	0.4	0.4	0.3
	Total (100%)	5,486	5,517	4,765
Would you recommend the group meeting to others?	Yes, definitely	55.0	54.9	54.6
	Yes, possibly	40.5	40.8	41.1
	Probably not	4.1	3.9	4.0
	Definitely not	0.4	0.4	0.4
	Total (100%)	2,235	2,147	1,902
How much better informed about mediation were you after the group meeting?	A lot	59.7	59.4	59.1
	A little	31.5	31.6	31.9
	No more	5.7	5.9	5.9
	Don't know	3.1	3.1	3.1
	Total (100%)	2,051	1,963	1,733
Likelihood of the attendee consulting a solicitor after the meeting (from telephone interview)	More likely	28.8	28.7	28.8
	Less likely	14.5	14.8	14.8
	No difference	51.3	51.0	51.0
	Don't know	5.4	5.4	5.5
	Total (100%)	2,138	2,082	1,875
Likelihood of the attendee using marriage support after the meeting (from telephone interview)	More likely	21.8	21.9	21.6
	Less likely	4.4	4.6	4.7
	No difference	69.7	69.4	69.6
	Don't know	4.1	4.1	4.2
	Total (100%)	2,723	2,682	2,429

Telephone Interviews

Our routine research methodology involved telephone interviews with people who attended an information meeting. Responding to a telephone interview might be considered as third-order volunteering, the first order being applying to attend and the second actually attending. We attempted to interview as many attendees as possible on two separate occasions: within six weeks of the meeting; and between five and seven months after the meeting. We interviewed 3,311 people (42%) within six weeks of their information meeting and conducted follow-up interviews with 1,838 (23%) of them. In order to know whether those interviewed were representative of those who attended we conducted logistic regression analysis¹⁴ (Tables 6.10 and 6.11). Although there was no evidence of gender bias, at both interview stages there is over-representation of attendees who:

- had consulted a solicitor before attending an information meeting
- attended a Model A, B or C meeting
- were separated from their spouse at the time they went
- were parents
- were from non-manual socio-economic groups

Evidence of bias in telephone interview contacts raises the question of whether to conduct analysis with those who did respond, or to weight the sample in order to allow for the degree of bias that has been detected. We have opted for the former approach because we think it is more meaningful to comment on information actually provided than to speculate on what information non-respondents might have provided. Nevertheless, we are conscious that this might result in biased results and have developed a weighting procedure that allows us to check for any bias that arises from known characteristics of respondents. Following analysis of the logistic regression outputs shown in Tables 6.10 and 6.11 we recoded variables and weighted the data by the following factors:

Model – attending an individual meeting (A, B or C) versus attending either a group or a CD-ROM meeting.

Parental status – people with children of any age versus childless attendees.

Solicitor involvement – people who had consulted a solicitor before the information meeting versus those who had not consulted a solicitor.

Views of the meeting – people who described the information meeting as very useful versus those who were less positive about the meeting.

Address – people who were living with their spouse at the time of the meeting versus those who were living apart.

¹⁴ See Annexe 5 for a brief explanation of logistic regression.

Social class – manual versus non-manual and not economically active.

Table 6.10 Logistic regression of the likelihood of attendees responding to initial telephone interview

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Gender:</i>				
male	-.060	0.52	.243	0.94
female				
<i>Address:</i>				
with spouse	-.510	.050	.000	0.60
apart from spouse				
<i>Been to counselling:</i>				
yes	.199	.059	.000	1.22
no				
<i>Consulted solicitor:</i>				
yes	.328	.053	.000	1.39
no				
<i>Meeting very useful:</i>				
yes	.271	.050	.000	1.31
no				
<i>Meeting attended:</i>				
Model A	.387	.084	.000	1.47
Model B	.399	.080	.000	1.49
Model C–individual	.703	.109	.000	2.02
Model C–group	.312	.166	.061	1.37
Model D	-.315	.086	.000	0.73
Model F–individual	-.373	.103	.000	0.69
Model F–group	-.153	.155	.326	0.86
Model E				
<i>Age of youngest child:</i>				
under 5	.332	.089	.000	1.39
5–11	.347	.086	.000	1.42
12–17	.389	.094	.000	1.48
over 17	.413	.097	.000	1.51
no children				
<i>Social class:</i>				
A	.474	.122	.000	1.61
B	.425	.081	.000	1.53
C – non-manual	.261	.085	.002	1.30
C – manual	.169	.092	.067	1.18
D	.131	.111	.235	1.14
E	.115	.152	.451	1.12
not economically active				

Number of cases = 7,552; Nagelkerke R^2 = .065; -2LL = 10,310.25; LL Chi-squared = 505.13.

Table 6.11 Logistic regression of the likelihood of attendees responding to a follow-up telephone interview

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Gender:</i>				
male	-.034	.060	.572	0.97
female				
<i>Address</i>				
with spouse	-.429	.058	.000	0.65
apart from spouse				
<i>Been to counselling:</i>				
yes	.066	.066	.322	1.06
no				
<i>Consulted solicitor:</i>				
yes	.284	.058	.000	1.33
no				
<i>Meeting very useful:</i>				
no	.146	.057	.011	1.16
yes				
<i>Meeting attended:</i>				
Model A	-.056	.093	.544	0.94
Model B	-.132	.089	.137	0.88
Model C – individual	.238	.117	.042	1.27
Model C – group	-.583	.200	.004	0.55
Model D	-.457	.097	.000	0.63
Model F – individual	-.550	.119	.000	0.58
Model F – group	-1.126	.212	.000	0.32
Model E				
<i>Age of youngest child:</i>				
under 5	.102	.105	.329	1.11
5–11	.215	.100	.032	1.24
12–17	.299	.108	.006	1.35
over 17	.423	.111	.000	1.53
no children				
<i>Social class:</i>				
A	.417	.138	.003	1.52
B	.398	.094	.000	1.49
C – non-manual	.280	.099	.005	1.32
C – manual	.011	.110	.919	1.01
D	.103	.130	.423	1.11
E	0.53	.182	.770	1.05
not economically active				

Number of cases = 7,552; Nagelkerke R² = .031; -2LL = 8,275.99; LL Chi-squared = 241.42.

This led to our establishing weights for each of 64 different categories of respondent. To do this we calculated the probability of attendees and telephone interview respondents being in each category. The weight for each cell was the attendee probability divided by the telephone interviewee probability. We then compared weighted responses with unweighted responses on a series of different variables drawn from both telephone

interviews. This consistently revealed non-significant differences between the two sets of results, as the examples shown in Table 6.12 indicate.

Table 6.12 Comparison between weighted and unweighted scores for selected variables from initial telephone interview

		Unweighted %	Weighted %
What did you think about the amount of information provided?	Too much	12.5	12.2
	Too little	13.2	14.4
	About right	73.6	72.6
	Don't know	0.6	0.8
	Total (100%)	3,053	2,997
Did the presenter tell you what you needed to know?	Yes	69.5	68.0
	No	27.6	29.0
	Don't know	3.0	3.0
	Total (100%)	3,278	3,194
Are you now more likely or less likely to use marriage support?	More likely	21.8	22.6
	Less likely	4.4	4.4
	No difference	69.7	69.3
	Don't know	4.1	3.8
	Total (100%)	2,728	2,724
Are you now more likely or less likely to consult a solicitor?	More likely	28.8	28.3
	Less likely	14.5	14.2
	No difference	51.3	51.9
	Don't know	5.4	5.6
	Total (100%)	2,143	2,126
Was the information meeting helpful?	Yes	88.2	87.4
	No	10.9	11.6
	Don't know	1.0	1.1
	Total (100%)	3,271	3,188

Our exercise in weighting data suggests that it actually makes little difference whether weighted or unweighted data are used, and we opted to conduct our analysis with the unweighted data. Nevertheless we were conscious of potential bias throughout the analysis and used weighted data to check the robustness of the analysis with unweighted data, although discussion in this report will focus on the latter.

The Time-slice Surveys

As a result of the increased focus given to information meeting outcomes by the Lord Chancellor in his June 1999 announcement, we considered it necessary to conduct a further follow-up survey which would give us a longer-term view of the actions attendees took after the information meeting. To enable us to do this within the period of Phase Six of the study we decided to take three time-slices into the attendee data set. This resulted in us identifying a sample of people who had been to an information meeting two years previously, a sample who had attended an information meeting eighteen months previously, and a sample of people who had attended an information meeting one year previously. These three cuts into the sample gave us a total follow-up sample of 1,507 people. Follow-up questionnaires were sent to all of them. After we had sent out reminder letters a few weeks later, the response rate was 47 per cent (701 people completed and returned questionnaires). Ten per cent of the sample withdrew from the research, and 8 per cent of the questionnaires were returned to us with a note indicating that the owner had 'gone away'.

As Table 6.13 shows, there was a higher rate of return from the one-year sample than from either of the other two. One of the problems, of course, is that the longer the time-gap since the information meeting, the more likely we were to find that people had moved on from the last address known to us, although this would not explain why we obtained a lower response rate from the 18-month time-slice than from the two-year cohort.

Table 6.13 Time-slice questionnaires sent and received

Time-slice	Questionnaires sent	Questionnaires received	Response rate %
Two years	546	243	45
Eighteen months	417	177	42
One year	544	281	52
Total (100%)	1,507	701	47

All pilot areas and models were covered by this study (Table 6.14), although we were dependent on the early models for the two-year and 18-month surveys. Comparison of models, however, was never part of this exercise. The aim was to obtain a general longer-term picture of how people use information. These questionnaires elicited quantitative data but also gave respondents the opportunity to write at length about their experiences after they had attended an information meeting, which elicited rich qualitative data that provided revealing insights into the relationship between information, saving marriage and the divorce process.

The time-slice surveys consisted of all those attendees who had attended an information meeting at the specified time-point and who had agreed that we could write to them for the purposes of the research. In respect of the generalisability issue, there are two comparisons to be made here: first, a comparison of the time-slice survey respondents with all attendees at information meetings in order to assess how representative the data they give us might be; and, secondly, a comparison of the time-slice survey respondents

with non-respondents in order to identify any differences there might be between those who completed a questionnaire and those who did not.

With regard to the comparison with all attendees, many of the over-representations that existed within the telephone interview samples also existed in the time-slice survey samples. There is over-representation of women, and of people who:

- were separated from their spouse at the time they went to an information meeting
- had been to marriage counselling or used a solicitor in the year before they attended an information meeting
- were already involved in divorce proceedings when they attended an information meeting

Not surprisingly, very few attendees who had expressed concerns for their safety agreed to be contacted, which meant that they were under-represented in the sample. There were no differences, however, in terms of age, duration of marriage, socio-economic status, economic activity, ethnicity, or whether the attendee was a parent.

Table 6.14 Questionnaires sent by pilot site

Model	Pilot area	Two-year follow-up	Eighteen-month follow-up	One-year follow-up	Total
A and B	Birmingham and Coventry	67	34	–	101
	Leicester and East Midlands	102	56	–	158
	East Anglia	120	93	–	213
	South Yorkshire	80	8	–	88
	South Wales	73	16	–	89
	North East	104	80	–	184
C	Manchester	–	32	15	47
	London	–	98	7	105
D	South West	–	–	110	110
	East Anglia	–	–	113	113
E	Merseyside	–	–	62	62
F	Solent	–	–	87	87
	North East	–	–	91	91
	Leicester and East Midlands	–	–	59	59
Total		546	417	544	1,507

If we look specifically at the time-slice surveys themselves, and compare those who responded to the questionnaire with those who did not, we find an over-representation of women, people engaged in professional or managerial work, and those who had separated from their spouse before attending an information meeting. There was no difference, however, regarding parental status, involvement in divorce proceedings, previous use of other services, ethnicity, or the type of meeting attended.

Drawing Conclusions from the Research

During the pilot programme, attendance at an information meeting was voluntary. Pilots publicised the existence of meetings throughout the area they covered, and people who decided they wanted to attend made an appointment by telephone. By the completion of the programme, 9,990 married people had made an appointment to attend an information meeting and 7,863 people had actually attended a meeting. We feel confident that most of those who attended an information meeting would have done so if the FLA had been fully implemented and attendance at a meeting had been required for all those intending to make an application for divorce. It seems likely that attendees during an implemented system will, like those attending during the pilots, be a mixture of people who go to an information meeting for a range of different reasons. Some will be determined to divorce, while some will not want to divorce but will have spouses who have indicated that they wish to do so, and others will be aware of problems concerning their relationship but be uncertain about what they, or their spouse, intend to do about them. Some people will attend a meeting hoping for guidance regarding what to do next; others will know exactly what they want to do but want specific information to help them with the process. Some attendees, of course, will simply be going through the motions, because that is what they have to do in order to get their divorce. Since this group could clearly not be included in a sample of volunteers, we have no way of knowing what its members will think about the information meeting, or what effect attendance at it will have on their subsequent actions.

Since we have been dependent on volunteers, we have been alert to potential bias throughout our evaluation of the pilot projects. Without access to an unbiased sample of the population at risk, however, it is not possible to be sure how representative our sample of volunteer attendees is. We are not aware of a database that could be regarded as a satisfactory representation of prospective attendees. The comparisons we have made depend, in one way or another, on data about people in the process of divorce. However, provision of information under Section 8 has broader objectives than facilitating divorce. The hope has been that information will reach people early enough to help them to stop and think about the ending of their marriage, and to help them to save it, if that is what they want. We recognise, therefore, that populations of people sufficiently committed to divorce to start the process cannot accurately represent one that would include people seeking information that would help them to work on the prevention of divorce. We attempted to generate a sample of people seeking advice about divorce from solicitors, feeling that they might constitute a more comparable sample than those already involved in divorce proceedings. This was not successful, however. Although the exercise was carried out within areas where information meeting pilots were managed by firms of solicitors, and a financial inducement was offered, few solicitors co-operated. Consequently, we were not able to generate a reasonable sample in this way.

Despite the limitations of the comparator samples that have been available to us, employment of them has enabled us to be reasonably certain that the sample of volunteers contains some bias in terms of social deprivation, parental status, age and duration of marriage. Volunteers seem to be drawn disproportionately from the more affluent areas, from older people and those who have been married for longer periods, and from parents. These findings are similar to those arising from other studies of volunteering. For instance, research carried out by the Volunteer Centre UK linked volunteering in Britain with 'higher socio-economic status, higher education levels, being middle aged, and being of the dominant ethnic group'.¹⁵ Nevertheless, we suspect that volunteering to attend an information meeting is likely to be explained, to some extent, by perceptions about the need for information. Parents have needs for information about children that are not relevant to people in childless marriages, while the longer people are married the more complex their shared financial arrangements are likely to be, and the more affluent they are the greater the emphasis is likely to be on their obtaining good financial information or, more probably, advice. We suspect, therefore, that the propensity to volunteer to attend an information meeting might be driven by the degree to which information is felt to be important. The pilots were attended by people who wanted information, although they may have been unsure why or unsure about precisely what information they were looking for. Under a system implemented according to the criteria set out in the FLA, however, information meetings are likely to be attended by some people who are not interested in receiving information.

We know that there are ways in which people who attended an information meeting during the pilots are not fully representative of those who would attend if the FLA were operational. The question is, however, to what extent do these differences matter in terms of our understanding of what information meetings can achieve? Our attempts at weighting data according to various criteria, and evidence from other populations, suggest that the answer to that question would be 'not much'. We have weighted according to particular criteria, then analysed both weighted and unweighted data, and we have found little difference in terms of key indicators of user satisfaction and subsequent actions.

The minimal differences that we found between weighted and unweighted data have led us to conclude that the raw data provided by information meeting attendees were as reliable as any weighted data that we were able to derive. This is not to say that we can have absolute confidence in our results. The absence of total confidence, however, is not only connected with the representation of various socio-demographic characteristics; it is also a result of differences between the non-measurable psychological characteristics of people who attend an information meeting because they feel it might be of value to them and those who attend simply because they have to, some of whom may feel resentful about having to attend. In short, the difference between volunteers and conscripts cannot be understood in the absence of comparative data sets including people who are truly conscripts.

In an ideal world, evaluation of information meetings would have involved introduction of Part II and random assignment to either a compulsory meeting or some alternative intervention.¹⁶ Alternatively, the Act might have been introduced in some parts of the

¹⁵ Volunteer Centre UK (1995), 'Who volunteers and why: the key factors which determine volunteering', in K. Bales, 'Measuring the propensity to volunteer', *Social Policy and Administration*, vol. 30, no. 3 (1996), pp. 206–26.

¹⁶ The methodological issues are described at length in Annexe 6.

country but not in others. However, even if compulsory attendance and random allocation were politically possible it is far from incontrovertible that randomised control trials would have been appropriate. Hunter,¹⁷ for instance, suggests that randomised control trials

work only when the objective of the intervention can be unequivocally specific, when there is precise, foreseeable and measurable control over the nature and quality of the input, when influences outside the measured input and output can be excluded and when the criterion of success is uncontroversial and can be measured on a single dimension.

We would question whether such conditions apply with respect to information meetings. It is expected that information meetings will encourage couples to take all practical steps to save marriages, bring to an end with the minimum distress those marriages that cannot be saved, and create the conditions for continuing relationships between parents and their children after divorce. Although the Act introduces specified periods of reflection, it is clear that some people will reflect for longer than others. Thus, there are no 'unequivocally specific' outcomes that can be measured on a 'single dimension', or within specified time periods. Moreover, evidence about delivery of the models (Chapters 7–9) shows that the quality of presentation has been variable even within models, which suggests insufficient control over the nature and quality of the input. Indeed, members of the control group may feel deprived of information and seek it out in ways which they might not have done in the absence of an information meeting that they were unable to attend. Moreover, if random allocation were to be employed, might not others involved in provision of information, perhaps feeling threatened by the introduction of information meetings, be inclined to try harder? It also seems likely that attendees would know they are included in a study and might behave differently from how they would have done otherwise. Therefore, if a randomised control trial had been possible, threats to both internal and external validity might have proved insuperable. Whatever the merits or demerits of randomised control trials, however, they were never a possibility, and there was little choice other than to operate pilots that would be dependent on volunteers. But can volunteers tell us anything about how a mandatory service would be received?

We have to acknowledge that we can learn little from volunteers about people who might attend information meetings reluctantly. Nevertheless, our volunteers consist of people actively seeking information, and we would contend that such people are more useful judges of the value of the information provided than are people who have little interest in it. We have used multiple approaches to evaluation, including questionnaires and interviews with both users and providers of information meetings, and non-participant observation of the delivery of information meetings and the training of presenters. Although we recognise the problems arising from voluntary attendance at information meetings, and would advise appropriate caution in the interpretation of findings, we feel that our in-depth, multi-method approach to evaluation, which employs both quantitative and qualitative data, has provided a great deal of knowledge about various ways of delivering information, and also about how people make sense of and use information. We feel that our evaluation has been sufficiently robust for us to be confident about how various models would be experienced by users, and about what impact information is likely to have on their subsequent behaviour. We cannot make exact predictions, but we have been able to garner sufficient information to make recommendations that will enable the provision of information to be based on more informed evidence than was possible in

¹⁷ Hunter, D., 'Let's hear it for R & D', *Health Service Journal*, vol. 15 (April 1993), p. 17.

advance of the pilot programme. Our approach has afforded in-depth understanding of the process of information provision, but we are less confident about making exact predictions about the impact of information under the conditions set out in the FLA. The issue of generalisability relates, to a large extent, to questions about the purpose of the pilot programme. Was it to evaluate ways of delivering information? Or was there a wider objective involving questions about the relationship between law and social behaviour? We believe it was originally the former, and that the pilots were set up to develop information materials and to determine the most appropriate method of delivering the prescribed information meeting. Over time, however, it seems that questions about whether information changes behaviour have predominated, a situation emphasised by the Lord Chancellor's decision in June 1999 to delay implementation because of disappointment at particular outcomes. Although we feel confident that multiple approaches to the collation of research data have enabled us to draw firm conclusions about the appropriateness of various models, including recommendations for a 'preferred' model, we would be considerably more reticent about using the findings to assert exactly how implementation of the FLA would affect the behaviour of divorcing couples. We are able to engage in informed speculation, but no more than that, about this issue. Nevertheless, we would contend that such informed speculation, which is based on the experiences of users and providers of information meetings, is of considerable value in the process of making decisions about whether or how to implement Part II of the FLA.

2

**Evaluating Models for the
Provision of Information**

2. Evaluating Models for the Provision of Information

During debates in the House of Lords in relation to the pilot information schemes, Lord Archer of Sandwell commented that he was

heartened to learn that many flowers will be encouraged to bloom. Perhaps afterwards we can assess the results.*

The first five pilots were selected to become operational in June 1997. Thereafter, nine further pilots were established. In total, during the two-year period from June 1997 to June 1999, fourteen information pilots were launched in eleven areas of England and Wales, between them testing six different models for the delivery of information. The models tested have included: three types of face-to-face individual meeting with an information presenter; three kinds of group presentation (two of which formed the second part of a two-stage process of information delivery), each involving presenters working in pairs; and two different meetings based on the delivery of information via a CD-ROM, introduced by a facilitator.

Later in the piloting period, we undertook a special study which involved the provision of information packs (as provided in the meetings) through the post to people who called a central number and requested the information. This was clearly not a pilot in itself, but enabled us to understand what additional benefits might be obtained from attending a meeting which might not accrue from written information contained in a series of leaflets.

In the pilots the information meeting had two principal objectives:

1. To direct a party's attention to the issues which they should consider when contemplating taking steps to end the marriage.
2. To provide information about the various options for the resolution of difficulties and the support services available.

Our evaluation of the various models has enabled us to ascertain how far these objectives were met, to discern the issues which require careful thought before decisions about implementation are finally taken, and to consider how a more effective information meeting might be constructed.

In Chapters 7–9 we present the findings in respect of the different kinds of information meeting, and in Chapter 10 the postal pack study is examined. Over the course of the research, increasing attention has been paid to the impact and outcomes of information meetings. Although a consideration of outcomes was only one element in our evaluation, it has assumed greater importance since the Lord Chancellor announced in June 1999 that he intended to delay a decision about implementation of Part II until our research had been completed. It became clear that there were high expectations of what information meetings might achieve, and the preliminary research results were considered to be disappointing in the light of these. In Chapter 11, we focus on the issue of impact in an attempt to understand outcomes from a broader perspective than has been the case hitherto.

* Lord Archer of Sandwell, Official Report (H.L.), 21 January 1996 at col. 839.

Chapter 7

Individual Information Meetings

Karen Laing and Peter McCarthy

We now know that information sessions are to be one-to-one interviews. At least there will be some privacy ... In what circumstances will those interviews take place? I have experienced one-to-one interviews ... at Petty France. When we want to renew a passport ... we have to queue ...

The number flashes up after someone has been waiting for ages and then that person trots off to a cubicle and has a private one-to-one interview. If that is what is proposed for information meetings, it is wholly unacceptable.¹

When proposals for the provision of information were first put forward in the Green Paper, the form that was envisaged was that of an information ‘interview’. Owing to concerns that an interview-type meeting might well step over the boundaries of information giving into advice giving, group sessions were suggested as being more impersonal and involving less interaction with attendees and therefore less likely to focus on individual problems. As we have noted in Chapter 2, some MPs were unhappy about the provision of a compulsory group information session, feeling that privacy and confidentiality would be compromised and that some people might be intimidated by a group situation. An individual face-to-face meeting was considered to be more appropriate, but the form this would take was not decided on during the passage of the Family Law Bill, and it was agreed that pilot projects would be established in order to develop and test ways of delivering information on a one-to-one basis.

During the pilot projects we set two major research objectives in relation to the delivery of information. These were:

1. To determine which of a variety of models of delivery is the most effective for the majority of attendees.
2. To establish the most appropriate combination of materials and models of delivery for different groups of divorcing people.

In order to determine the most effective means of information delivery to meet the objectives laid out in the Family Law Act, the Lord Chancellor’s Department developed a variety of models involving individual face-to-face meetings, group presentations, a two-part process combining an individual meeting and a group presentation, and CD-ROM presentations. In this chapter we report on the three types of individual face-to-face meeting that have been tested during the pilot programmes.

Individual face-to-face meetings were offered in three of the models that were piloted, namely Models A, B and C. Model A consisted of an hour-long meeting with a single presenter and information was provided that corresponded with all the topics set out in Section 8(9) of the Family Law Act 1996. Model B offered a half-hour meeting with a

¹ Mr Paul Boateng MP (Brent, South), Official Report (H.C. Standing Committee E), 9 May 1996 at cols 182, 183.

single presenter who delivered an abridged version of Model A. Attendees were expected to go on to attend a group presentation of about an hour's duration at a later date. The group presentation focused on the delivery of information about the divorce process, mediation and the needs of children. Applicants were allocated to either a Model A or a Model B individual meeting depending on the date on which they made the application. This system was devised by the research team as a means of controlling the numbers attending each model. People were not given the choice of which meeting to attend, since we needed to ensure that there were sufficient numbers attending each type of meeting.

Model C also consisted of a two-part process, but the parts were differentiated on the basis of whether people had applied for divorce or not. Potential attendees who had not applied for divorce were allocated to a twenty-minute individual meeting focusing specifically on whether their marriage could be saved and giving information about sources of help such as marriage counselling. Those who subsequently applied for divorce could then be invited to a group presentation lasting about 1¼ hours which offered information on the legal side of separation and divorce, mediation, divorce process and children. Owing to the relatively short duration of the pilots (9 months), very few people were expected to attend both meetings, so in order to assess the position of the group presentation in this processual approach to the delivery of information, we channelled those people who had already applied for divorce into a group presentation without their attending the individual meeting first. In all, 23 people attended both meetings.

The Model C individual meeting was conceptually different from Models A and B in its approach because of its focus on marriage saving, and also because presenters were asked to find out from attendees whether they were certain their marriage was over. The information presented thereafter was tailored, within the confines of the presenter's brief, to the attendee's response. If uncertainty existed about whether the marriage was over, attendees were provided with information about counselling and the importance of reflection. If attendees were certain that their marriage was over, they were told about the magnitude of the decision to divorce and encouraged to consider the implications and use available services to help with the process. Parents were also entreated to keep children informed.

All three models of individual meeting were extremely prescriptive, with presenters following a set script to a tight time schedule, although Model C allowed for a little more presenter discretion in how the meeting progressed. In all the models, people could attend a meeting either alone or in a couple. At the end of each meeting, attendees were given an information pack and in the latter stages of the Model C pilots they were given a parenting plan and an offer of a meeting with a marriage counsellor. Individual meetings were delivered in eight pilot sites around England and Wales. (See Annexe 3.)

In total, 4,028 people attended an individual information meeting. Of these, 38 per cent attended a Model A meeting, 48 per cent a Model B meeting and 14 per cent a Model C meeting. The data collection process involving attendees at these three models is shown in Figure 7.1.

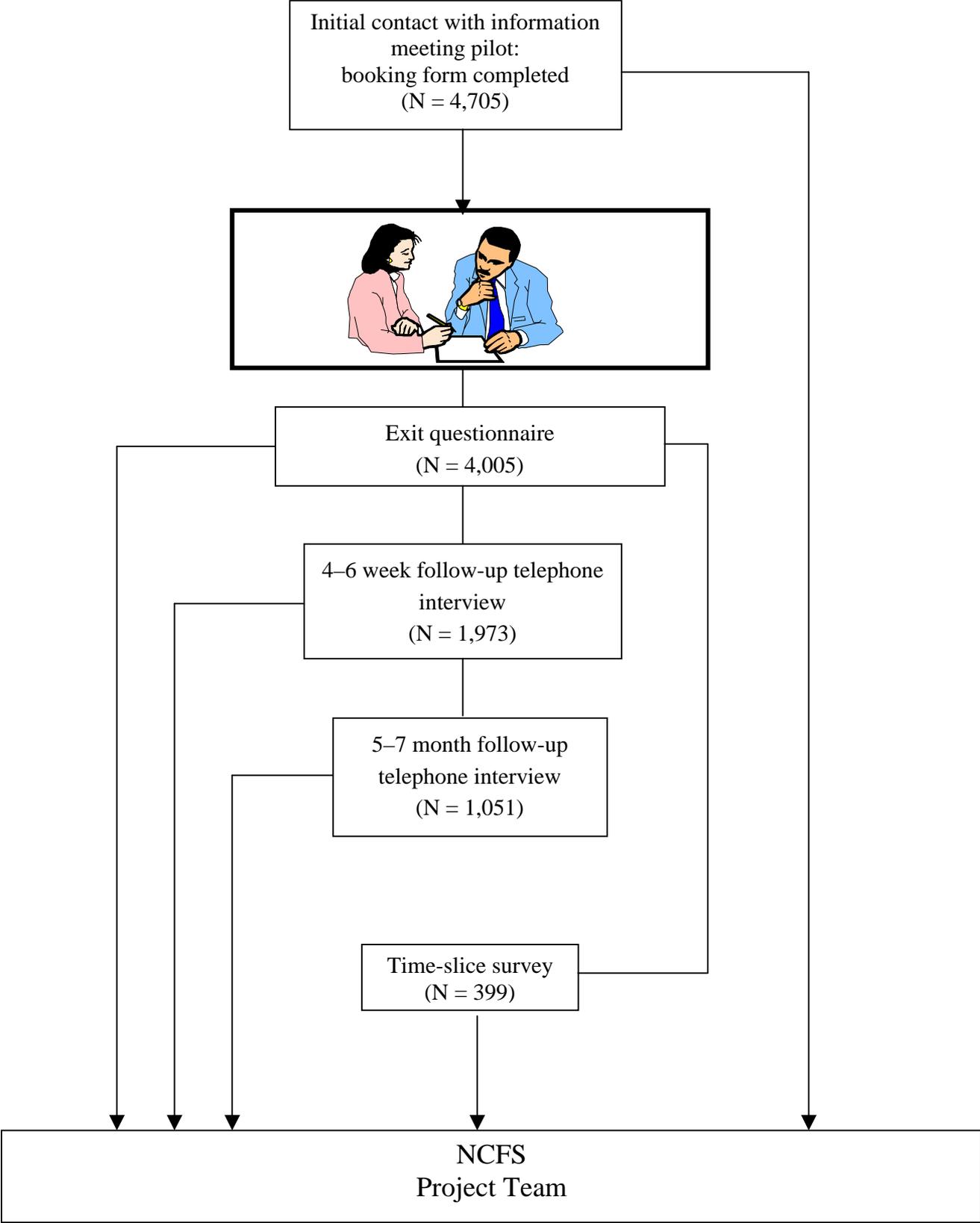


Figure 7.1 Data from applicants and attendees in respect of face-to-face individual information meetings (Models A, B and C)

Characteristics of Individual Meeting Attendees

Eighty per cent of those who had booked an individual information meeting subsequently attended one. Applicants were more likely to keep an appointment if they were invited to a Model A meeting than if they had booked a Model B or Model C individual meeting. Of all attendees at an individual face-to-face meeting:

- 64 per cent were women and 36 per cent men
- 74 per cent had children under 18
- 52 per cent were living apart from their spouse
- 9 per cent had already started divorce proceedings (Models A and B only)
- 94 per cent described themselves as white
- 53 per cent used the meeting as a first port of call
- 6 per cent had concerns about safety connected with attendance
- 11 per cent had been married before
- 12 per cent were accompanied by a spouse

There were absolutely no differences in the characteristics of Model A and Model B individual meeting attendees, but Model C attendees differed in that they contained a higher proportion of people from minority ethnic groups than either Model A or Model B attendees, and Model C attendees were less likely to report safety concerns arising from their attendance than Model A and Model B attendees.

Duration of Individual Meetings

Model A information meetings were designed to last an hour and were strictly scripted to time. Presenters were trained to deliver certain chunks of information in a specific number of minutes, and there was little room for any variation. The vast majority of meetings (94%) were completed within the prescribed hour and only one per cent of meetings took over 75 minutes. Eighty-one per cent of attendees stated that they thought the length of the meeting was about right, while presenters told us that they felt there was enough time to cover the information in the time allowed and that it was a rare occurrence to miss anything out because of time constraints. Focus groups with presenters elicited the following comments:

Model A allows adequate time for getting the attendee relaxed.

Model A allows adequate time for creating rapport.

Up to one hour gives adequate time to do justice to the brief and to deal with [attendees'] questions.

Conversely, however, several meetings (5%) took less than half an hour, indicating perhaps that some information had not been covered, perhaps because it was completely irrelevant (e.g. the information on children's needs was omitted when the attendee did not have dependent children). One presenter commented:

One hour is too long if there are no children involved in the marriage.

Model B individual meetings were designed to last half an hour and, like Model A meetings, were scripted to a strict time schedule. Just under half of all meetings were concluded in the 30 minutes allowed, and the majority of the other meetings finished within 45 minutes. Only 3 per cent of meetings went on longer than 45 minutes. It seems that Model B presenters had more difficulty in keeping to time than Model A presenters. However, presenters themselves reported a lack of time in only 5 per cent of cases, indicating that when commenting on the adequacy of the time allocated, presenters may, in fact, have been thinking of the time the meeting actually took rather than the time it should have taken. Sixty per cent of attendees thought that the length of the meeting was about right, but over a third thought that it had been too short.

Model C individual meetings were the shortest of the face-to-face meetings, being of only twenty minutes' duration. Forty-four per cent of these meetings were completed in the designated 20 minutes, and 90 per cent were concluded within half an hour. Two meetings lasted nearly an hour. Two-thirds of attendees thought that the length of the Model C meeting was about right, but the majority of the remainder thought that the meeting had been too short. Nevertheless, one in five information meeting presenters felt that they had not had enough time to conduct the meeting satisfactorily. If attendees started talking or asking questions, or needed clarification or asked for more specific information, presenters found it hard to keep within the time constraints that were operating. Model C presenters tended to make comments such as the following:

I would make it longer in order to more adequately cover the range of information covered.

Have a longer session, and expand the information given, adapting it to the client. Giving more information initially is, I feel, important, and then the group meeting could be shortened or even cut out.

Presenters of the shorter meetings (Models B and C) argued for more flexibility in timing in order to deal with attendees who had special needs or were visibly upset:

Given the circumstances surrounding this attendee's marriage breakdown I would have found it hard to keep tightly to time as I feel he would have left the meeting feeling worse than when he arrived. (C)

Too much for a 30-minute meeting – a complicated and involved case with the attendee trembling and depressed. The group meeting would probably not be helpful for him so I allowed extra time for this meeting. (B)

It seems that those attendees and presenters who were involved in a Model A meeting were more satisfied with the length of the meeting than were Model B and Model C attendees and presenters.

Delivery of Information

In total, there were 106 individual meeting presenters. They were drawn primarily from the divorce-associated professions, but included also teachers, social workers, advice workers and health professionals. The process whereby we collected data from presenters is shown in Figure 7.2. There was considerable variation in how many meetings each presenter conducted, the most prolific presenter having conducted 187 meetings. At the other extreme, 8 presenters had conducted fewer than 10 meetings. The average number of meetings presenters conducted was 38.

Individual meeting presenters tended to be less satisfied with their training than group presenters, and some felt that in order for them to continue as presenters, some form of ongoing training would be necessary to keep them up to date with current thinking about divorce law reform, finances and domestic violence, in particular.²

The venue at which meetings were held undoubtedly had an impact upon the delivery of the information. Our observation of venues revealed varying quality, and some venues, for instance dilapidated buildings in poorly-lit areas and those with no reception facilities, were particularly unsuitable. Pilot managers were tasked with finding appropriate venues on the basis of criteria set by the Lord Chancellor's Department. Venues such as social security offices and other public agencies were not included in the specification as had been feared during parliamentary debates. Nor were people obliged to queue or wait in public to have their number called. Some attendees commented on venues and made suggestions for improvement:

[It needs to be] a smaller room with comfy chairs. [There was] no visible clock to tell you how much time had elapsed. (F)

Get rid of that blooming table. A small coffee table, yes, but not sit across a big table from someone. I could feel the barrier. (F)

Although most presentations ran smoothly, presenters identified areas in which distractions upset the delivery of the information. For example, some considered the presence of children detrimental:

It was difficult as the attendee's baby [being cared for by the receptionist] started to cry and then came into the room with the attendee. I felt he was finding it difficult to concentrate, understandably. We had to stop the meeting again to warm the bottle so the session was very disjointed. (A)

² For a more detailed discussion of the training of presenters see McCarthy, P., Mitchell, S., Walker, J., Lowerson, R., Spinks, R. and Agathangelou, A., 'Information presenting: the development of a new profession', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998); McCarthy, P., Mitchell, S., Walker, J. and Lowerson, R., 'Information presenting: the development of a new profession', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998); Fuller, S., 'Training reviewed', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

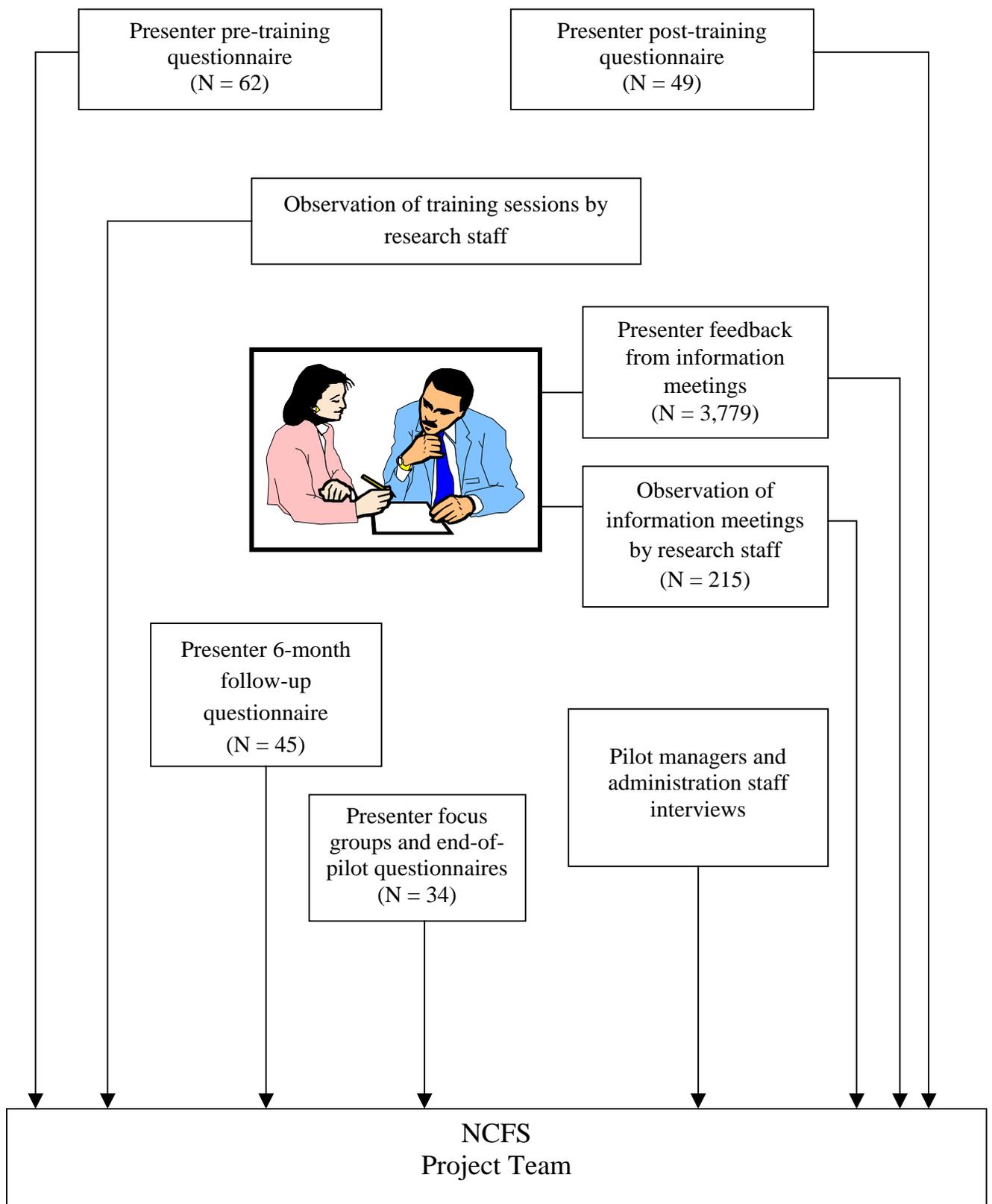


Figure 7.2 Data from presenters in respect of face-to-face individual information meetings (Models A, B and C)

The attendee's child was very disruptive and noisy. I had to talk very loudly. The attendee had to get up and get a handkerchief. I had to get up more than once to remove a lamp and items out of the child's hand. Had to see that he did not put a small stone (from a pot plant) in his mouth, give information and be extra-vigilant. (B)

Wasn't expecting attendee to bring child. Child noisy and I could not keep up the 'flow' of the meeting. Also found myself rushing to give the information. (B)

Very few attendees (3%) expressed a preference for a particular gender of presenter and, in the vast majority of meetings in all three models, attendees found presenters friendly (98%) and said that they had been put at their ease (96%). Attendees at longer meetings were more likely than attendees at Model C meetings to say that the presenter understood their situation, but Model C attendees were less likely than Model A or B attendees to say that it was important that presenters understood their situation. Nevertheless, the majority of attendees said that it was important for a presenter to understand their situation.

Presenters' Evaluations of Individual Meetings

Presenters completed a questionnaire after each meeting they conducted so that we could learn their views as to how well the meeting went and glean their insights regarding the process of delivering the information in this way. Presenters remarked that there seemed to be a high level of understanding of the information presented among attendees, and in only twelve of the meetings held did they record concerns about attendees' understanding the material. Only a tiny minority of attendees were reported as not paying attention to the information being imparted to them, and about one in ten attendees apparently did not ask any questions. There were no discernible differences between models except in respect of the asking of questions. Model B attendees were less inclined to ask questions of the presenters than were Model A attendees, but there was less opportunity for questions given that it was a shorter meeting. The following questions are typical of those that presenters were asked:

If I don't want anything can I just get a divorce?

Do solicitors have to be involved?

How easy is it to get a legal separation and how much would it cost me to do?

Can my daughter be forced to see her father?

Will I have to leave the marital home?

Can I get half my husband's pension?

Can I change back to my maiden name?

What kinds of mediation are there?

Can I stop my children being taken out of the country?

Presenters felt that all the information they had provided was relevant to about 50 per cent of all attendees, and that some of it was relevant to a further 49 per cent of attendees. The

comments of presenters showed that some felt discomfort about sticking to the script when they felt that the contents of the meeting were not relevant to an attendee:

Seemed both attendee and I were wasting our time. Attendee did not want information on anything except legal aspect (section 2), so I gave her this. She was adamant that she did not want to hear anything else e.g. children's issues, feelings etc. (A)

Information relevant to this dimension of a person's experiences [race, culture and religion] does not exist in the pack and was scantily addressed in training. I used knowledge and training of my practice as a probation officer and court welfare officer to adapt points in the pack so they felt more relevant to her particular situation ... she made it clear how pleased she was to have this central part of her life recognised and needs for herself and her family taken seriously and given due consideration. (A)

According to the presenters, Model C attendees were more likely to find all the information relevant than were attendees at the two other models. Sixteen per cent of attendees disclosed a domestic violence situation to the presenter during the course of the meeting. The proportion of attendees disclosing domestic violence was higher in Model A than in the two shorter meetings.

Overall, presenters spoke positively about the meetings. They were happy with the way the meetings had gone in 57 per cent of cases, felt fairly happy about how the meeting had gone in 39 per cent of cases, and were unhappy with only 4 per cent of meetings (Table 7.1). Model C presenters were more likely than Model A or B presenters to say that the meeting had gone very well.

Table 7.1 Presenters' responses to the question 'How happy were you with the way the meeting went?'

	Model A	Model B	Model C	Total
	%	%	%	%
Happy	58.5	53.9	63.5	56.9
Fairly happy	36.8	41.4	35.2	38.8
Unhappy	4.7	4.7	1.3	4.2
Total (100%)	1,519	1,931	543	3,993

Chi-squared = 27.59; $p < 0.001$.

When presenters were unhappy with the way some meetings had gone this was usually because they felt that the contents had been inappropriate to the attendee's needs, or because they felt constrained by time.

Presenters also completed a questionnaire part-way through the operation of the pilots and, at the end of pilots, focus groups were held to seek their views about information meetings and their role in providing them. Presenters often stated that the most difficult aspect of their role in delivering information was dealing with attendees who wanted to talk about their own personal circumstances and emotions, when as presenters they had to stay detached since the script did not allow for dialogue. This disappointment at not having the kind of interaction with attendees that was hoped for stemmed from the script being rather rigid and from the fact that many attendees just did not fit, particularly in

Model C where the emphasis on marriage support could cause problems when attendees were sure that their marriage was over. The following comments by presenters demonstrate what they felt to be the most difficult aspects of their role as one-to-one information providers:

Maintaining the interaction between presenter and attendee whilst keeping to the time schedule of the presentation – this may be as little as eye-contact, nodding, giving brief answers, acknowledging distress – but carrying on keeping to the brief. It is managing the dynamics of the situation so that the attendee maintains concentration, can contribute if they want to, their responses/behaviour are recognised and valued – and presentation can continue to maximise effect. (A and B)

Containing attendees' distress when they seem to be in need of counselling/support rather than basic information. (A and B)

Controlling the meeting if: (a) an attendee does not fully understand the purpose of the meeting; (b) ... the attendee wants a specific piece of information which may/may not be covered in the session. (A and B)

In keeping to the script I have felt oppressive by ranting on about counselling when someone has clearly been in a violent relationship for ten years, or when they have come to the meeting with a new partner of nine years' duration, etc. (A and B)

Dealing with people's high expectations of getting specific information for their circumstances. (C)

Presenters seemed to have difficulty ignoring the expectations of attendees and withholding information that they thought an attendee needed. They felt guilty about their lack of responsiveness and felt constrained by a role which did not allow them to employ their own judgement and discretion. The presenter's role was also very different from that which they normally used to interact with people in the course of their usual professions, people such as lawyers, mediators, counsellors and the like. One Model C presenter said:

The meetings do not address the needs of individuals who come forward with some real problems/questions which, as an information presenter, I am unable to get involved in.

Observations of Individual Meetings

During the course of the pilots we observed 215 individual meetings and managed to observe the majority of presenters. We were seeking to understand the perspectives of the participants, points of tension or misunderstanding, and relationships between time, place, structure and outcomes.³ From our analysis of observation in the first five pilots,⁴ we concluded that presenters' backgrounds may be less important than their interpersonal skills and comprehensive training in the delivery of information. We also suggested that a

³ Some of the material in this section has been drawn from Lowerson, R., 'Individual information meetings observed', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Report*, Newcastle Centre for Family Studies (January 1999).

⁴ J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998).

degree of flexibility and personal ownership of the script were essential for effective delivery of the information.

The critical differences between Models A, B and C that our observations have suggested can be grouped under a number of headings, as follows:

- information delivery
- expectations and concerns of attendees
- achievement of policy objectives

We consider each of these areas in turn.

Information delivery

Exploring how presenters delivered the various models was a central strand of the research. A number of recurrent themes were identified, relating to factors such as presenter style and emphasis, timing, coverage of domestic violence, coverage of other areas, and adherence to role (i.e. whether the presenter provided advice or otherwise deviated from their mandate). Comparison of Model C meetings with those of Models A and B enabled us to cast further light on the factors underlying some of the phenomena we observed. In addition to routine elements such as coverage, all three models were explored in terms of relevance, the advice–information continuum and control. We also focused on how Model C presenters managed the ‘fork’ in the material to be presented depending on whether the attendee was certain or uncertain about whether the marriage was over.

In our interim reports we suggested a typology of presenter style ranging from responsive to prescriptive. There were hyper-prescriptive presenters who stuck to the mandated script regardless of interruption. In the case of Models A and B, the majority of presenters could be assigned to the prescriptive bracket. Nevertheless, a sizeable minority also fell into responsive mode, tailoring the information to reflect their perceptions of the attendees’ concerns and thereby risking omitting sections of the information. A somewhat similar distribution pattern was observed in Model C meetings, with the bulk of the presenters adhering to the requisite structure. Any tailoring was limited mainly to that imposed by the brief, namely selection of the certainty or uncertainty route.

There was some indication that presenters from an interactive professional background such as counselling were more likely to take a responsive approach. The degree to which attendees were forthcoming about their personal circumstances was inextricably linked with the approach taken by the presenter. But even the most flexible of presenters was unlikely to be able to tailor the presentation when the attendee was completely reticent and made no response to the information being presented. In the same way, an inflexible presenter, determined to deliver the full script, struggled to achieve this when confronted by an incessantly garrulous attendee. The outcomes of the two presenter approaches and the two extremes of attendee described above are illustrated in Figure 7.3. It can be seen that if the presenter was infinitely flexible and responsive and the attendee wanted to tell their story, the meeting structure disappeared and the script was abandoned. By contrast, if the presenter was highly prescriptive and the attendee said nothing, the information was delivered according to plan, with the script rigidly adhered to. What is needed is an

appropriate level of flexibility so that the presenter can be responsive when that is necessary.

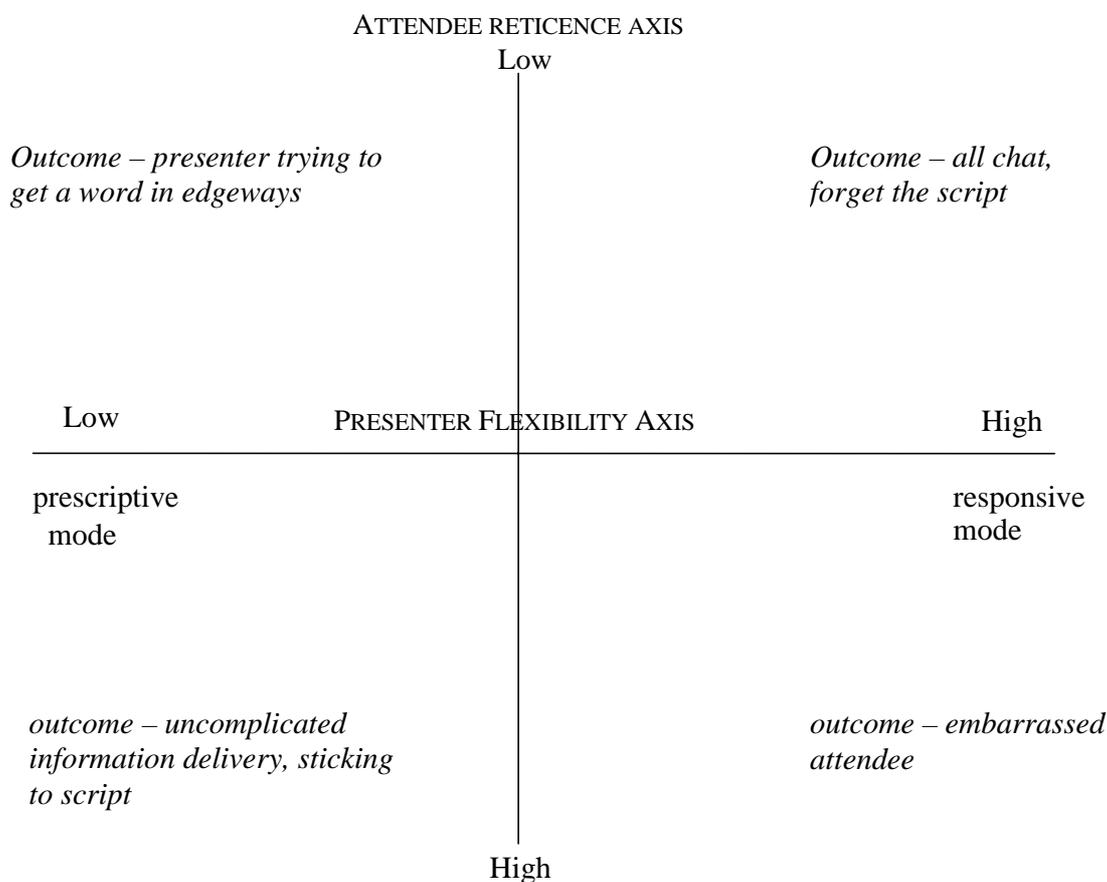


Figure 7.3 Presenter flexibility against attendee reticence

Where deviation from the brief occurred in the context of Model C, it took the form of information expansion rather than omission. Consequently, a proportion of observed meetings took the form of a mini-Model A, with coverage of both forks of the brief and/or a swift explanatory tour of the leaflets. Presenters at the London pilot in particular often adopted this service delivery approach, a fact which they readily acknowledged during the focus groups. (This approach may also have been fostered by the fact that individual presenters of Model C were originally trained to present Models A and B and switched to the revised model at a relatively late stage.) On two occasions, this approach seemed to stem from lack of familiarity with the brief. More commonly, it was triggered by the attendee being unclear about whether the marriage was over, or by the brief itself seeming less than relevant to the attendee's concerns.

Tailoring, whether of the expansive or the contractive variety, resulted from the quest by presenters to inject relevance. This was also apparent in other facets of information delivery. For example, in the earlier models, coverage of domestic violence was largely unsatisfactory, particularly when attendees indicated that it was not an issue for them. By contrast, in Model C the coverage of domestic violence was largely satisfactory. In this model, the section on domestic violence represented a rather substantial proportion of the designated 20 minutes, and so presenters could not omit it without losing a quarter of the

meeting. Given this constraint, Model C presenters adopted two main approaches to this section of the brief. The first was to invoke a higher authority to explain its inclusion – namely the research or the Government. For example:

The Government requires that we give this information to everyone who comes to a meeting.

Let me just talk about domestic violence. I've got to because of the research.

The second approach created a sense that the information might prove relevant in the future, enabling the presenter to deliver this section of the brief satisfactorily:

I know you said it [domestic violence] wasn't an issue, and hopefully you'll be one of the lucky ones, but it's useful to be careful.

In addition, the urge to instil relevance could also be said to underpin a technique some presenters adopted of referring to wider human experience or life-examples as a means of grounding in reality the concepts put forward in the meeting. This reality-grounding conveyed a sense of general relevance – a counterpoint to the rather abstract nature of the meeting. Models A and B seemed more susceptible to this approach than Model C, perhaps because of their wider focus.

The question of relevance, therefore, emerged as a central theme in all three models. The problems occasioned by attendees who were pursuing a single issue or seeking advice may have stemmed from the meeting's perceived lack of relevance as much as from the need for presenters to avoid giving advice. Admittedly, in the case of seekers of very specific advice (who were primarily concerned with particular personal, perhaps complex, problems requiring specialist advice) it was unlikely that any model of information meeting would suffice. These individuals could be distinguished from attendees who sought information about a specific *area* of interest. For them, Model A and B individual meetings at least offered wider coverage of a range of issues. Consequently, the likelihood of the content of the meeting coinciding, at least in part, with the attendee's area of interest was greater. Indeed, some of the apparently more skilled presenters used the introduction to flag up potential relevance in advance, aiming to arouse positive expectations about the meeting:

Well, from what you've told me, just about everything is relevant.

... well, when we get to the last section, I hope you will find that most useful.

Unless the attendee's interest was domestic violence or marriage-certainty, however, Model C (if delivered as prescribed) offered fewer tangible prospects for highlighting potential relevance (other than by directing an individual to the information pack). In some cases, observations also illuminated a structural flaw which made a nonsense of the meeting and provided an extreme example of irrelevance. This appertained in cases where the attendee indicated that he or she was already undergoing marriage counselling to try to save the marriage at the time of the meeting. It is clear that these individuals were uncertain about divorce, or else they would not have been trying to save their marriage through counselling. Nevertheless, they were still subjected to the counselling section of the brief, which must surely have imparted little in the way of extra information. Our fieldnote in respect of one such meeting records the following:

When it came to the relevant point in the brief to pause for the attendee's response, the presenter said that the fact that the attendee had been attending counselling shows he is uncertain about separation, so she proceeded down the uncertain route. She covered the availability of counselling services, which seemed a little pointless as he and his wife were already in counselling.

Similarly, coverage of counselling as a device to save marriages could, quite simply, be irrelevant in the light of the attendee's circumstances, as the following reveals:

'I've been separated for over a year, my husband has moved to Liverpool and set up home there. It's all very amicable, he comes down every Saturday to see our children and they have had a holiday there.' Presenter still went on to ask 'Do you think that you will consider counselling?' (fieldnote)

Observation of all three models showed that, on occasions, individual presenters endeavoured to make the brief relevant to the individual attendee, using an array of techniques. Such presenters contrasted with highly prescriptive presenters who adhered to the brief rigidly and did not pursue a 'relevancing' agenda. The distinction between some prescriptive and responsive presenters appeared to hinge on the extent to which, and the manner in which, relevance was injected into the meeting. Responsive presenters either expanded (Model C) or omitted/downplayed (Models A and B) sections of the brief to match their delivery to their understanding of the attendee's concerns. By contrast, prescriptive presenters used techniques that created an air of relevance without compromising coverage. The narrow focus of Model C seemed to afford less scope for this latter approach, although the idea that the information might prove relevant in the future was drawn upon in respect of domestic violence. In addition, the use of an 'acknowledge and move on' approach was also observed across all the models. This technique also injected an air of relevance, albeit from the attendee's rather than the presenter's perspective. By having their say, and having it acknowledged, the attendee was able to inject a personalised note into the meeting.

From the point of view of the presenter's delivery style, there appeared to be a relevance hierarchy, as follows:

1. *Irrelevant* – meeting and attendee concerns do not coincide, and no attempt is made to address this (overly prescriptive presenters).
2. *Fortuitously relevant* – meeting content and attendee concerns coincide (all presenter types).
3. *Quasi-relevant* – relevancing techniques are used to make information more appropriate to attendees (more skilled prescriptive presenters).
4. *Expressly relevant* – brief is expanded or contracted to match perceived attendee concerns (responsive presenters).

Naturally, from the presenters' perspective, the injection of relevance into the meeting hinged on cues given by the attendee. As we noted in our interim reports, levels of attendee reticence varied, and attendees may have been constrained by the introductory assurance that personal information would not be sought.

Compared with that of Models A and B, the more limited scope of Model C appeared to have increased the likelihood of irrelevance and simultaneously to have reduced that of fortuitous relevance. Quasi-relevance was noted in all models, and appeared to hinge more upon the presenter's skills than upon the brief. (The small group of health professionals seemed to possess the necessary skills.) Similarly, the inclination to adopt a responsive approach did not appear to be model-specific but may have been linked to personal inclination. Relevance was also closely linked to other themes, which included the advice-information continuum and (exclusive to Model C) the conundrum of 'fork management'. The manner in which the 'fork' in Model C was handled raised particular concerns regarding structure, relevance, presenter subjectivity and the rather unfortunate impression that divorce is inevitable if marriage counselling is rejected. A further structural inconsistency emerged in Model C, highlighting the need for more careful model design in an implemented system. Having initially enjoined attendees not to give personal details and having assured them that the meeting would not seek these, the presenter was then required to pause to elicit precisely such information about the state of the attendee's marriage. Not surprisingly, our observations suggested that the 'pause' rarely worked, leaving the presenter with two options: the meeting could either follow the 'mini-Model A' pattern, covering both forks, or else the presenter could, more commonly, resort to probing for further cues about the attendee's level of certainty – precisely what the attendee had been assured would not happen. This attempt to elicit cues about certainty/uncertainty could trigger divulgements of the attendee's circumstances far in excess of those required to ascertain where they were in the process of marriage breakdown.

Operation of the fork was also predicated on the concept of paired certainty within the relationship, despite the fact that the brief for Models A and B openly acknowledged that the parties to a relationship would often be at different stages in the emotional process of separation. Presenters' comments and observations alike indicated that this was particularly problematic when a couple attended together, since degrees of certainty inevitably differed:

They [attendees] were at different stages in the process of marriage breakdown and wanted to try different solutions.

One usually wants a divorce and one doesn't, which makes giving information on marriage support difficult.

The brief also assumed that certainty operated unilaterally, giving an individual information about marriage support, for example, despite the fact that that individual might have only a limited opportunity for using this information where the other partner was adamant about divorce. The following remarks by attendees illustrate this difficulty:

To be honest, I don't want a divorce – my wife wants a divorce. There's no one else involved but we're not together much ... I've told her I still love her but she's adamant.

She wants me to leave, I want to save it.

He wants it to be over, I have no say. So yes, I want one [a divorce].

Clearly, this raised issues regarding the suitability of the 'forked' model for couple attendees, a constraint which presenters also identified. We return to this issue in Chapter 35 in discussing a recommended model. More broadly, however, the concept of narrowly constructed, selective delivery of information was at odds with the objective of

empowering people to make choices since, given the variety of individual circumstance, it failed to provide sufficient information to inform those choices.

Furthermore, the structure of the Model C individual meeting conveyed the impression that the fork had only two prongs – designed either to access marriage counselling *or* to obtain a divorce or legal separation. Remaining married, or becoming separated but choosing not to go for counselling, for example, did not appear to be offered as options, as the following exchange illustrates:

Attendee. I'm not sure if I want a divorce, but I don't feel I'd opt for counselling.

Presenter. If marriage counselling is not an option the other option is separation and divorce.

Far from leaving the door to reconciliation open, the meeting may have forced a decision to divorce upon individuals who did not feel that counselling was appropriate.

From information to advice

The observations also provided insights into the advice–information continuum, from both the attendee's and the presenter's perspectives. The distinction between advice and information emerged as murky, regardless of model. Indeed, one definition of advice in the *Shorter Oxford English Dictionary* is 'information given', which does little to clarify the confusion. Furthermore, we could find only a small literature on the provision of advice and information in institutional settings. We gained some insights, however, from this literature and from the methodology of conversation analysis.

Heritage and Sefi's analysis of advice provision in the context of health visiting identifies the salient characteristics of advice-giving language.⁵ These are: 'overt recommendation'; couching advice in 'the imperative mood'; using 'verbs of obligation'; and factual generalisations. There are certainly parallels between these characteristics and those of the delivery of advice/information in the information meeting. Advice in the context of the pilots appears to have been interpreted by presenters as either answering personalised questions or overtly directing the attendee to a specific service or course of action. By and large, presenters managed to avoid both of these pitfalls in their freestyle exchanges with attendees. Indeed, the restricted context of Model C in particular was not conducive to advice provision (perhaps because, if delivered correctly, the model offered minimal opportunities for 'cueing' queries about personal circumstances). In our view, this narrow interpretation of advice paints an overly simplistic picture. Our observations suggested that the core elements of advice and information in the context of the information meeting appeared to be threefold: direction, mandatoriness and complexity.

At its most basic, 'advice' might simply be construed as a directive statement. While presenters largely refrained from overt direction of the 'go there, do that' variety, it transpired that direction (which appeared to be a central component of advice in the information meeting context) may nevertheless have been conveyed in a variety of subtle

⁵ Heritage, J. and Sefi, S., 'Dilemmas of advice: aspects of the delivery and reception of advice in interactions between health visitors and first time mothers', in P. Drew and J. Heritage (eds), *Talk at Work: Interaction in Institutional Settings*, Cambridge University Press (1992).

ways. What role, for instance, did positive encouragement play in the advice–information conundrum? The following three statements, for example, appear to have stemmed from presenter enthusiasm:

This is a good opportunity to try counselling, and I encourage it.

I think it [the Parenting Plan] is really excellent. It's not a legally binding document, but if it's presented at court the judge will take notice of it and, obviously, if you and your wife can go carefully through it that's the best possible option.

Do you know about mediation? It's very cathartic ... It's a very useful process and far less costly.

Clearly, these comments cast specific aspects of the options available in a positive light, even though the scripts did not allow for this. As a result, the attendee may have been implicitly directed, and hence, perhaps, advised.

An associated aspect of 'advice' centres on the concept of mandatoriness. This hinges on whether the presenter sustains a sense of choice regarding possible future options (information) or whether choices are essentially narrowed within the meeting (advice). This dimension flows from, but is nevertheless distinct from, direction. An individual may be directed to a service while retaining a sense that *not* accessing it is still a reasonable step. For example, a directive statement from a source that is not seen as credible or knowledgeable does not convey a sense of mandatoriness. Mandatoriness would appear to be directly comparable to Heritage and Sefi's 'imperative mood' and represents the extreme end of the direction spectrum.

Within the context of all three models of individual information meeting, the most prevalent manifestation of direction was the perceived inevitability of legal advice being sought, as the following comments reveal:

The solicitor is there to take care of the legal options. (presenter, speaking of a procedural query about legal aid entitlement)

They [mediators] can't do the whole thing. That's not their role. The solicitor is there to take care of legal aspects. (presenter)

The pack will provide you with information about where to get specific advice about how to contact a solicitor. (presenter)

In addition, misconceived attempts to create an air of generalisability (rather than personalisation) could actually foster a sense of the mandatory, arming statements with the ponderous weight of wider research or opinion. It is noteworthy that the idea that personalised responses equalled advice, and general responses equalled information, is not supported elsewhere. Indeed, Heritage and Sefi's definition of one form of advice as 'factual generalisation' directly contravenes this assumption.

The presenter's delivery style could also be critical, particularly given the attendee's potentially vulnerable state. Confident, authoritative presenters undoubtedly conveyed an air of competence and hence mandatoriness, as did overt references to their specialist training. Clearly these traits are desirable in future presenters, and so the need specifically to avoid creating a sense of mandatoriness is therefore critical to effective information delivery. Furthermore, conveying the impression that a path of action is mandatory

implies a strong element of causation should the attendee then follow that path. This might feasibly result in professional liability.

Examination of the literature surrounding legal obligations suggests that, in the context of the ‘professional’ setting of the meeting, a fiduciary relationship and associated duty of care could exist. This *may* raise the possibility of liability for the tort of negligent misstatement should economic loss flow from the action taken.⁶ This raises the question of whether the information meeting can be said to be delivered by professionals. Jackson and Powell argue that work undertaken by professionals is

skilled and specialised. A substantial part of the work is mental rather than manual. A period of thought and practical training is usually required before the work can be adequately performed.⁷

Regardless of liability for damages accruing *per se*, it is arguable that a government-mandated service should, legitimately, be expected to refrain from steering individuals towards courses of action that may result in economic loss. One might reasonably expect that such cases would attract the censure of watchdogs such as the Parliamentary Commissioner for Administration. Thus the presenter should refrain from giving responses that might cause an attendee to take action that could result in economic loss. Hence avoidance of mandatoriness, at the very least, will be essential. Case law on the doctrine of causation may help to illuminate future policy directions.

The third dimension of professional advice appears to centre on the complexity of the issues involved. It underpins the distinctions between expert and generalist domains and cuts through the confusion surrounding whether presenters should, or should not, answer questions. Although all presenters of all models encountered questions which undoubtedly did require specialist advice, many questions related to specialist areas but were, in fact, of a largely procedural nature. For example:

Don't I need to be referred from a GP [to marriage counselling]?

Does it [the pack] tell you about the differences between divorce and separation?

It seems both unnecessary and frustrating that the meeting failed to provide attendees with answers to such admittedly personalised, but nevertheless basic, information or, alternatively, only provided answers where a query coincided with the ‘Twenty Questions’ briefings that were provided to all presenters during training.

Concerns about answering or not answering personal questions may have arisen out of concerns that ‘mis-advice’ might be given. For straightforward procedural matters this could be addressed by relatively uncomplicated training. Problems are only likely to arise when presenters stray into areas of sufficient complexity as to constitute a specialist professional domain.

While direction and mandatoriness are closely related, complexity is a more discrete facet of the advice–information continuum. Nevertheless, it is still linked to the concept of mandatoriness, since actual or perceived knowledge of a complex domain may add considerable authority to a directive statement. Mapping direction/mandatoriness against

⁶ Samuel, G. and Rinkes, J., *Law of Obligations and Legal Remedies*, Cavendish (1996).

⁷ Jackson, R.M. and Powell, J.C., *Professional Negligence*, Sweet & Maxwell (1992).

complexity helps to illuminate areas for critical policy decisions, and to indicate where improvements to the current models may be made (Figure 7.4).

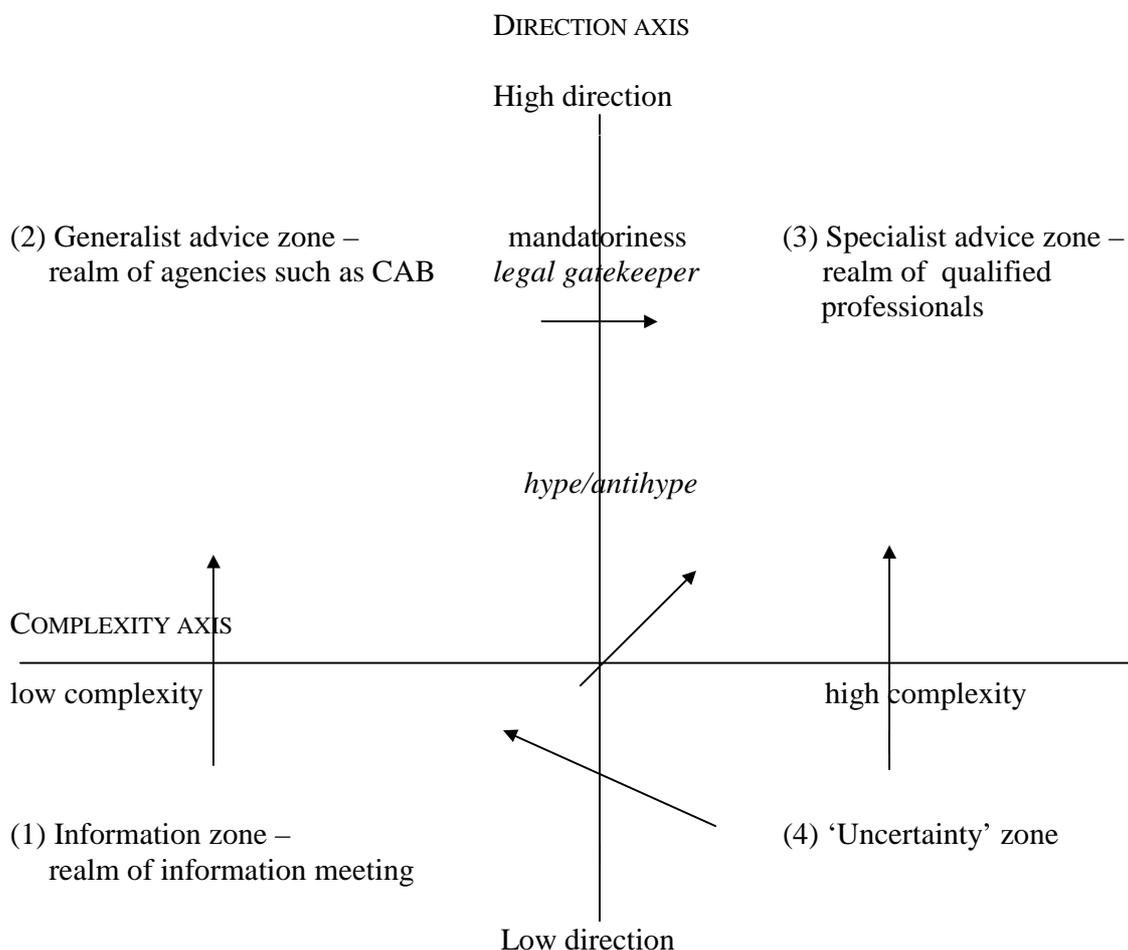


Figure 7.4 Model of advice-information continuum within the information meeting

Quadrant 1 of Figure 7.4 represents the information zone. It embraces the delivery of prescribed information *and* non-directive responses to questions of an uncomplex nature. It may also act as a signposting device, potentially highlighting routes into either generalist or specialist advice zones, but in a non-directive, objective way. Thus, presenters confronted with an attendee seeking complex advice would simply indicate that they were not qualified to answer questions of a complex nature and that the attendee should refer to the pack for ideas for future direction. This contrasts with the pilot situation, where presenters frequently resorted to the pack (or reference to solicitors) when faced with even simple procedural questions.

The second quadrant spans those individuals who are searching for a steer in respect of relatively uncomplicated information. It appears to be the realm of agencies such as Citizen's Advice Bureaux and court administrators, and may also act to route individuals to specialists if their concerns become more complex. The meetings, as structured in the pilots, gave the impression that this zone is colonised by specialist advisers providing simple information but at potentially high cost (e.g. solicitors explaining the bare bones of

the divorce process or giving benefits advice). The information meeting portrayed specialists as the fount of *all* advice. Reference to the generalist advisers only occurred when presenters expanded, illicitly, upon the brief, and was largely confined to Models A and B. Mapping direction against complexity suggests that it will be worth being more explicit about generalist advice agencies, since this may lower the financial cost of divorce and hence the associated burden on the public purse. This, however, presupposes a meeting model where a range of services are highlighted.

The third quadrant of Figure 7.4 comprises the legitimate domain of the professional advisers, providing advice on complex issues, which requires specialist training and competence. It is also the area where the risk of professional negligence claims lurks, and is hence the danger zone for information presenters, who might be tempted to give 'professional' advice in the context of the information meeting. The fourth quadrant encompasses those individuals who are faced with a complex problem but have not accessed the specialist advice that they almost certainly need. The role of the information meeting in these cases should be to signpost the availability of professional services.

There are, of course, grey areas. The model portrayed in Figure 7.4 is simply an explanatory tool for exploring the delivery of personally tailored information in the context of the meeting. Establishing the position of the dividing line between complex and procedural information will inevitably require a number of policy decisions. Professional and ethical sensitivities, together with the question of potential liability, may be a factor in determining these dividing lines. Using this model of advice and information reveals that the briefs for all three models included elements that fell into the general advice quadrant rather than the information zone. For example, attendees were told to 'take stock of the practical implications of parting', or to 'keep children informed'. Both of these statements are directive and non-complex. There may be merit in the Lord Chancellor's Department defining, rather more extensively, a body of questions and permissible answers that fall within the realm of specific personalised information. This would at least lessen the risk of inconsistency in future information delivery.

Lastly, it is worth stressing that in an implemented system, the *delivery* of the information would continue to be the only aspect for which the Government can realistically legislate. How the individual attendee interprets and constructs the information is outside the presenter's control, and is likely to be influenced by a range of factors. For example, there is some suggestion from attendees' accounts that attendees may interpret relevant information as advice and irrelevant information as information.

Control of the meeting

Model C seems to have been less conducive than Models A and B to attendees wanting to unburden themselves and taking over the meeting. In all observed meetings the presenter retained control of the session, even where the attendee manifested lack of interest or indicated that the information was irrelevant. Unlike Models A and B, Model C did not dwell at any length on the emotional aspects of divorce. In the earlier two models this section of the brief could come across as offering an element of reciprocity to an emotionally vulnerable attendee.

Consequently, despite the introduction, the meeting began to assume some of the characteristics of a 'troubles-telling' encounter, with the attendant risk that the attendee might view the presenter as a 'troubles recipient' rather than an information giver. Where

the presenter was personally or professionally inclined to accept this role the attendee could then take control.

By contrast, the limited, ‘unemotional’ coverage of Model C offered minimal scope for this. The only point at which a logical opening for ‘troubles telling’ arose was during the fork. Nevertheless, the presenter’s concern at this juncture firmly focused on the often vexed question of certainty, namely ‘the problem and its properties’. Thus the switch from an ‘information encounter’ to ‘troubles telling’ was not facilitated. The narrower focus of Model C would, *prima facie*, appear to offer only limited scope for presenters to draw on their own professional expertise, since the coverage of the respective professions was scant to non-existent. In addition, the presenters were drawn from a far wider range of professions. Responses to queries did, however, continue to provide evidence of professional expertise on the part of the legally trained.

User Satisfaction with Individual Meetings

The number of appointments kept was substantially higher for the individual information meetings than it was for either CD-ROM or group presentations. Nearly 83 per cent of people turned up for their appointment at a Model A meeting. This was the highest attendance rate of all the models and so it would seem that this was the type of meeting that attendees perceived as being most worth turning up for.

An exit questionnaire was given to attendees to complete immediately after their information meeting so that their original impressions could be learned. From their responses, it is possible to say that only one per cent of attendees did not find their individual meeting useful in some way. Nearly two-thirds found it very useful and just over a third more considered the meeting fairly useful. Seventy-one per cent of attendees would definitely recommend the meeting to someone in a similar position to themselves, a further 27 per cent said they would possibly recommend it, and 2 per cent said that they probably would not recommend it. Only four attendees claimed that they would definitely not recommend it to someone else. First impressions of the meeting as a whole, therefore, were overwhelmingly positive.

Table A5.1⁸ shows the odds ratio of attendees perceiving the information meeting as very useful, and Table A5.2⁹ shows the odds ratio of any attendee definitely recommending the meeting to someone else. As the tables show, Model A and B attendees were more likely to state that their meeting was very useful than Model C attendees. Table 7.2 clarifies this.

Table 7.2 Attendees’ views on the usefulness of an individual meeting by model

	Model A	Model B	Model C	Total
	%	%	%	%
Very useful	66.4	61.8	56.9	62.9
Fairly useful	32.3	37.9	40.3	36.1
Not at all useful	1.3	0.4	2.8	1.1
Total (100%)	1,470	1,873	529	3,872

Chi-squared = 41.076; $p < 0.001$.

⁸ See Annexe 5, Table A5.1.

⁹ See Annexe 5, Table A5.2.

Men were less likely than women to find their information meeting very useful. Those who had consulted a solicitor in the year before they attended an information meeting were less likely to rate it as very useful than were those attendees who had not yet seen a solicitor (Table 7.3). It is probable that those who had seen a solicitor were already in possession of a good deal of information, and were simply exhausting every avenue before proceeding with any action.

Table 7.3 Attendees' views on the usefulness of an individual meeting by whether they had consulted a solicitor in the year prior to attending

	Had consulted a solicitor	Had not consulted a solicitor	Total
	%	%	%
Very useful	58.6	64.8	62.9
Fairly useful	40.0	34.3	36.1
Not at all useful	1.4	0.9	1.1
Total (100%)	1,206	2,666	3,872

Chi-squared = 14.375; $p < 0.001$.

It is important to note that there is, in fact, no correlation between the perceived usefulness of an individual information meeting and parental status (Table A5.1¹⁰), as there is in the case of group meetings, which appear to be more useful and relevant if attendees have dependent children.¹¹ It may well be the case that individual meetings are more suitable for parents of differently-aged children and for non-parents, since information about children could be included or omitted depending on the age of the children and the parental status of the attendee. Group presentations could not readily accommodate any flexibility, and attendees inevitably found only parts of them relevant to their own circumstances.

Reflecting on the Meeting

Seventy per cent of attendees agreed to take part in telephone interviews. In the event, 49 per cent of all attendees at an individual information meeting were interviewed by telephone a few weeks later. The telephone interviews took place after the attendees had had time to reflect on what they had learned from the meeting and after they had had an opportunity to look at the information pack that was distributed to every attendee.

During the telephone interviews, 90 per cent of attendees told us that they had found the meeting helpful (N = 1,973). Attendees at Model C meetings were significantly less likely to find their individual meeting helpful than Model A or B attendees. Ninety-two per cent would recommend the meeting to others, but attendees at a Model A meeting were significantly more likely to recommend it than Model B or C attendees. Ninety-one per cent of attendees said that they felt that they could ask questions in the meeting and 83 per cent actually did ask questions. Of those who had asked questions, 80 per cent described the answers they were given by the presenters as helpful.

¹⁰ *ibid.*

¹¹ See Ch. 8.

Over three-quarters of the attendees who were interviewed (N = 1,973) felt that the amount of information presented in the meeting was about right, while 10 per cent felt that they did not get enough information. All but 2 per cent understood the information they were told and felt it was clear. Although attendees at individual meetings were very positive about the experience, more than half said that the meeting had not been what they had expected. Model B meetings were more likely than Model A or C meetings to match attendees' expectations (Table 7.4).

Table 7.4 Attendees' responses to the question 'Was the meeting what you expected?'

	Model A %	Model B %	Model C %	Total %
Yes	43.3	56.2	32.9	47.9
No	38.7	31.1	42.5	35.7
Don't know	18.0	12.7	24.7	16.4
Total (100%)	723	931	292	1,946

Chi-squared = 62.36; p < 0.001.

Only a third of Model C attendees said that the meeting was as they had expected. One Model C attendee said:

I expected it to be more personal and I expected it to go into areas I wanted to talk about. (F)

Model A and B individual meeting attendees outlined their expectations thus:

I thought it would give specific advice, but it only gave general advice and was not tailored to my specific needs. (M)

I thought I could put questions about issues that were relevant to me but instead I was bombarded with information that wasn't relevant. (M)

I expected to be bombarded with information. I was, and it was good.(F)

People had attended an information meeting with a range of different expectations. Some expected to get a more tailored meeting, with information being provided that was relevant to their circumstances; others went with specific questions to which they needed answers. Others again thought that the information was too basic and general, and had expected to get information which covered the issues in a little more depth. There were also those who had expected a certain amount of emotional support to be provided in the meeting:

I expected someone asking me where I'm at and what I'm doing next. You gear yourself up [to] flood out what is happening to [you] and what [you're] thinking and feeling. I wanted to pour my heart out and I couldn't. (F, Model B)

Clearly, while attendees assessed the experience as worthwhile, they did not all receive everything that they had gone for. One attendee remarked later:

I attended the information meeting with the expectation that any specific queries I had would be answered in an interactive way. From this point of view, the personal contact was not useful. I was told that any specific questions could not be answered and a ‘script’ had to be adhered to. I cannot imagine [that] anyone attending such a session would not automatically generate questions arising from what was being told. (F, Model B)

Attendees were asked whether they had been told everything that they needed to know. Attendees at Model C meetings were less likely than Model A attendees and, to a lesser extent, Model B attendees to say that the presenter had told them all that they needed to know (Table 7.5).

Table 7.5 Attendees’ responses to the question ‘Did the presenter tell you what you needed to know?’

	Model A %	Model B %	Model C %	Total %
Yes	77.2	73.4	66.8	73.8
No	20.8	24.5	29.5	23.9
Don’t know	2.1	2.1	3.8	2.3
Total (100%)	718	913	292	1,923

Chi-squared = 12.97; $p < 0.01$.

The majority of attendees found most of the information useful, regardless of which model of individual meeting they had attended. However, as regards information about marriage counselling, Model C attendees were significantly less likely than Model A and B attendees to say that they had learned more about this counselling and had found it useful. This may be somewhat surprising given that Model C was aimed specifically at marriage saving.

Timing

Model C highlights an issue that recurs throughout all the models of information delivery, one to which we have referred in our interim reports and again in this final report, that of timing. If an objective of Model C is to ‘save saveable marriages’, in order to have a fighting chance of doing this the intervention must come early enough. One attendee put it like this:

People need help as early as possible in these matters. By the time you realise something is wrong with your marriage it’s usually too late. But if you could know that these places of help and information are there, you could contact them early enough to rescue the situation. (F)

Attendees at Model C individual meetings were asked in telephone interviews whether they thought the meeting had come at about the right time for them. Thirty-nine per cent claimed that the meeting had come too late for them (N = 209). This is not surprising given that 54 per cent of attendees were already separated from their spouse and 65 per cent were certain that their marriage was over, although not all of these latter were certain they wanted to divorce.

There are several reasons why people thought that the meeting had come too late for them. Many simply said that the marriage was beyond saving, and some felt that it would have been beneficial to have had the information earlier:

We are separated and not going to save the marriage. It's over. (F)

If we'd had the information earlier we'd have had more chance of reconciliation. (F)

Our marriage was over. If I'd known about it earlier we could have gone together, and sorted things out more amicably. (F)

It would have helped if I'd had the information before. Our problem was lack of communication. It would have forced us to stop and consider it. (F)

The likelihood, however, is that, even had the information been available earlier in the process of relationship breakdown, it would not have had the impact upon the other spouse that was envisaged. In fact, only 8 per cent of Model C attendees were accompanied by a spouse, and this was actually significantly less than for Model A or B, where 14 per cent of attendees were accompanied by a spouse.

Others who thought that the meeting had come too late had already had the information provided elsewhere. An interesting point was raised by one attendee, who suggested that although the meeting had come several months after her separation, it was well-timed for her, which illustrates just how difficult it is to establish an optimum time for presenting information:

It was about five or six months since we were separated. If I had gone earlier I don't know if it would have been useful. I think I would have been too angry and emotional ... Things seem a lot calmer now and I am much more able to stand back and make an assessment of my feelings. (F)

Another attendee pointed out that although the meeting had come too late for him, some parts of the pack had come at about the right time:

It's difficult. If I'd had the leaflet *Ending your Marriage* at New Year when it all blew up, it might have been easier to open it all up and discuss it with [my wife]. From that point of view, that particular bit of the pack was a bit late. The other parts of the pack, the bits on divorce, were probably about right. (M)

This highlights the tension between providing information on saving marriages and at the same time giving information about the divorce process. If one of these topics is deemed relevant by the attendee, the other is likely to be deemed irrelevant.

Those who thought that the meeting had come at about the right time for them (56%, N = 209) tended to be in the early stages of separation or had marital problems of recent origin:

Just happened to be at the right time, in the early stages of separation.(F)

I had just found myself in that situation, so it couldn't have come at a better time. (F)

The problem had only just arisen. (F)

Another objective of the provision of information meetings was to allow a period for pause and reflection, a time to stop and think about whether a marriage is really at an end, and whether there is anything that can be done to save it. Model C attendees were asked whether their meeting did make them stop and think about their marriage. About one in five attendees told us that the meeting had indeed made them do this. This group included both those who were uncertain about the future of their marriage and those who were certain that the marriage was over when they went to the information meeting. Their comments give us some idea of what effect the information had:

I suppose it made me stop and think that there is a lot at stake if you do just go on and start the divorce rolling ... it's a big step anyway. (F)

It helped me think it isn't over, perhaps just a difficult period. (M)

If it made me think. It made me think it was over. (F)

It made me think more about it, and if my husband accepted a few things I would go back and try to make it work. (F)

For the majority of attendees (79%; N = 291) the meeting made no difference in terms of making them stop to think, since thinking is often a continuous process. One attendee remarked:

Not a day goes by without [me] thinking of my marriage. (M)

For the majority, the meeting made no difference to the likelihood of their divorcing. Attendees who were encouraged to stop and think had varying reactions. Although some were persuaded to consider reconciliation, it is unlikely that many of those who were certain they wanted a divorce at the time of the information meeting could be persuaded to reconsider. Particular individual circumstances are important determinants of whether the meeting will make a difference. For some, the information came at just the right time, enabling them to move forward, not in the direction of reconciliation, but to acknowledge that the marriage was indeed over.

Subsequent Actions of Attendees

In an initial telephone interview, attendees at all three models of individual meeting were asked whether they would be more, or less, likely to use marriage support services than previously. It was found that Model C attendees were more likely to consider using these services than Model A or B attendees (Figure 7.5). For most people, however, the meeting had made no difference to the likelihood of using marriage support. There was no difference between Model A and Model B attendees as regards the likelihood of their either consulting a solicitor or using mediation services: 26 per cent said they would be more likely to use mediation services, and 36 per cent of Model A and B attendees said they would be more likely to consult a solicitor.¹²

¹² The reasons attendees gave for this are discussed further in Chs 19 and 20.

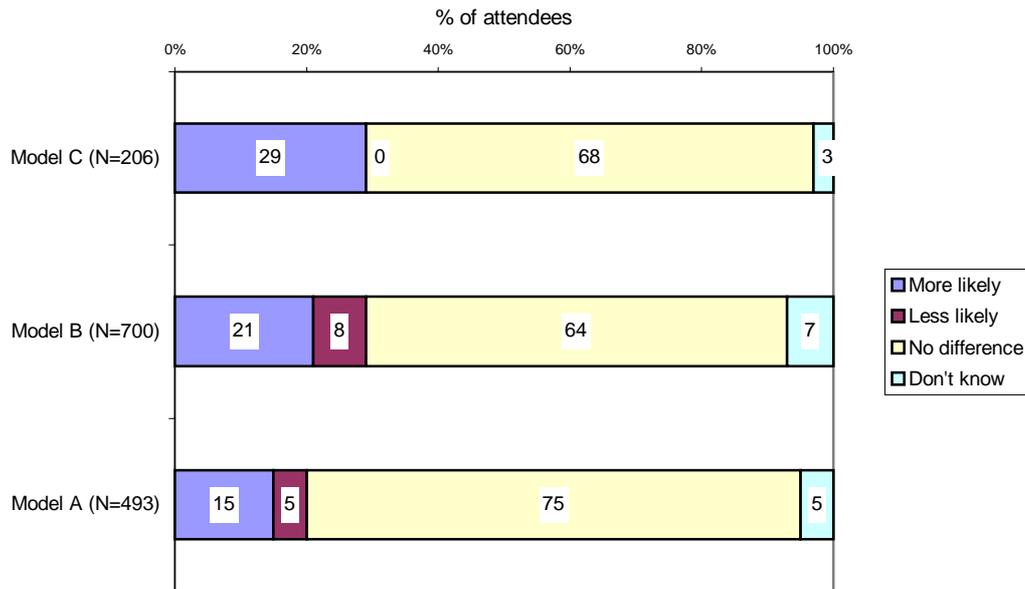


Figure 7.5 Likelihood of attendees using marriage support services by model

During follow-up interviews some five to seven months after the original interview, we found that since they had attended an information meeting:

- 57 per cent of attendees had seen a solicitor
- 13 per cent had gone to marriage counselling
- 6 per cent had been to mediation

There was no difference in these behaviours according to which model of information delivery attendees had received.¹³ Although Model C attendees had indicated that they were more likely to use marriage support services, there was no difference between models in respect of the numbers who had actually used them. Willingness did not necessarily translate into action. What the analyses do tell us is that those attendees who had already consulted a solicitor before attending a meeting were the most likely to have seen a solicitor since the meeting.

A similar finding occurs for marriage counselling: those who had attended before the information meeting were more likely than those who had not to have seen a counsellor after the meeting. This is probably because these people were in the process of either consulting with a solicitor or attending counselling, and for them the information meeting was not a first port of call but rather was situated in the middle of these activities. Indeed, we know that some people were referred to the information meeting by their solicitors or counsellors. Just as separation and divorce are seen as a process, so information seeking can be seen as a process occurring over time. Some attendees have said that rather than a one-off meeting, they would prefer a provision that allowed them to have more than one meeting so that as circumstances change, and issues become relevant, they can access information as they need it. One attendee commented:

¹³ See Annexe 5, Tables A5.3, A5.4, A5.5.

I went to the meeting at such an early stage. It seemed like a good idea. But after going through the process, it's important to be able to have continuing advice/help – all through the divorce (or separation) when one first goes to the meeting, one can be so naïve about what is happening, or will happen, over the next year or two. (M)

This comment becomes salient as we note that the requirement to have attended an information meeting before one can make an application for divorce does not exclude the possibility that those subsequently involved in proceedings could attend more than one meeting. Some people may wish to obtain further information as they go through the process of divorce and as their circumstances change. In the Government's consultation document *Supporting Families*,¹⁴ a suggestion was made for two meetings to be provided. The first would be at a point prior to proceedings starting, and was envisaged as an individual meeting concentrating on marriage saving, domestic violence and the consequences of reaching a decision to divorce. This could then be followed by a group presentation at a later point in the separation and divorce process to provide information about children, finance and property issues and to outline the benefits of mediation. Attendance at this group session could also be extended to include unmarried parents who had concerns about the arrangements for their children.

In respect of mediation, those who were most likely to attend were those who had already been to counselling and those who were still living with their spouse. It could be hypothesised that those who had been to counselling would be more likely to try mediation as they were people who had shown themselves willing to try different services to get help, or who felt that they needed external help to deal with the process of relationship breakdown.

It might be seen as surprising that those who were most likely to go to mediation after attending an information meeting were those who were still living together. Perhaps the point of separation, or immediately prior to it, could be the most appropriate time to go to mediation in order to make all the arrangements about the division of assets, maintenance agreements and arrangements for children. It has proved difficult to come up with a typology of people who would be most likely to use related services after an individual meeting, since there are so few significant differences. What can be said with confidence, however, is that the type of individual meeting people went to seems to have had no bearing on their subsequent behaviour in the use of different services.

There is also no difference between models of information meeting in terms of the status of attendees' relationships some 5–7 months afterwards. Model A and B attendees were just as likely to have reconciled as Model C attendees, and Model C attendees were just as likely to be involved in divorce proceedings as Model A and B attendees. One attendee described the impact that her meeting had had in terms of her decision to divorce as follows:

Now I can feel that I DID make the right decision to end the marriage. The information session did not influence my decision, but I was happier having attended – then at least I knew I had all the information, pros and cons – and the decision was mine. In retrospect perhaps, what I needed most was someone to say, 'Yes, you are making the right decision to end this marriage.' If only someone could have done that for me 14 years ago, I would not have

¹⁴ *Supporting Families: A Consultation Document*, Home Office (1998).

spent so long with an abusive man in a destructive (to me) relationship.
(Model B)

In the majority of cases, only one partner received information from an information meeting. It is difficult to foresee the meeting impacting upon a relationship when only one person has acquired the knowledge with which to exercise choice. In their responses to our time-slice survey attendees told us just this:

I feel that the information meeting didn't help MY situation a lot because only I attended and my husband did not. This is no reflection on the meeting, but shows that if only one partner tries to make the effort it is probably a lost cause anyway! (F)

Seeking out access routes for information is in itself an indicator that things are not satisfactory. My overall feeling is that despite all the info available ... if the partner will not communicate or be willing to review the situation there is LITTLE that can be done. (F)

It seems that the direct impact of the information meeting in terms of subsequent behaviour is limited. Six per cent of individual meeting attendees who responded to the time-slice survey (N = 399) said that they were influenced by the meeting to go to marriage counselling,¹⁵ 6 per cent said that the information meeting had influenced them to attend mediation and 20 per cent said that the information meeting had influenced them to see a solicitor. The model of information delivery made no difference whatsoever in influencing attendees to use (or not use) supporting services. Overall, 91 per cent of people said that they were glad they went to the information meeting, and again, there was no difference between individual models. In fact, the models of individual face-to-face meeting were more highly regarded in terms of user satisfaction than either group or CD-ROM meetings, and the longer the duration of the meeting the higher the user satisfaction.

We have seen that although individual information meetings have been welcomed and considered worthwhile and useful by attendees and presenters alike, there was often a contradiction between what attendees expected from the meeting and what they actually received. People who attend a meeting with a 'professional' inevitably harbour expectations about the service that they will receive. Those who go to information meetings are going through a traumatic life event, and many of them expect that they will receive sympathy and that the person whom they are meeting will be responsive to the issues they raise. Many have a story to tell and expect the presenter to listen, or to engage in a dialogue with them which will focus on their problems. At the very least, attendees expect some, if not all, of their questions to be answered.

The need to disentangle the provision of general information from person-focused information, the offering of emotional support, listening, meeting specific information needs and proffering advice continues to beset information meetings, which are based on one human being attending a meeting with another. Information meetings are not counselling or mediation or advice giving, but it is difficult to keep these factors out of the kind of interactions into which presenters are drawn by people who attend information meetings precisely because they need help. It seems, therefore, that if Part II is to be implemented there is an urgent need to reconsider how individual presenters go about presenting information, the key question being the extent to which they could or should

¹⁵ The majority of individual meeting attendees did not have the offer of a MWMC, which was introduced towards the end of the Model C pilots.

provide information which focuses on the needs of the individual attendee. In addition, it would be necessary to provide sufficient information in advance which addresses the expectations of potential attendees, giving them a better understanding of what they can expect to get when they go to an information meeting. We explore the options in Chapter 35.

The most important question, however, is whether the attendees' expectations would be the same if attendance at information meetings was to be compulsory for those who are contemplating divorce. As we noted in Chapter 6, we can have no way of knowing whether the expectations of people whose attendance at an information meeting is voluntary (and which in most cases was the result of their learning of the existence of a new service via the media) provide a reliable indicator of the expectations of people who would be required to attend. It seems likely that compulsion would produce its own set of expectations, and create a different climate in which information presenting operates, particularly for those who might resent having to attend.

In our interim reports we suggested that the optimum form of meeting could be a 45-minute Model A- or Model C-style meeting, possibly as a hybrid of these models. We have developed this idea, and present it at the end of the report. However, as this has not been tested as a model it is impossible to say how well it would be received. The evidence we have suggests that in the pilots we have not yet found an optimum length beyond which user satisfaction will decrease. Model A continues to be the kind of meeting which imparts most information and which rates highest in terms of attendee satisfaction. There are indications, however, that in an implemented system the section about the emotional impact of divorce would need to be revised, since this topic appeared to encourage some attendees to start 'troubles telling'. This was particularly salient in Model A, where there was more opportunity to do this.

Another area pinpointed for improvement is the domestic violence section, which presenters often found difficult to approach in Models A and B. Comparison with Model C would suggest that this was due to the precedence that presenters accorded this information, rather than the context of the individual meeting itself. This could be redressed during training, although some attendees have commented that the information seemed to be biased towards women as victims, and included no information about help for perpetrators. The information should be modified to take account of this. Unlike presenters of the other two models, presenters of Model C managed to deliver the domestic violence section effectively.

We are in no doubt that it is unrealistic to expect one all-encompassing, one-off meeting to achieve all the objectives enshrined in the FLA. There is a risk of information overload, with attendees feeling that they cannot wade through all the complexities of marriage breakdown, separation and divorce without some form of outside help, for example from a solicitor. This problem could be alleviated by tailoring information, and possibly providing it in stages when it is most needed and most relevant.

It must be said – and it is clear from the evidence presented – that none of the models had a great impact upon an attendee's decisions to access supporting services. It does not follow that, because people have the requisite knowledge and understanding of the options, they will then go on to use services that might help them. Few people have told us that they have used marriage counselling, mediation or a solicitor as a *direct result* of what they have learned during their information meeting. However, the majority of people found the meeting useful, and some described it as invaluable since it told them

what they needed to know. Attendees of individual information meetings wholeheartedly support this provision, and user satisfaction was higher than in any other model of information delivery.

The Cost of Providing Individual Meetings

One of the most important tasks connected with the provision of information meeting pilots was to estimate the costs of providing a fully implemented system throughout England and Wales. For this purpose, the Lord Chancellor's Department and each of the individual pilots provided accounting data for each month of operation in respect of Models A, B and D.¹⁶ This data included

- start up costs
- staff costs
- the costs of accommodation and equipment
- communication costs
- experimental costs – those connected with the experimental nature of the pilot scheme that would not be incurred in national implementation

The accounting data was used to estimate the average cost of providing the various models during the pilots and, more importantly, to infer what the costs might be in an implemented system. The latter is a particularly complex task, which requires careful, applied econometric work. It is difficult to predict costs of an implemented system when the scale of information meetings delivered at any one site will be much larger than was the case during the pilots. A further difficulty is caused by the fact that Model A and B meetings were provided simultaneously, which renders it impossible to fully distinguish between the costs incurred in group meetings and those incurred in individual meetings. It was, however, possible to extrapolate group-meeting costs through inclusion of Model D in the analysis.

Several cost functions were tested in order to identify a model that provided the best fit. The best-fitting model was then used to produce four separate estimates:

1. The 'base' long-run average cost of an information meeting as run in the pilots.
2. A 'modified' estimate of the likely average cost of an information meeting as run in the pilot scheme if all of the sites had a 100 per cent attendance rate at each meeting.
3. The likely 'full capacity' long-run average cost of an information meeting assuming the site is similar in size and staffing levels to those in the pilot study, but works at full capacity, i.e. all meetings are attended and each group meeting is attended by 20 people.

¹⁶ The LCD decided not to commission analysis of the costs involved in providing Models C, E and F.

4. The long-run average total cost of an information meeting under a nationally implemented scheme, i.e. an estimate which includes not only site running costs, but also site set-up costs, experimental costs and an estimate of centrally incurred Departmental costs.

The econometric model employed in cost estimation incorporated projections of geographical demand. The calculations carried out suggest that the total yearly running costs of an implemented programme with 250 sites would be no more than £29.5 million. Further analysis suggests that reducing the number of sites to 100 would reduce the cost to £14.5 million, although this would displace costs on to attendees who would be required to travel greater distances. Alternative, more efficient administrative structures could bring the cost of providing meetings down still further.

The estimated unit cost of providing information meetings depends upon which model is used in the calculations, and on the assumptions one uses concerning set-up costs and the structure of a national implementation. Moreover, there are certain caveats to be considered.¹⁷ The essential conclusion of the cost analysis is that the average long-run cost per attendee of a one-hour individual meeting with one presenter will be £78 if the implemented system operates along the same lines as in the pilots. This could be reduced to £36 if a large-scale system operated at full capacity.

¹⁷ See Dolton, P. and Horan, N., *An Analysis of the Cost of Information Meetings* (2000)

Chapter 8

Receiving Information in a Group

Peter McCarthy and Karen Laing

It seems that people could be herded into a room and addressed from the front ...¹

As we noted in Chapter 2, the original proposal for the delivery of information was via an information interview in which an individual or couple would talk with an expert and receive information appropriate to their circumstances. By the time the White Paper was published, the suggestion of an individual interview had given way to that of a group session in which a number of people would receive information via a standardised presentation. This shift was influenced partly by the experience of information provision in other jurisdictions, notably Australia, where group meetings had taken place for some time and were considered to be successful, and partly by the belief that a group meeting would offer more flexibility regarding the mode of presentation and offer people a more comfortable, less personal setting. It was felt that group sessions would be more popular than individual interviews. Group sessions were described as:

- less intimidating than individual meetings
- less likely to run the risk of slipping into legal advice
- enabling a more sophisticated approach, including the use of videos
- providing the possibility of involving several experts who could explain their own services
- providing the opportunity for panel discussion and for attendees to ask questions

Despite such claims, the proposed group sessions did not gain universal approval even before the Family Law Bill began its passage through Parliament. The Law Society, for instance, argued that people would find attending a group session ‘humiliating, intrusive and intimidating’.² In response to these kinds of expressed concerns, the (then) Lord Chancellor proposed a change of name from information session to information meeting, on the grounds that

information sessions had connotations of large public communal events which might prove intimidating to some people. There was also concern expressed about the possibility of preserving privacy.³

¹ Mr Paddy Tipping MP (Sherwood), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 147.

² *Fairness for Families: The Law Society’s Blueprint for Resolving Disputes on Family Breakdown*, The Law Society (August 1995), para. 4.18b.

³ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 22 February 1996 at col. 1180.

During parliamentary debate, one member of the House of Commons Standing Committee suggested that ‘in many respects’ the Bill was ‘seriously flawed’, and posed several questions about group information meetings:

Are they in public? There cannot be group therapy. How are they to be arranged? As far as I know that will be left entirely to regulation that will be created by the Lord Chancellor’s Department. Will there be privacy for those who need it? Will there be a media jamboree for those in the public eye? ⁴

He then went on to warn his colleagues in the House that

all us Members of Parliament could find ourselves in a difficult situation.⁵

Concerns about privacy increased during subsequent debates in the House of Commons, with the result that the proposal to introduce group information meetings was amended in favour of a separate meeting for each marriage, but as we noted in Chapter 7, the form of this meeting was never specified. Indeed, the (then) Lord Chancellor made it clear that he wanted to leave this issue as open as possible so as to benefit from the experience of the pilots.

The use of group information sessions, or ‘parenting education sessions’ as they are labelled in some other jurisdictions, is relatively new, but increasing. They are usually provided for couples with children, rather than for all divorcing couples. The first court-affiliated programmes in the United States were implemented as long ago as the mid-1970s. By 1994, some 500 courts across the United States had implemented such programmes.⁶ Similar programmes are developing in Canada; many are voluntary programmes, although increasing numbers of Provinces, such as Alberta, Manitoba and Nova Scotia, are making parenting after separation programmes mandatory for separating and divorcing parents with children under 16.⁷ Although there has been little systematic evaluation of group information meetings in other jurisdictions, they are regarded as successful. Consequently, although there was no provision for group meetings within the Family Law Act, it was felt that they ought to be tested during the pilot programme both as part of a process that included an individual meeting and as a stand-alone provision.

Four different models of group presentation were tested (Models B, C, D and F). Model B was set up as the second part of a process that started with attendance at an individual meeting followed by attendance at a group presentation. Thus, people who attended a Model B group presentation had already been to an individual meeting, and had the opportunity to read the information leaflets provided. It is reasonable to anticipate that they would have more idea of what to expect from the group presentation than would somebody whose attendance at a group presentation represented their first experience of an information meeting. In principle, Model B attendees moved from an individual meeting to a group meeting automatically: their right to attend a group meeting was not determined by anything other than attendance at an individual meeting. The individual and group meetings were regarded as a single process, although this was not clearly understood in the early months of the pilots. In reality only a minority of those who

⁴ Mr Bill Michie MP (Sheffield, Heeley), Official Report (H.C.), 25 March at col. 772.

⁵ *ibid.*

⁶ Blaisure, K. and Geasler, M., ‘Results of a survey of court-connected parent education programs’, in *US Courts, Family and Conciliation Courts Review*, vol. 34, no. 1 (1996), pp. 41–9.

⁷ Sieppert, J.D., Lybarger, D.S., Bertrand, L.D. and Hornick, J.P., *An Evaluation of Alberta’s Parenting after Separation Seminar*, Canadian Research Institute for Law and the Family (December 1999).

attended the first part of the process – an individual meeting – went on to complete it by attending a group presentation.

In Models C and F, the intention was to test a more structured two-stage process in which attendance at each stage was determined by the attendee's status with regard to seeking divorce. The first stage consisted of an individual meeting, which focused on marriage, and which was offered only to married people who had not started divorce proceedings. In Model C, this first stage involved a face-to-face meeting with a presenter, while the Model F meeting provided information via a CD-ROM. The second stage of both processes consisted of a group presentation offered to people who had begun divorce proceedings and to unmarried parents who were involved in proceedings about children. In principle, an attendee could still use both parts of the process – they could attend an individual meeting before proceedings and then a group meeting if they decided to go ahead with a divorce – but they would not be able to attend a group presentation unless they, or their spouse, petitioned for divorce.

The Model C and Model F processes resembled the proposal for a two-stage meeting in the consultation document *Supporting Families*,⁸ but we felt it was unlikely that sufficient people would experience both parts of either a Model C or Model F meeting during the limited duration of the pilots to allow reliable testing of either process. Indeed, only 23 people attended both parts of Model C and only 9 attended both parts of Model F. We were, however, able to test both parts of the processes as independent entities, and for the majority of Model C and F group presentation attendees the presentation was their first, and only, experience of an information meeting. Our only evidence in respect of a two-stage process is limited to Model B, where 399 people attended both parts.

Model D was the only truly free-standing group presentation tested. In pilots providing that model, all applicants were referred to a group meeting irrespective of what stage they had reached in divorce proceedings. In practice, the differences between the structure and content of the group meetings were minimal. The main difference between models was that in Model B information was not provided about marriage support and emotional factors connected with ending marriage, since all the attendees had been provided with this information when they had attended the individual meeting. At some of the later Model C presentations, and all the Model D and F presentations, attendees were given a parenting plan, and at Model D presentations attendees were also given an invitation to attend a meeting with a marriage counsellor.

Each of the group presentations involved the use of a video that included children talking about divorce and provided information about the resolution of disputes through mediation. Two videos were used during the pilots. The first of these, entitled *A Better Way*, was used at Model B meetings. A revised version of this video, *Looking to the Future*, was shown at other group presentations. All group presentations involved two presenters. Figures 8.1 and 8.2 show the data that were used in our analysis of group meetings.

⁸ *Supporting Families: A Consultation Document*, Home Office (1998), paras 4.31– 4.33.

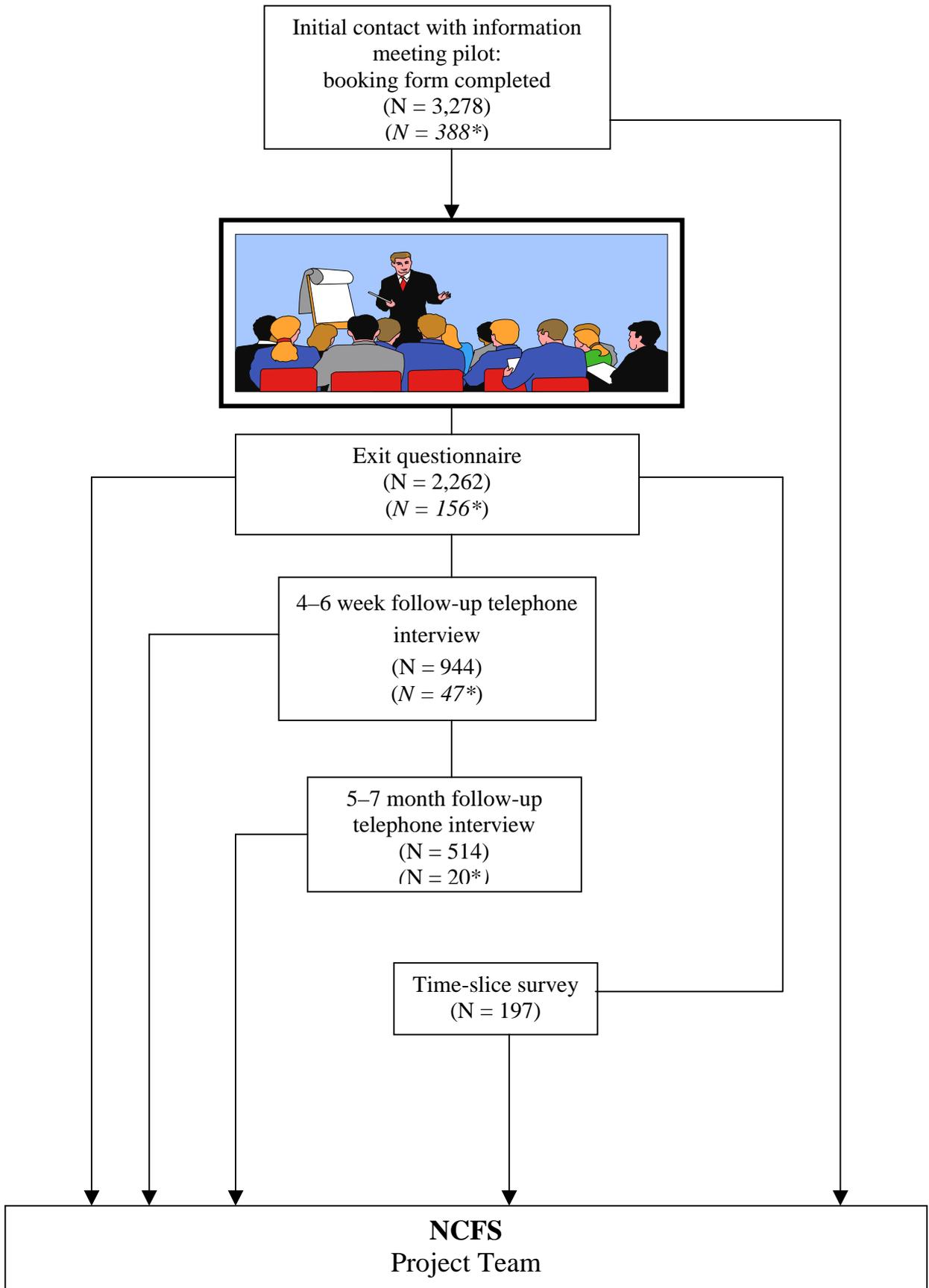


Figure 8.1 Data from applicants and attendees in respect of group information presentations (figures in italics relate to unmarried attendees)

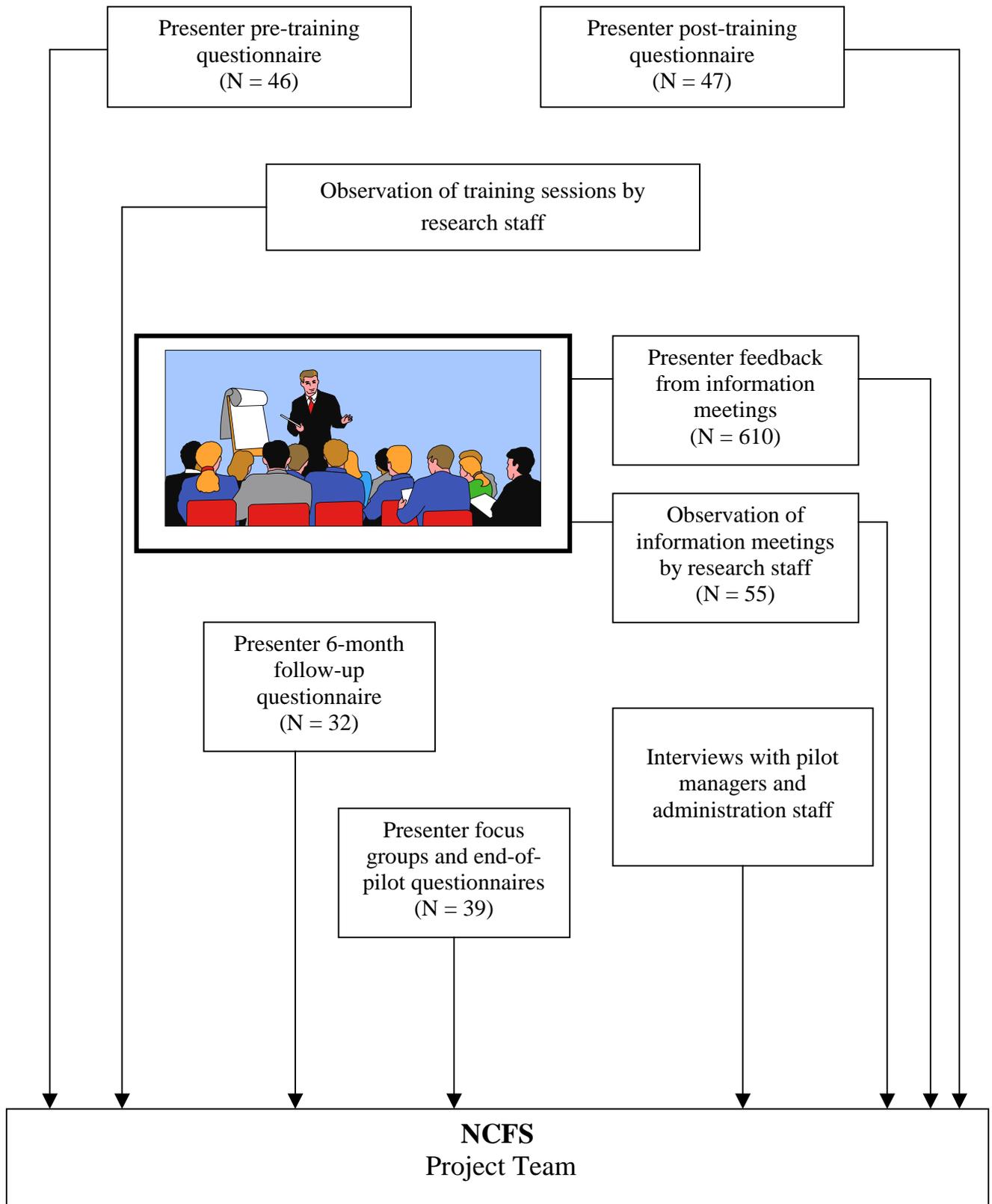


Figure 8.2 Data from presenters in respect of group information presentations

Provision of Group Presentations

A total of 311 group presentations were conducted during the pilot programme, while a further three were abandoned because none of the applicants turned up. Of those that were held, 81 were Model B presentations, 31 were Model C presentations, 151 were Model D presentations and 48 were Model F presentations. It was anticipated that about twenty people would attend each group presentation, but, in reality, the size of the groups was variable. At 11 meetings, there was apparently only one attendee present, which hardly constitutes a group. Only three presentations were attended by 20 people.⁹ The median attendance at group presentations was 8 people, but there was some variation between models. The average Model D meeting had 10 attendees present, while average attendance at Model C was 9 people. Both of these models did significantly better than Models F and B, which each averaged only 5 people in attendance at each presentation. Presenters' comments suggest that the number of people in attendance inevitably had implications for the conduct of the meeting. In particular, it was felt that presentations were not viable when only a few people attended:

Bigger meetings are better. Small groups feel flat. (Model D)

There were only four attendees. Would obviously like more for a better atmosphere. (Model B)

Only one attendee present. It was very difficult for her. (Model B)

The number present was too small to give the feeling of a presentation. (Model B)

As only two people attended, a group presentation does not always feel the appropriate way of giving information. (Model B)

Larger groups, however, were not always welcome. One presenter, for example, felt that the presence of a large number of people might be inhibiting and commented:

Because it was a big room and 18 people were present, I think it inhibited asking questions, and people prefer to ask you more privately at the end. (Model D)

Observations of group presentations in Alberta, where up to 60 people might attend, suggest that it is possible to allow attendees to ask questions. It is the structure and style of the presentation that matters, not the number of people present. At those meetings, also, some people stayed behind to ask questions, and this did not appear to present any problem.

Duration of Group Meetings

As Figure 8.3 indicates, the duration of group presentations was variable. They lasted anything between 37 and 130 minutes, and the median duration was 75 minutes (at the 37-minute meeting the presenters decided not to show the video, as none of the three

⁹ This is considerably less than the average attendance of 40 at the Alberta Parenting after Separation seminars. See Sieppert, J.D., Lybarger, D.S., Bertrand, L.D. and Hornick, J.P., *An Evaluation of Alberta's Parenting after Separation Seminars*, Canadian Research Institute for Law and the Family (December 1999), p. 1.

people present had children). There was clearly an association between the length of meetings and the number of attendees. Not surprisingly, well-attended meetings tended to last longest, but the association between length and numbers attending was far from perfect ($r = .346$).

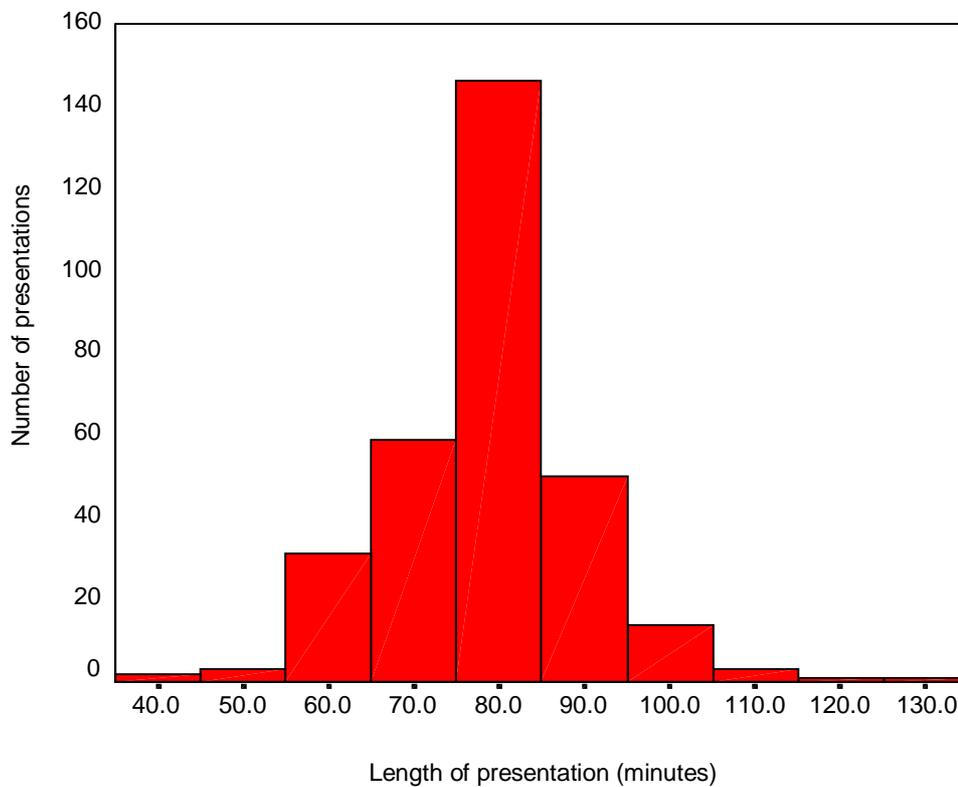


Figure 8.3 Duration of group presentation

As Table 8.1 shows, there were significant differences between models concerning the length of presentations. Model B, which followed an individual meeting, did not contain as much information and consequently it was expected to last an hour. The other models were scheduled to take one and a quarter hours. Model C presentations lasted significantly longer than any of the group presentations associated with other models, but it is not clear why. Although Model C tended to last longest, its length varied more than that of other presentations.

Table 8.1 Duration of group presentations by model

Model	Mean length of presentation	Standard deviation	Number of meetings
B	65.8	8.0	81
C	87.0	13.4	31
D	79.5	8.6	150
E	77.5	9.6	48

$F = 55.3; p < .001$.

Presenters across all the models tended to feel that they did not have sufficient time to get through all of the information in the time allocated. The following were typical of the observations about time-keeping made by presenters after group presentations:

There is too much to cram into 40 minutes (20 minutes for the video). (Model C)

It took 90 minutes, but we couldn't have covered it in an hour. (Model C)

The time constraint means that the information has to be delivered at a machine-gun rate, thereby going over the heads of some attendees. More time needs to be allocated. (Model B)

It was felt that the additional time taken made things difficult for some attendees, especially those who had limited time to spend at the presentation:

One girl was anxious to see all the children stuff, but after one hour from the given starting time had to leave because of childcare. It was not that the attendee found it too long, but that she had not been sufficiently prepared for the time it took. (Model C)

I had a very strong sense of people yawning, and not listening, when I did the concluding section. This comes at the end of a long meeting and the brief requires you to go over everything that has been covered. This seems extremely repetitious. (Model C)

One result of time pressures was a tendency for some presenters to doctor the script in an attempt to make up time:

I was feeling that the sections I was presenting were getting rather long. So, I omitted a sentence or two on tax, and a couple of points I could have made on the approach to legal aid. (Model C)

Keeping to time was rendered more difficult when attendees turned up after the stipulated starting time:

People arrived late and this meant the session started a quarter of an hour late. This meant that one woman had to leave half way through because of childcare arrangements, and I feel that this set in some others' minds the idea of leaving when it suited them. (Model D)

As usual, there were a number of latecomers. Whilst we waited five minutes before starting, there were still several interruptions. This has been a frequent problem during the pilot. Some of the attendees left before the end. In one case, I believe, because of another appointment. (Model D)

Presenter Background

It was intended that Model B and C group presentations would be conducted by a presenter drawn from a background in family law, working in conjunction either with a presenter who was trained as a mediator or with a family court welfare officer. For later models presenter background was less prescribed. The East Anglian Model D pilot, and the North East and Leicestershire Model F pilots, used presenters who were initially

recruited to present individual meetings (Models A and B) and were retrained as group presenters. These retrained presenters were drawn from a range of different backgrounds and included social workers, counsellors, mediators, probation officers, educationalists, nurses, customer service advisers, training officers and psychologists.

Low throughput meant it was difficult for most presenters to hone their skills through practice. Seventy-one presenters were involved in the provision of group presentations and 30 of these delivered no more than five presentations, while 51 presented no more than ten. Presenters in some areas had the opportunity to practise in two separate pilots. The East Anglian pilot was one of the original pilots which offered Models A and B, and it then went on to offer Model D group presentations. The North East and Leicestershire pilots also started with Models A and B, but they went on to provide Model F presentations. Only five presenters – all from the East Anglian pilot – presented more than 20 group presentations. One attendee told us how he felt the presentation was not as good as it might have been because it was still at a rather early stage of development:

The meeting was good but I believe it was in its early stages and was rusty round the edges.

This attendee had, in fact, attended the presentation towards the end of the pilot programme, in a pilot area which had gone into a second phase of group presentations!

Group Presentations Observed

Although group presentations tended to be received positively by those who attended them – though not as positively as individual meetings – the skills of some presenters have given concern to researchers observing the meetings.¹⁰ The research team observed 55 group presentations, spread across the models as follows: Model B (13), Model C (10), Model D (21), Model F (11). These observations revealed that group presentations could be extraordinarily dull and prosaic. Regrettably, many of the group presenters who were observed in action tended not to have particularly good presentation skills. A few presenters delivered the information in a positive and interesting style, with good eye contact and body language, together with varied voice tone. However, it was clear that eye contact was not always easy given the range of different venues used, and after one meeting a presenter explained his failure to make eye contact in the following terms:

I believe, personally, that the reason I was unable to make much personal contact (eye contact, body language communication) with attendees was due to the physical layout of the room. I was looking sideways on, to the profile of most attendees, who were looking at the screen or video. (Model C)

Venues clearly had a significant impact on presenters, and some were felt to be more conducive to good performance than others:

When they first trooped in, the first 4 or 5 attendees (who were admitted together) appeared to be an unresponsive lot; each an isolated uncommunicative individual. They did not present anything of a group. The atmosphere was redolent of the amorphous mass of intrinsically self-

¹⁰ Some of the following material was previously included in McCarthy, P., Lowerson, R., Laing, K., Varley, H., Marshall, Y. and Hall, I., 'Receiving information in a group', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

conscious individuals who simply gather outside the judges' court first thing in the morning. They seemed unlikely to respond to a TV studio warm-up approach. My first impression was that they were disappointed that we did not start promptly, no matter how few were present. However, I think this impression was mistaken on my part. I think the fact that the meeting was in a court caused the antipathy and depressed atmosphere. (Model C)

The venue was OK, but lacked comfort and was a bit shoddy. Typical public amenity. Bit of a problem with insufficient equipment, i.e. OHP screen and video locked on arrival. (Model D)

Whatever the reason, our research observers were apt to describe presentations in terms of a scale ranging from adequate to dull. For example, observer fieldnotes contain the following observations:

The most obvious thing about the male presenter at this time was that his eye contact was very poor. He also sat while speaking, which seemed to infuse the meeting with a general heaviness. As he sat he kept referring to his script and then looked at the overheads frequently. This became very monotonous and distracting because there was no eye contact or facial expressions towards the attendees.

The majority of attendees at some point averted their eyes from the presenters either to sleep, look at the floor, their watch or at one another.

One group presenter was observed apologising for reading extensively from the script. He never stopped to look up or engage with the audience, and justified this to attendees in terms of the information being so important that he did not want to miss anything or make mistakes.

We would suggest that, if group presentations are to be considered in the future, there is a case for using purpose-designed and well-equipped venues, rather than attempting to conduct meetings at a range of different venues that are of variable suitability. Furthermore, we would suggest that presenters need to 'own' the material they are presenting, and avoid merely reading it from the script. They could also benefit from training that would help them to master the technology of using videos and overhead projectors.

Given the lack of opportunity to develop skills in practice, it might be unreasonable for us to be overly critical of presenters' skills. We learned from pilot managers that in some of the pilots it proved difficult to attract members of prescribed professions into the presenter role. Consequently, there may have been little choice in the selection of certain professionals and no opportunity to select people with good presentational skills.

We found no evidence to suggest that the individual presenters who were retrained for group presentations were less skilled than were the original presenters who were appointed on the basis of their association with prescribed professions. Indeed, in some ways these retrained presenters seemed to do better. For instance, they seemed less likely to be drawn into giving advice during the question session at the end of the presentation. This may stem from their often quite extensive prior experience of avoiding advice in the more intimate context of an individual meeting, compared to which advice-avoidance in a group setting would appear to be easy. Although group presenters from the prescribed professions claimed that their background acted as a 'confidence booster', observations suggest that the necessary confidence and knowledge can be instilled via training and

practice experience. In this context, we note the significance of recent changes in the Australian Family Court, which mean that information sessions are conducted by court administrative staff, rather than by the ‘professionals’ who have previously provided them.¹¹ a change which, it is claimed, ‘frees up the more expensive professional time for other work’.¹² As with individual presenters, it seems that any concern about the professional background of group presenters may be something of a red herring. Instead, the requisite abilities appear to hinge more on interpersonal skills, life experience and presentation skills.

Observation of presentations detected deficiencies that might have been avoided through better presenter training. For instance, presenters seemed unsure about whether to sit or stand to deliver the information. On occasion, they were observed to use both strategies at different points in the same presentation. The impact of this varied, and may have been linked to the size of the group or to the proximity of the attendees. For example, with small groups meeting in confined areas a seated presenter might inject a less oppressive air. On the other hand, some observers felt that presenters who spoke sitting down came across as less professional than those who stood to deliver the information.

Some presenters employed the leaflets contained in the information packs as visual aids. This seemed to inject greater momentum into the performance. Presenters who had previously delivered individual meetings appeared prone to this, perhaps because of their prior experience of introducing the leaflets in a one-to-one setting. Some presenters seemed extremely confused over whether to offer childless attendees the option of leaving before the section on children: consequently, practices varied. In general, there appeared to be no option for childless attendees to leave in the Model F and D group meetings, although the option was offered at one Model D group presentation that we observed in the South West. By contrast, one female Model D attendee who endeavoured to leave before the video was encouraged (unsuccessfully) to remain. It seemed that the interlude preceding the start of the video tends to be taken as a signal to leave by some of the more disgruntled attendees.

The importance of teamwork

Presenters acknowledged the importance of teamwork, and one of them expressed the following view:

Good partnership between presenters, I think, is extremely important for a group meeting. Preparation before the meeting, and some tacit acknowledgement of each other during the meeting, have a tremendous effect on attendees and [appear] to put them at ease. (Model C)

Our observations indicate that presenting with a co-presenter required additional skills to those involved in presenting solo, but presenter training did not adequately deal with this. Moreover, there was little opportunity for presenters to become established as a team. No presenter pair conducted more than 15 meetings together, so there were not many opportunities for any two presenters to establish a working relationship. Nevertheless, there are obvious advantages in having two presenters at each meeting. For instance, a

¹¹ Taleviski, G. and Frakes, B., ‘Integrated client services’, paper presented at the Third National Family Court Conference (20–4 October 1998).

¹² Glare, L., *Families, Courts and Communities: Collaboration for the 21st Century*, <http://www.familycourt.gov.au/papers/html/glare.html>

change of presenter can provide welcome relief from the monotony of a dull delivery. This is, admittedly, a negative view of presenter ability, and one hopes that the style of delivery would be much livelier in an implemented system. Nevertheless, the duration of the group presentation was such that mechanisms to break up the delivery into palatable chunks may have helped to retain attendees' interest. Co-presenters who watched their colleague speaking with apparent interest also helped to create the impression that they had something interesting to say, and that it was worth paying attention. This contrasted with co-presenters who appeared uninterested or preoccupied, conveying the sense that the presentation was not worth listening to.

The use of two presenters can serve to ameliorate matters when one presenter overruns. Although this promoted better time-keeping overall, there was a sense that one presenter was compelled to deliver the information in 'fast-forward' mode in order to counteract a colleague's poor timekeeping. This could lead to a sizeable imbalance in information delivery, with some issues receiving more prominence than others.

Despite the fact that employing two presenters was intended to ensure gender balance, this was not invariably the case – 15 per cent of the presentations were given by two men and 25 per cent by two women. This situation could lead to problems. For instance, the delivery of the section on domestic violence by an all-male presenter team might seem oppressive to female victims of abuse. Similarly, delivery of this message by an all-female team could make male attendees feel under attack.

Handling disruptions

Within the context of the pilots, late arrival of attendees represented the most prevalent form of disruption. After one presentation, a presenter told us:

Two latecomers at separate intervals were a disruption. I think they felt they had lost out a little, not getting the full treatment, and we were not able to recap very much. (Model C)

Strategies to address this varied: some presenters simply soldiered on regardless, others recapped (with associated implications for timekeeping) or else summarised their current position with comments to latecomers similar to the following:

We're just talking about people moving forward having made the decision to divorce. We can't go back, but I hope you'll pick it up. (fieldnote)

Late arrivals could also have an indirect disruptive effect since these attendees often missed the introductory explanation of ground rules. They could therefore misunderstand the purpose of the meeting and subsequently volunteer information inappropriately about their personal circumstances.

The issue of late arrivals – not to mention early leaving – raises an interesting policy question concerning the definition of attendance if a group presentation were to become mandatory. Would attendees have to be present throughout the entire presentation? What would happen to individuals who were unavoidably delayed and arrived late? How many minutes late would be too many so that reattendance was required? What about people who had to leave before the end because the presentation started late as a result of the presenters waiting for latecomers?

Other, relatively common sources of disruption stemmed from difficulties operating the video recorder (or attendees having to move in order to see the television screen) and from external noise, especially when the temperature of the room necessitated opening doors and windows. Locality and setting were also factors. For instance, one presentation conducted in a ground-floor room was disrupted by youths tapping on the window and pulling faces.

Disruptive displays of emotion, or attendees walking out, were comparatively rare. They occasionally occurred, however, despite the voluntary nature of the pilot. The research fieldnotes record one of these incidents as follows:

As the presenter started the section called 'the emotional process of separation' two individuals got up, one emitting a large 'humph', and walked out of the meeting talking to each other.

When one person left the presentation, this could sometimes act as a trigger for others to go also. Attendees were also observed fidgeting towards the end of presentations, particularly when the meeting had overrun. There were signs that attendees' restlessness was linked to poor timekeeping on the part of the presenters rather than to the length of the meeting *per se*. There was also a sense that attendees saw leaving before completion as legitimate once the appointed time span had elapsed. Overt expressions of dissatisfaction with the presentation content, rather than with timekeeping, were occasionally observed, and some presenters were conscious of inadequacies. In his post-meeting comments one said that he felt the information he was providing was 'very basic', and that although 'people are very polite' he was not sure they were 'learning anything'. This was a comment seemingly provoked by the fact that:

One lady of 50-plus said she wanted to leave before the video, and made a speech suggesting that any intelligent person would know everything that had been said, and that she had not learnt anything new. (Model D presenter)

Nevertheless, we came across several comments that suggested that presenters felt positive about the impact of their presentation:

People seemed to be paying attention and responded positively to the information. (Model F)

Everybody seemed to gain something. One lady expressed her gratitude and stated how helpful it had been. (Model C)

At the end we were thanked by attendees, who appreciated the presentation (Model F)

After the session, one attendee spoke to me and said she wished she'd seen the video and received the information a year ago. (Model D)

It was appreciated, and we were thanked for our time. (Model B)

Asking questions, seeking advice

Within the formal boundaries of the presentation, the presenters generally avoided overt advice giving that took the form of giving direction. Some presenters gave the impression

that attendees would inevitably require legal advice at some stage. For example, one attendee whose query concerned mediation was told:

Seek advice from a solicitor in your case. (fieldnote)

Another case provoked the following observation:

The attendee said she had a court order that was not working, and the presenter [a solicitor] said 'Go and see a solicitor'. (fieldnote)

There appears to be a decided risk of conflict of interest in both the above cases.

The question session at the end of presentations could prove problematic. Although presenters seemed adept at answering questions without offering advice, observers recorded occasions when the line between information and advice may have been crossed:

[The attendee] said she was afraid that [her violent husband] would take the baby, and the presenter [a solicitor] said that she needed to get a Prohibited Steps order based on the fear of abduction. (fieldnote)

Observation reports also frequently noted that attendees approached presenters individually after the meeting had formally finished, and plied them with questions. It was not usually possible to ascertain whether the presenter subsequently provided advice, but there was a risk that this could occur. There is clearly a contradiction between attempts to standardise presentation and to address personal needs through questions and discussion. There is also a difficult line to be drawn between questions that might run the risk of eliciting advice and those that presenters ought to be able to answer without straying into forbidden territory. Presenters' accounts suggest that after 13 per cent of group presentations, attendees asked a great many questions, while after 30 per cent only a few questions were asked. At almost half of the presentations presenters indicated that they had been asked to provide advice. The most common topic concerning advice was shared parenting (22%), followed by questions relating to mediation, property, finances, the divorce process and the effect of divorce on children. The type and range of questions asked are illustrated by the following list gleaned from questionnaires presenters completed after each group presentation:

Where can I find a good family solicitor?

Can a solicitor really help regarding domestic violence?

What is the position regarding overnight contact when there is a new partner?

How much does a divorce cost?

What will happen if my mother dies just before the divorce and leaves me money? Will it have to be shared?

Is the law about to change with regard to the parental rights of non-married fathers?

My wife said one morning that she'd had enough of marriage. What should I do?

How do you counter false allegations of male on female/children violence?

Is it possible to change solicitor if you are on legal aid?

How can I use a parenting plan when my husband will not talk to me?

How long does a divorce take?

Where can I get support for me, as a separating transsexual?

Who pays costs in a two-year separation divorce?

How can I compel my husband to go to mediation with pre-conditions?

Is it necessary to have a legally binding document if you already agree?

Is an informal agreement agreed between parties legally binding if one reneges?

What if one party will not go to mediation?

We would suggest that presenters ought to have been able to answer some of these questions, but clearly they could not have addressed all of them. When questions were asked, it was not uncommon for one attendee to act as an 'ice-breaker', after which other questions might well follow. Thus, the lack of questions in some presentations may have stemmed from the absence of any one person sufficiently confident to adopt this role, in which case attendees who were shy may have left the meeting feeling frustrated that they had not been brave enough to ask questions.

When questions were forthcoming, these largely mirrored the emphasis within the presentation and (most strikingly) the video. Questions focused mainly on children's issues, mediation and legal (including procedural) topics. This suggests that the messages that were given out and sustained in the presentations shaped the questions that attendees felt it was legitimate to ask, rather than addressing other issues which may also be of concern to them. There might also be problems associated with an attendee's need to maintain an acceptable public face, which may make them reluctant to volunteer information that presents them in a bad light.

In the main, attendees were encouraged to leave questions, if they had them, to the end of the presentation although some instances of interruption were witnessed, and after one meeting a presenter commented:

There was a lot of interchange. Questions arose with such spontaneity, and it seemed that the issues raised interested others attending. So the meeting took a slightly different shape, i.e. questions/answers before the video more often, then the second half followed by more questions. (Model C)

On occasion, one individual's concerns could dominate the question session, to the possible detriment of the coverage of the concerns of others. This might again be frustrating for individuals whose questions were not addressed because the presenter might, for example, have run out of time. Further thought may be needed regarding the development of an equitable question strategy that enables all those present to have a say if they want to. Observation of group meetings in the USA and Canada has shown that allowing for points of clarification and brief questions at various times during the presentation can be a useful strategy, which has the added benefit of engaging the

audience in the meeting in a less stilted and artificial way. This may be difficult, however, if there are tight limitations on time and if there is a lot of material to cover.

Questions were not always forthcoming, however, and some presentations were observed at which no questions were asked, sometimes because presenters were running over time and gave no opportunity for questions to be asked. Presenter focus groups revealed that such presentations were a source of presenter dissatisfaction, since presenters were unable to gauge whether the attendees had taken the information on board, or were interested in it. This must surely have been frustrating for those present also. While this may have derived from pressing time-scales, it seems to be poor practice to raise and then dash expectations in this way.

Providing Information on Video

At each group presentation, attendees were shown a video that was made especially to provide information that focused on mediation and the impact of divorce on children. This proved to be an important component of the group presentations. Two different videos were piloted. The original video, *A Better Way*, was commissioned for use in Model B group presentations. It was revised for subsequent models following criticisms from Model B attendees, presenters and divorce-associated professionals who viewed it at a consultation briefing. The revised version, *Looking to the Future*, was used in all models other than B. It would seem, however, that the consensus among attendees, presenters and related professionals was that the changes made to the video did not constitute improvement. As Table 8.2 indicates, the first video was better received by attendees than the second one.

Table 8.2 Extent to which attendees found the video useful

	<i>A Better Way</i> %	<i>Looking to the Future</i> %
Very useful	38.8	30.5
Fairly useful	56.1	60.2
Not at all useful	5.0	9.3
Total (100%)	358	1,792

Chi-squared = 13.53; p = .001.

We conducted logistic regression analysis to calculate the odds of attendees finding the video ‘very useful’. The results, which are shown in Annexe 5,¹³ confirm the finding that the second video was not as well received as the first. It also shows that women appreciated the showing of a video more than men did.

¹³ See Annexe 5, Table A5.6.

Table 8.3 Attendees' views about the video by parental status and age of youngest child

	No children	Age of youngest child			
	%	0-4 %	5-11 %	12-17 %	18 or over %
Very useful	22.1	40.4	34.0	30.8	23.6
Fairly useful	64.2	55.0	61.7	61.0	57.7
Not at all useful	13.7	4.7	4.3	8.2	18.7
Total (100%)	190	493	674	415	369

Chi-squared = 103.91; $p < .001$.

As Table 8.3 shows, we found that the video was most likely to be found useful by parents of young children, and the older the children get the less useful the video becomes. This confirms that it is probably a good idea to allow attendees without dependent children the opportunity to leave a group meeting before the showing of this type of video. It may be more appropriate, however, to hold separate meetings for parents and people who have either no children or grown-up children only. This could involve showing different videos, each with a focus relevant to the group it is being shown to. It also seems logical to hold different types of group presentation – for parents with children under 18, for parents with children who are all over 18, and for people who are childless. One attendee argued for going even further than this, and suggested focused meetings that brought people with similar interests together:

I think meetings could be extremely helpful if they were targeted at individual problems with question and answer facilities, bringing together people with similar problems and promoting more awareness in other people's approach to divorce and how it affects them. It is easy to believe you are alone in these problems and sharing ideas and advice could greatly improve the emotional element. These meetings would be valuable after divorce as problems continue in many cases. (F)

This would be extremely difficult to do. It is interesting to note that as far as opinions about the usefulness of video are concerned there is no evidence of a social-class effect. Moreover, views about the usefulness of the video did not seem to be affected by the stage in the divorce/separation process that people had reached, since there were no significant differences regarding the responses of people who had already separated, or who had been to counselling, consulted a solicitor or started divorce proceedings.

The videos were also shown at the consultation briefings for professionals held in the pilot areas, at which the pilot managers informed various professionals about the content of information meetings. The feedback from the first five pilots, at which the first video was shown, suggested that people who had been to consultation briefings were fairly positive about the representation of mediation on the video, although some pointed to problems.¹⁴ With respect to the second video shown at later consultation briefings, divorce-associated professionals continued to be positive about the idea of showing a video, but were less happy with the second video than they were with the first. Legal professionals, in particular, were considerably less impressed by the second video. For

¹⁴ See McCarthy, P. and Kain, J., 'Consulting the professionals'. in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998).

instance, only 38 per cent of them felt that the video portrayed mediation very well, as against the 52 per cent who took that view of the first video (Table 8.4).

Table 8.4 Consultation responses regarding how well the video presented information about mediation

	Legal professionals		Divorce-associated professionals		Other professionals	
	<i>video 1</i> %	<i>video 2</i> %	<i>video 1</i> %	<i>video 2</i> %	<i>video 1</i> %	<i>video 2</i> %
Very well	52	38	56	59	57	44
Fairly well	43	53	38	32	41	54
Poorly	5	9	6	9	2	2
Total (100%)	230	192	158	34	276	46
	Chi-squared = 8.57; P = .014.		Chi-squared = 0.55; P = .76.		Chi-squared = 2.87; P = .24.	

The first video was subject to some criticism regarding its portrayal of the role of solicitors (see *Second Interim Evaluation Report*, para. 12.31). Nevertheless, all the professional groups were distinctly less impressed with this aspect of the second video. Indeed, 52 per cent of the legal professionals, 36 per cent of the divorce-associated professionals and 30 per cent of the other respondents felt that the second video portrayed solicitors' work poorly (Table 8.5).

Table 8.5 Consultation responses regarding how well the video presented information about solicitors

	Legal professionals		Divorce-associated professionals		Other professionals	
	<i>video 1</i> %	<i>video 2</i> %	<i>video 1</i> %	<i>video 2</i> %	<i>video 1</i> %	<i>video 2</i> %
Very well	13	4	27	12	25	15
Fairly well	61	44	59	52	60	54
Poorly	26	52	14	36	15	30
Total (100%)	229	189	157	33	272	46
	Chi-squared = 33.86; P < .001.		Chi-squared = 10.42; P = .005.		Chi-squared = 7.56; P = .023.	

Both legal professionals and divorce-associated professionals were less positive about how the second video portrayed the impact of divorce on children. The view of divorce-associated professionals seems particularly perturbing, since only 9 per cent of them felt that the second video portrayed the impact of divorce on children very well, although 31 per cent felt that way about the first video (Table 8.6).

Table 8.6 Consultation responses regarding how well the video presented information about the impact of divorce on children

	Legal professionals		Divorce-associated professionals		Other professionals	
	<i>video 1</i> %	<i>video 2</i> %	<i>video 1</i> %	<i>video 2</i> %	<i>video 1</i> %	<i>video 2</i> %
Very well	29	16	31	9	35	28
Fairly well	53	55	43	62	46	52
Poorly	18	29	26	29	19	20
Total (100%)	229	189	157	34	273	46
	Chi-squared = 12.10; P = .002.		Chi-squared = 7.47; P = .024.		Chi-squared = 0.90; P = .638.	

The showing of a video was clearly an important element of the group presentation. Video is a powerful medium for disseminating complex messages. Efforts were made to improve the first video, in response to negative comments. The evidence suggests, however, that the ‘improvements’ were not effective. Indeed, the consensus seems to be that the second video was worse than the first. We suggest that if a video is to be used in the provision of information in the future, then one or more new videos will need to be produced.

The Consumer View

Group presentations had a high level of opt-out between the making of an application and attendance at a presentation, suggesting that the prospect of attending with other people might be a deterrent to attendance. There were particular problems concerning the number of Model B attendees who attended a group presentation in order to complete the process. The majority of these attendees did not take up the offer of attending a group presentation made at the individual meeting. There was also a high rate of opt-out among people who had made an application to attend one of the other models – 49 per cent of Model C, 31 per cent of Model D and 44 per cent of Model F applicants did not keep their appointment to attend a group presentation. There was clearly a difference between models. Apart from that, it seems that the most significant factors explaining the rate of drop-out were previous use of counselling (Chi-squared = 18.23; $p < .001$) and involvement in divorce proceedings (Chi-squared = 46.99; $p < .001$). As Table 8.7 shows, people already involved in divorce proceedings were more likely to opt out after making an appointment, while people who had been to counselling were less likely to opt out. Thus the people least likely to keep appointments were those who were involved in divorce proceedings and had not been to marriage counselling in the previous year.

Table 8.7 Attendance at a group presentation by whether attendee was involved in divorce proceedings and had been to marriage counselling

	Attended counselling		Did not attend counselling	
	<i>involved in proceedings</i>	<i>not involved in proceedings</i>	<i>involved in proceedings</i>	<i>not involved in proceedings</i>
	%	%	%	%
Attended	68.7	74.2	54.0	68.2
Did not attend	31.3	25.8	46.0	31.8
Total (100%)	246	353	933	1,431

Note: Model B is not included.

A total of 2,310 people attended a group meeting, 431 of whom also attended an individual meeting.¹⁵ User satisfaction was not as high among group presentation attendees as it was among people who attended an individual meeting. Nevertheless, 38 per cent of attendees described the group presentation as very helpful, while 58 per cent felt it was fairly helpful. Approximately a third of attendees (34 per cent) suggested that the information provided had been very relevant to their needs and 62 per cent said it had been fairly relevant. Because of their own experience of attending a presentation, more than half (55%) indicated that they would definitely be prepared to recommend the meeting to other people who were in similar circumstances to theirs, while 41 per cent indicated that they would probably recommend it to others.

Public criticisms of group presentations have focused on the absence of privacy and the potential embarrassment connected with a public admission that divorce is on one's agenda. Davis, for instance, described the idea as 'public humiliation', and drew comparison with a 'waiting room in which patients await their call for treatment for sexually transmitted disease'.¹⁶ However, only 7 per cent of group presentation attendees indicated that they knew somebody else at the presentation, and only one in five admitted to feeling uncomfortable. Two of those who did offered the following comments:

It very distracting looking round to see who else was there and feeling other people looking at you – divorce still feels very shameful to some people, and it still did to me at that point. (F)

Although the information meeting was of little practical value to me, it was obvious that it was of use to some of the people present, though I did feel very much for one or two of those present who were in a state of distress. This was handled compassionately by the panel, but I felt that it would have been better for them if their distress could have been private rather than public. (M)

We conducted a logistic regression analysis aimed at determining the odds of attendees finding a group presentation very useful and very relevant, and of indicating a definite commitment to recommend the use of the meeting to others. Results suggest that there is not much difference between types of group presentation, which is not surprising given that the structure and content of the meetings were similar.¹⁷

¹⁵ More particulars about attendees were provided in Ch. 5.

¹⁶ Davis, G., 'Divorce reform – peering anxiously into the future', *Family Law* (October 1995), pp. 564–66.

¹⁷ See Annexe 5, Tables A5.7, A5.8, A5.9.

Table 8.8 Attendees' views about relevance of information by parental status and age of their youngest child

	No children	Age of youngest child			
	%	0-4 %	5-11 %	12-17 %	18 or over %
Very relevant	21.9	47.5	40.1	29.1	16.1
Fairly relevant	68.3	50.8	57.7	67.0	72.8
Not at all relevant	9.8	1.6	2.2	4.0	11.1
Total (100%)	183	427	546	351	323

Chi-squared = 143.81; $p < .001$. The question about relevance was not asked of Model B attendees.

Users of Model B were more likely to indicate that they would recommend attendance to others, but they had also attended an individual meeting and may have been recommending the package rather than the group presentation *per se*. The results of the analysis demonstrate that group presentations were more likely to be regarded as useful and relevant by parents than by childless attendees. Moreover, usefulness and relevance increased when attendees had young children (Table 8.8). This suggests that childless attendees and those with adult children got less out of a group presentation than those with young children. Several attendees complained about this:

I feel that the meetings should be in two sessions: a) families – break-up with children involved; b) couples – grown-up children or no children to consider. (F)

I found the information meeting useful, but would have liked some time on a one to one basis as I felt a lot of the information was not appropriate to my particular circumstances, as I have no young children. The information I would have liked was about my specific financial obligations. I feel that a separate meeting for people without children would have been more useful to me as it focussed heavily on the impact and legal responsibilities to children of divorced parents. (F)

These comments reflected a view that was largely supported by presenters, including those who made the following comments after meetings:

From the information that we had about attendees before the meeting, it was clear that a lot of them had older or grown-up children. I suspect that they did not find much of the stuff about children relevant, even if the rest of it was.

Divide non-families from others. Then anyone with specific financial questions could be referred to a meeting where financial issues could be given greater emphasis.

I think group meetings need to be divided – one for people with children, and others for those without children and where the children are grown up.

When asked during telephone interviews conducted within six weeks of the information meeting about the information received, three-quarters of group presentation attendees (N = 940) indicated that the amount of information they had been given was 'about right'. On the other hand, 11 per cent thought there was too much and 13 per cent that there was

not enough. The information was described as 'very clear' by 74 per cent of interviewees (N = 948) and as 'fairly clear' by 25 per cent. However, 27 per cent (N = 944) indicated that they did not get the information that they needed.

Although 70 per cent of attendees (N = 821) suggested the information contained in the overheads used by presenters was 'very clear' and 25 per cent that it was 'fairly clear', the materials need to be maintained regularly. For instance, a presenter told us:

One lady pointed out that the overheads are grubby and look awful. They are susceptible to fingerprints and dust, and are not at all resistant. They also curl up under the heat of the projector.

Our observations would confirm this view.

Increasing knowledge

Figure 8.4 presents results generated by asking attendees whether they had increased their knowledge about a range of different issues. It suggests that information about family mediation had made the biggest impact on attendees. Sixty per cent of group meeting attendees indicated that they learned a lot about family mediation, while almost a third said they were a little better informed. Thirty per cent of attendees said that they were much better informed about marriage support services, 32 per cent said that they were much better informed about how divorce affects children, 29 per cent that they were better informed about the legal aspects of divorce, 25 per cent that they were better informed about the emotional aspects, 20 per cent that they were better informed about finances, and 15 per cent that they were better informed about protection from violence.

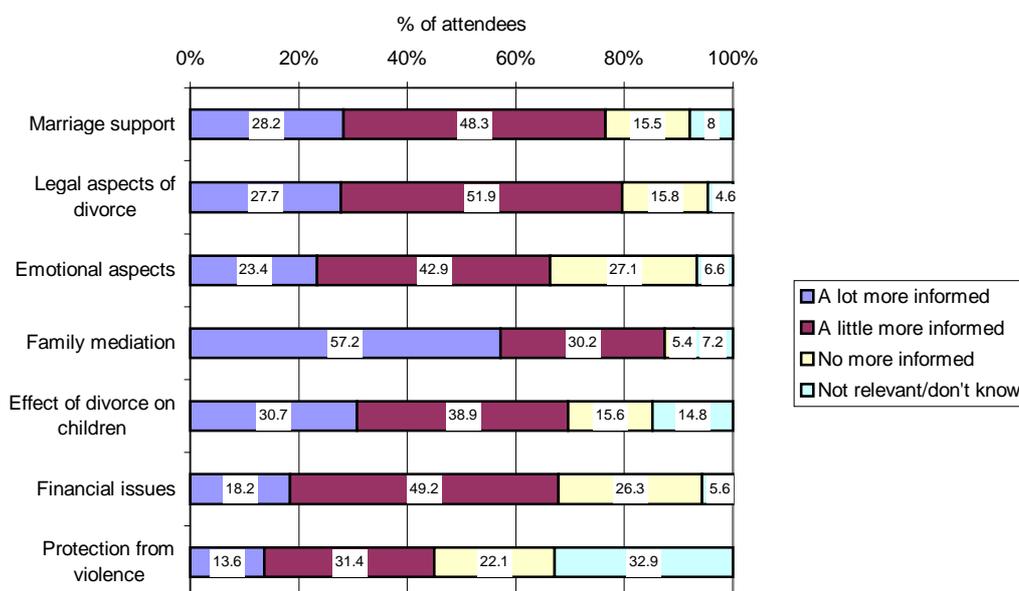


Figure 8.4 Views of attendees as to whether they had learned more about specific issues (N = 2,143)

One might have expected Model B attendees to have learned more about these issues than those who went to other meetings, given that they had also been to an individual meeting. This does not seem to be the case, however. Indeed, logistic regression analysis¹⁸ shows that there were no differences between models at all. The regression model suggests that parents of young children are significantly more likely than others to become better informed about the potential impact of divorce on children, and about family mediation, but this is almost certainly because these topics have more relevance to them.

The indications are that men were more likely than women to become better informed about the impact of divorce on children. One explanation may be that men tended to be the least well-informed beforehand. Moreover, gender differences might simply reflect the significance given to particular elements of information. Men may indicate they have learned more about the impact of divorce on children because such information might be regarded as a significant tool in the development of arguments as to why divorce should not take place. Men may respond to this particular issue because it suggests that a wife who is trying to divorce them is putting the children at risk, and in the majority of divorce cases it is the wife who is the petitioner. We would suggest that people might be more likely to take note of information that confirms their view of the world, or can be used to their advantage.

There is clearly a social-class effect as regards increased knowledge. People classified as professionals (category A) seemed to gain least from attendance at a group presentation. It is interesting to note a clear distinction between white- and blue-collar workers as regards increasing knowledge about financial issues. Non-manual workers were less likely than those in manual occupations to feel that they had learned more about financial issues, although this is knowledge which the higher status groups almost certainly need more.

Only one in five group presentation attendees were much better informed about finances because they attended the information meeting, and the need for more information about this subject is a major reason for people consulting a solicitor afterwards. The significance of this is emphasised by the following responses to a question we asked in a follow-up questionnaire about what attendees learned from their solicitor that they had not learned by going to an information meeting:

I have found I have had to consult a solicitor in order to sort out the financial side of the divorce, especially property adjustment. Also, she has warned me about continuing to operate joint accounts with my estranged husband. (F)

Information on benefits and my rights to claim back money for maintenance that has not been paid. (F)

The following points may or may not have been covered at the meeting. First, that I was entitled to half of our joint assets even though I had chosen to leave the marriage and had earned far less than my husband because I had stayed at home to look after the children. Second, that I would have no access to my husband's pension. (F)

That transferring a joint mortgage to one party does not transfer the property as well. Something not made clear by my building society either. (M)

¹⁸ See Annexe 5, Tables A5.10, A5.11, A5.12, A5.13, A5.14, A5.15.

When pricing a house it goes on the current value, not when the divorce started. (M)

Checking deeds on property, and making them 'tenants in common' instead of 'joint tenants'. (F)

People might not have learned more because they already knew a lot about certain issues. Nevertheless, the impact with regard to financial issues seems important. It seems that this is the area about which attendees are least likely to know more as a result of the presentation and, one might suggest, a topic which they are least likely to know a lot about prior to the meeting. Financial matters have emerged as a particularly weak area of information provision across all the pilots and across different types of information meeting.

Being persuaded to use other services

During our initial telephone interview, we asked information meeting attendees if they were more likely to consult a solicitor, use mediation and/or go to counselling as a result of having attended a group presentation. The responses are indicated in Figure 8.5. It suggests, in particular, a significant impact on the likelihood of attendees using mediation: 45 per cent of attendees indicated that they were more likely to use it. Mediation was a service of which many had not been aware, and one of them told us:

The pilot scheme helped me to form a structure of action involving mediation. I had not heard of this service prior to attending. (M)

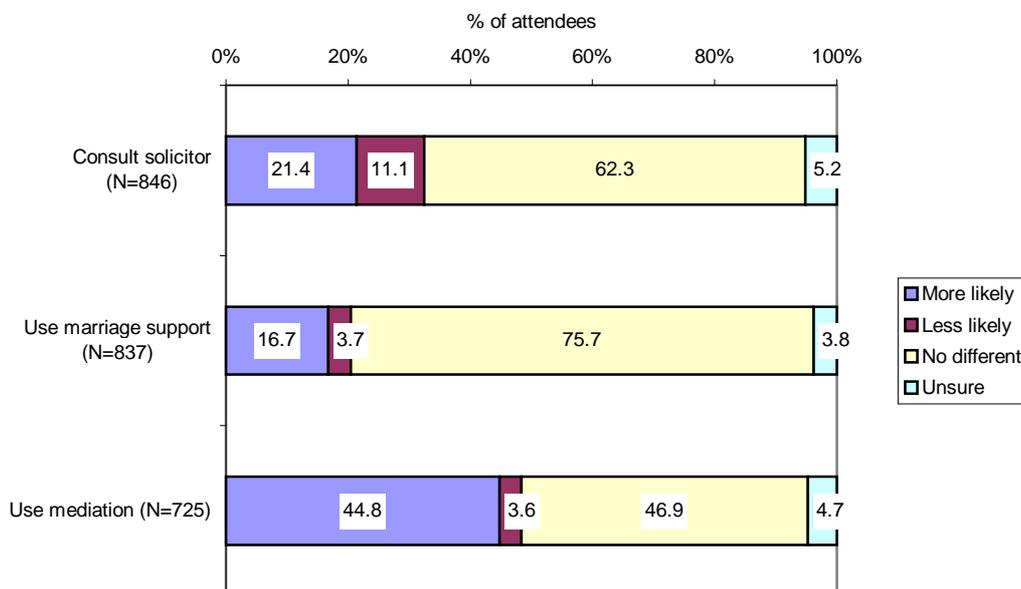


Figure 8.5 Attendees' views on whether they were more likely to use specified services

We discuss elsewhere¹⁹ the many reasons why people who believe mediation might be a good idea do not actually use it. Our follow-up telephone interviews revealed that 10 per cent of group information meeting attendees (N = 514) had used mediation within six months of having attended a group presentation, while 14 per cent had used marriage support and 59 per cent had consulted a solicitor. Some of those who used mediation later regretted having done so. For instance, one attendee told us:

[Mediation] created some bad feelings that may have been prevented had the finances and personal affairs been communicated through solicitors, rather than face-to-face. For me, a far too painful experience, not to be repeated. (F)

One group presentation attendee who had been persuaded to try mediation felt that the process was much too drawn-out:

I felt the mediation procedure that I experienced was unnecessarily long winded. In sitting with the mediator all the words were sound and well-intentioned but, as we probed deeper, it was clear that there was a laid-down procedure and order of things to be followed. No allowance was taken where couples were trying to deal with this difficult time in an adult fashion. As a result, the mediator was envisaging six sessions to go over the grounds and decisions that we had already outlined. (M)

On the other hand, another attendee felt it was all rather hurried:

The mediator seemed interested in getting a quick solution as soon as possible, with little regard to my circumstances. They seemed under pressure and almost encouraged us to give up. I can see that a weak partner would not do well, as one feels under pressure to agree to anything. (F)

Few people were put off using services as a result of the information they received, although one attendee remarked how he was put off by watching the video, which was presumably designed to encourage the use of mediation:

The film I saw at the information meeting about mediators gave me the impression that they were not very nice people. I did have a letter from a mediator about attending a meeting with my wife, but the letter was not very nice and I thought 'no thank you'. (M)

Logistic regression indicated that people who attended a Model B or Model D presentation were more likely than those who attended a Model C or F group presentation to feel that they would go on to consult with a solicitor.²⁰ However, those who attended Model C or F meetings were already involved in divorce proceedings, and it seems therefore that they would have been more likely to have already decided whether they wanted to consult a solicitor or not. The only other notable finding from multivariate analysis was that women were significantly more likely than men to feel more inclined to consult a solicitor after going to a group meeting, while those who had already consulted a solicitor and/or been to marriage counselling were less likely than others to feel more inclined to consult a solicitor after the information meeting. It seems that parents of very young children were most likely to have been persuaded to consider using mediation. There seems to be no difference between models of group meeting as regards their potential to encourage an increased likelihood of using either marriage support or

¹⁹ See Ch. 19.

²⁰ See Annexe 5, Table A5.17.

mediation.²¹ It is interesting to note that those who had not separated seem to be most encouraged to use mediation.

The Timing of the Information Meeting

One of the concerns about information meetings throughout our evaluation has related to the timing. It is clear that it may not be appropriate to give information about services before people are ready to use them. An information meeting that takes place at least three months before an application for divorce might be thought too early to give information about mediation. Nevertheless, many couples have separated before that point, and clearly need to make some arrangements about children, finances and property. The group presentations in Models C and F experimented with providing information later, that is at the time people were involved in divorce proceedings. Only 19 per cent of applications to attend an information meeting were received from persons already involved in divorce proceedings. Consequently, the pilots found it difficult to generate a reasonable number of applications for group presentations. In an attempt to boost them, arrangements were made to send an invitation to attend an information meeting to all those involved in divorce proceedings at courts located in the pilot areas. This exercise, which was not restricted to Models C and F, had limited success. As Table 8.9 shows, less than 2 per cent of those who received an invitation through the court to attend a group presentation actually attended one. This was clearly disappointing, but in some pilot areas the cases generated by this means were crucial to making group presentations viable. Without the court-generated applicants the Model C and F group meetings, for instance, would have been particularly problematic. In those pilots, people who went to a group presentation after receiving an invitation via the court represented almost 30 per cent of the total number of attendees.

Table 8.9 Number of invitations sent out to people involved in divorce proceedings, applications to attend a group presentation received and meetings attended

	Invitations sent	Applications received	Numbers attending group presentations
Manchester (Model C)	7,837	157	67
London (Model C)	5,229	122	63
North East (Model F)	8,570	170	99
Leicester (Model F)	6,478	153	83
East Anglia (Model D)	4,654	131	93
South West (Model D)	2,756	82	58
Total	35,524	815	463

As part of our attempt to assess how much we could generalise about a potential population of information meeting attendees we conducted a postal survey of the 240 people who had attended a group presentation after receiving an invitation through the

²¹ See Annexe 5, Tables A5.16, A5.18.

court at which they were involved in divorce proceedings.²² Postal questionnaires were sent only to people who had consented to being further contacted, and had provided us with a postal address. Of the 240 questionnaires that were sent out 137 were completed and returned: a response rate of 57 per cent. The questionnaire completed by these attendees focused particularly on questions that would enable us to examine how representative of potential users people who had volunteered to attend a pilot meeting might be. We did, however, ask attendees how they now felt about attending a presentation, and whether going to the presentation had helped them to make decisions about their future. This provided us with useful information about the relevance of providing information to people who have already started the divorce process. As the survey involved only people who had attended a group presentation, the information obtained is essentially about the experience of attending a group presentation after the commencement of divorce proceedings.

Almost two-thirds (65%) of the 137 people who responded to this survey indicated that they were glad they had attended a group presentation, while 5 per cent wished they had not gone and 30 per cent said they had no feelings either way. However, only a third indicated that the presentation had helped them to make decisions about the future. The most common response regarding why the presentation had not helped them make decisions about the future concerned the timing of the presentation. Two-thirds of those who were apparently not helped indicated that all the key decisions had been made before they had attended the group presentation. Fifteen per cent were not helped because they felt the information provided was not relevant to their circumstances, 13 per cent did not get the information they had been looking for, and 2 per cent felt there was just too much information to take in.

Survey respondents were invited to express their views about the information meetings in more depth at the end of the questionnaire and 52 of them took advantage of the opportunity. Nineteen of those who made comments expressed positive views about the group presentation, which included the following:

I thought the meeting gave good information. Unfortunately, I had already had to make most of the major decisions due to increased violence. I think we need to put across the message that divorce and separation are very traumatic, and not a matter to be taken lightly ... I felt the meeting put good points across about younger children ... although mine are older [aged 16, 19 and 29] they are still affected by everything that has gone on. (F)

Very good clear talking by the ladies. The information pack was very thorough. (M)

I found the information meeting very helpful. There are so many things I did not know before I attended the meeting. After the meeting, I was happy, and it helped me to make my decision. The booklet given to me was also extremely helpful. I am glad I attended the meeting. (F)

The meetings are well worthwhile and well presented. Though divorce is not nice for anyone, the meetings definitely helped both partners, with lots of information and guidance for the future. It gives you lots to think about. (M)

It was too late to use the information given, but I still found it very interesting and was very glad I went. (F)

²² See Ch. 6.

Seven people made positive comments about the information packs, although some recognised that the information came rather late in the divorce process:

The information pack has been extremely useful. These should be made available to anyone at the earliest opportunity. (F)

I found the meeting useful, i.e. with regard to children's feelings about separation etc. It helped to be reminded of what they are going through. My main point, though, would be to say that the meeting and the information pack was very useful, but also in my case a bit too late. (F)

Having already begun the divorce process, I knew much of the information given. However, the pack of literature has been useful for reference, and I appear to have been better informed than my spouse. (F)

One respondent indicated that she had already shared the written information with a friend, and expressed the view that it would be beneficial if people could have access to the leaflets at an early phase of relationship breakdown:

I have passed on some of the leaflets I received at the meeting to a friend who is separating. I was not sure where to find details of future meetings so that she could go herself. I do voluntary work at CAB, so I went to the meeting, not only for myself, but to see if it was suitable to send clients there or give them the leaflets we received, so that they can be better informed. (F)

Despite the fact that two-thirds of survey respondents were glad they had attended a meeting, 27 of those who made further comments indicated that attendance, for them, had not been particularly worthwhile. Comments included the following:

The meeting did not tell me anything I did not know already, and all of the questions were answered 'I cannot discuss individual cases'. The questions asked related to more than one member of the group, and the answers would have helped several of us. One man summed it up, when he said 'I felt in the past that I have been banging my head against a brick wall. I had hoped this meeting would help but, instead, I am still hitting the same brick wall.' This meeting made me feel the same way. I felt the people taking the meeting did not know what they were talking about. (F)

I would have liked to be able to say that the information meeting was of relevance to me but sadly, in retrospect it was not. (F)

I thought the presentation was very poor. One presenter in particular spoke slowly and clearly, as if addressing a retarded person or an inferior. I asked one question, to which no answer or even an opinion was offered. (F)

There was a general feeling, then, that the presentation would have been more useful had it come earlier. Thirteen of the 52 people who made comments suggested that the meeting had come too late for them:

The information meeting came too late for me. I had found out all the information the hard way. (F)

I found the information meeting very helpful but felt it would have been more helpful if I had attended earlier in the divorce proceedings. The invitation to attend was sent via the court, after I had filed for divorce. By this time, many

of the arrangements and negotiations regarding children, finances, property, etc. were already sorted or under discussion. (F)

We stress elsewhere the importance of information about marriage support being available before parties are seriously contemplating divorce.²³ The following comment suggests that early access to information is also vital to those who are intent on divorce:

I think that if my husband and I had come across information meetings at the time of our decision to separate, it would have prevented the breakdown in communication that subsequently happened. At that time, we were determined to 'do it properly' to avoid the distress we saw the children of friends having to endure. We went together to a solicitor to enquire about drawing up a deed of separation together, and were shocked to discover that the solicitor was not prepared to work with us both. We had to become adversarial, and everything deteriorated from that point on. We wanted to go the mediation route but could not find a way to do it. Things are now quite awful. The children have had to cope with unnecessary emotional distress, and I am convinced things would have been different if we had found the information meetings earlier. (F)

One respondent suggested that she was not alone in feeling the presentation was too late to make a difference, since the other people at the meeting she attended seemed to feel the same way:

Most of the people attending the meeting tended to have an air of resignation about them. I felt as though the majority attending were already quite a way down the road to divorce or separation, whether by choice or force of circumstance. (F)

The following remark of one female respondent does, however, suggest that although the meeting does not provide any information that is new, it may provide other positive help:

Although the information meeting didn't really tell me anything I hadn't already heard from my solicitor, I did find it a confidence booster in that it made me realise that I was not alone and there is help available to people in my situation, and I would definitely recommend anyone in similar circumstances to go along. (F)

Eight respondents expressed the feeling that the information provided was too general and not focused on their circumstances. They made comments such as the following:

At the information meeting it was too broad. I needed more information on the divorce process and the settlement procedures, because my divorce had already begun and it was with the court. Therefore, information about mediation was unhelpful. I would like to have been with a group who were in similar circumstances. People are unlikely to ask questions. I don't know if I was eligible for the counselling offered, or if it would have been of help to me in the decision I had already made. Attending was painful emotionally, as it was the first time I accepted it was really happening to me. (F)

The information was good but, as everyone has different circumstances, it is impossible to cover everything that is needed. (M)

²³ See Ch. 12.

I wonder in retrospect whether the information meetings are too general to be of much use. I was virtually divorced from my wife. It may be that information that is more specific may be more useful to separating couples at an earlier stage, particularly emphasising children's rights, not to take sides, and to have regular and consistent contact (without acrimony) to both parents. Such a message, at the right time, could help couples think more seriously about this vital aspect, hopefully leading to improvements in children's experiences of separation and divorce. (M)

The content of the meeting was too general, basic and woolly. I was looking for practical help, such as a pro-forma spreadsheet to use as the basis for arriving at a fair financial settlement. (F)

People who complained about the breadth of the information provided tended to have specific expectations as to what an information meeting might offer:

I did not think it applied to people my age [55]. I think you need to know about pensions when your husband leaves. I am older than my husband is. [He is 49.] I have got to wait till I am 71 years old before I can get some of his pension. I think you should bring things like that up in the meetings, as it is a shock when you find out. (F)

The meeting would have been useful for people with certain problems such as domestic violence, refusal of access, or poverty, but it had little or nothing to offer me. I simply wanted to find out how to formalise the end of the marriage. The pilot information meeting was only useful in a negative sense. It showed me that no information was available from that source. The best source of information I have found is the *Which? Guide to Divorce*. (M)

I would have liked more basic information about how to get help with housing and social security. How do I avoid homelessness and destitution? I have led a very secure life until now. (F aged 54)

The information meeting could have been a lot more informative on the forms that you need to be constantly filling in during the divorce procedures, and if there was someone in attendance who had recently gone through a divorce. It could reassure so many who think that this is an absolute nightmare that they are going through. Support from someone first hand would be a lot more useful than from someone who is only stating issues through not a personal situation. Different individual status also plays a vast role in eventually trying to go it alone, and needs to be discussed more. (F)

Although it might be argued that providing information is likely to empower those who receive it, the recipient might not see it that way. One female respondent felt distinctly less empowered by the process, and her comments may reflect how many people might feel if going to an information meeting were compulsory. She apparently went out of a sense of duty, but became angry about what she felt to be unwarranted state interference in her affairs:

I went to the meeting because, although by then I was either legally separated or about to be, the invitation suggested it was my 'civic duty' ... I was very distressed by the meeting (cried for two solid hours after I got home, and rang The Samaritans). I needed to talk to someone then, the conciliation office was closed, and the counselling offered was only available in office hours – not on a Saturday afternoon ... When I left my husband, I took my affairs into my own hands. I read about family law, went to a solicitor, changed my will, and sought advice on separation and divorce. I negotiated the financial settlement

between my husband and myself. NOT EASY. It seemed to me that having done all the responsible things – seeing a lawyer, working out a settlement with my husband, making sure that he had enough to live on, in the meanwhile – that the state said ‘That is all well and good but’ ... And there was no but. I felt that my power to act on my own behalf was taken away – this time by the state – and it broke my heart. (F)

The comments of those who attended a group presentation after receiving an invitation from the court where they or their spouse had filed for divorce suggest that most feel they are too far down the road to divorce to benefit from an information meeting. They are not the group targeted by the FLA since it is intended that people contemplating divorce would be required to attend an information meeting at least three months in advance of making a statement. This particular group, however, was crucial as regards those pilots that tested provision of a separate meeting for people already involved in divorce proceedings. The evaluation is particularly apposite in view of the *Supporting Families* proposal for a

separate group presentation to give couples information about children, finance and property issues, and to explain the helpfulness of mediation ... at the time people would need this information.²⁴

As the proposal suggests, there is a view that information about some issues – mediation in particular – would have more impact at that stage than earlier in the process. However, only two of the survey respondents made any comment whatsoever about mediation. One of them suggested that she and her partner might have made use of mediation if only they had known how, but indicated that by the time she attended the meeting it was too late. The other simply stated that the information about mediation was not useful given that the divorce was in progress. These comments may indicate continuing misunderstanding about what mediation is. But the absence of reference to mediation in the comments of others seems to suggest that the mediation message did not have a significant impact.

It may be that there is more value in giving messages about parenting at the time divorce is initiated. This is important given the *Supporting Families* suggestion that the introduction of a separate group presentation would ensure that divorcing parents would be ‘able to make decisions that are in the best interests of their children’.²⁵ Although several survey respondents felt that the information meeting was too late, the messages about children still appeared to have some impact:

I found it helpful to anticipate what reaction the divorce had on my youngest child [aged 10], although it was still very difficult to deal with. (M)

I had been separated from my husband for several months before I was invited to the information meeting, so I had already sought advice, and had actually petitioned for divorce. But, it did help me to see some things clearer, particularly relating to the effect the situation was having on my son. It is a very difficult and stressful time, so the information I received was greatly appreciated. (F)

²⁴ *Supporting Families, op. cit.*, para. 4.33.

²⁵ *ibid.*

Table 8.10 Attendees' feelings about having gone to an information meeting¹

	Age of youngest child				
	<i>no children</i>	<i>0-4</i>	<i>5-11</i>	<i>12-17</i>	<i>18 and over</i>
	%	%	%	%	%
I am glad I went	42.9	66.7	79.5	62.5	51.9
I wish I had not gone	35.7	3.0	0.0	6.3	0.0
I have no feelings either way	21.4	30.3	20.5	31.3	48.1
Total (100%)	14	33	44	16	27

¹Chi-squared was not calculated owing to large number of cells with low expected values. If 'wish I had not gone' and 'no feelings either way' are combined, Chi-squared = 9.236; p = .055.

Seven of the 51 people who offered comments made reference to the usefulness of the information about the impact that divorce might have on children. Indeed, as Tables 8.10 and 8.11 show, having children made a significant impact on what people thought about the meeting. People who had children under the age of 18 were more likely than those without children and those with adult children only to indicate that they were glad they had attended (Table 8.10), and to feel that the meeting had helped them to make decisions (Table 8.11). It is interesting to note that, of the seven people who wished they had not gone to the meeting, five had no children.

Table 8.11 Attendees' views about whether information meeting had helped them make decisions

	Age of youngest child				
	<i>no children</i>	<i>0-4</i>	<i>5-11</i>	<i>12-17</i>	<i>18 and over</i>
	%	%	%	%	%
Yes	14.3	33.3	50	31.2	18.5
No	85.7	66.7	50	68.8	81.5
Total (100%)	14	33	44	16	27

Chi-squared = 10.44; p = .034.

One parent of young children suggested the incorporation into the divorce process of a meeting that would be targeted on getting information about children across to both parents:

I think that with couples that have young children involved in the divorce ... it should be made advisable, if not compulsory, for both parties (not necessarily at the same meeting) to attend some input regarding the effects that may be apparent with the children involved. (M)

The comments survey respondents made suggest that most people involved in divorce proceedings had already obtained most of the information provided at the information presentation, although some still required information about specific issues. They had either consulted solicitors or had made efforts to find information for themselves. The comments suggested, however, that most people who have reached this stage of the

divorce process tend to be at what we have described as the third level of ignorance.²⁶ They have made their minds up about what to do and have gathered sufficient information about how to proceed, but some of them continue to want help with resolving particular issues. The diversity of these 'particular issues', however, makes it difficult to provide a meeting that will be relevant to all-comers. Moreover, one respondent pointed to the need for ongoing advice:

I found the meeting that I attended to be quite helpful, and all the questions that I had were answered. Maybe this was because the advice was free and the advisors were from different fields. However, I felt that people involved in matrimonial disputes need ongoing access to this sort of advice/information meeting as the alternatives i.e. solicitors are too expensive and Citizens' Advice Bureaux are good only for basic questions. (M)

It may be that people who want specific information would be best served by a CD-ROM, a website or some other format that can be accessed as and when information is required. The research has shown that there are a number of different ways of providing advice, guidance and information, and that the merits of each depend on the circumstances of the information seeker.

Although many of the comments of those people who attended a group presentation after commencing divorce proceedings suggest that this may have come too late for the kind of information presented at information meetings to be of maximum use, it was clear that many felt they might have found the information useful earlier in the separation process. One said:

I feel that the earlier meetings are attended the more beneficial they would be, and would suggest that if they are introduced on a permanent, or more extensive basis, then details of the meetings could be given by solicitors or Citizens' Advice Bureaux. They are often the first port-of-call for some considering divorce. (F)

Such a suggestion points to the potential for using existing agencies for the provision of information as an alternative to creating a separate agency. In a similar vein, two respondents suggested linking provision of information with marriage counselling, perhaps implying that it might be appropriate to tag divorce-related information on to a stand-alone meeting with a marriage counsellor:

I suggest you tack something of this nature on to RELATE. Before the divorce is in court. (F)

I think such a meeting would be more useful to couples, perhaps in counselling, to highlight the practical consequences before a total split has occurred, if the deterioration is not due to abuse or violence. (F)

The merit of such an approach would be that it would allow exploration of relationship issues and emotions to be dealt with in advance of information being provided. In such circumstances, recipients of information may be more ready to make use of it.

²⁶ See Ch. 4.

Group Presentations for Parents

Married parents

There are clear indications that group presentations are more likely to be appreciated and found relevant by parents. This should not be interpreted as meaning that parents prefer group meetings, however. In Table 8.12, we examine the responses to the question of whether attendees found meetings useful by comparing people who went to a group meeting only with those who attended a Model A meeting – that is, the individual meeting that was designed to provide the full complement of information.

The data reveal that for each of the categories defined by the age of the youngest child, individual meetings were rated as significantly more helpful than group presentations. It is worth noting, however, that there was not the same degree of polarisation between parents and non-parents with regard to the individual meeting as there was in respect of group presentations.

Table 8.12 Model A and group meeting attendees' views on usefulness of meeting by age of youngest child

Age of youngest child	Attendee's view of usefulness	Type of meeting attended	
		Model A %	group meeting %
0–4 years	Very useful	69.4	49.1
	Fairly useful	29.5	49.5
	Not at all useful	1.1	1.4
	Total (100%)	363	428
Chi-squared = 33.67; p < .001			
5–11 years	Very useful	66.7	38.8
	Fairly useful	31.6	59.7
	Not at all useful	1.8	1.5
	Total (100%)	456	546
Chi-squared = 79.43; p < .001			
12–17 years	Very useful	66.5	36.9
	Fairly useful	32.7	61.1
	Not at all useful	0.8	2.0
	Total (100%)	257	352
Chi-squared = 52.21; p < .001			
Over 17 years	Very useful	67.2	31.6
	Fairly useful	31.5	61.1
	Not at all useful	1.3	7.3
	Total (100%)	232	329
Chi-squared = 71.90; p < .001			
No children	Very useful	58.1	35.9
	Fairly useful	40.6	58.2
	Not at all useful	1.3	6.0
	Total (100%)	160	184
Chi-squared = 19.49; p < .001			

Unmarried parents

Throughout the pilot programme, group presentations were available to non-married parents. The initial promotional leaflets suggested the group ‘session’ was for married and unmarried people involved in disputes about children. Leaflets introduced with the launch of Model C informed non-married parents that they could attend a group presentation if they:

- were having difficulties establishing where their children should live or making contact arrangements for their children
- were thinking about taking a child’s other parent to court to resolve disagreements about residence or contact
- had already started court proceedings to obtain a court order for residence, contact or prohibited steps

The expectation was that only parents would take up this offer, but there were some exceptions. In one case, a grandmother with residence attended a group presentation because the child’s mother had started proceedings under the Children Act 1989. In another case, a man had taken up proceedings not only in respect of his biological child, but also in respect of a child of his partner’s former marriage, of whom he was the legal guardian. One female attendee went to a meeting to find out how to clarify arrangements with her child’s ‘other parent’, who also happened to be a woman.

It proved difficult to attract non-married people to group presentations. In an attempt to boost numbers, invitations were sent out via courts to people involved in Children Act proceedings. However, the 2,739 invitations sent out resulted in only 53 people making applications to attend a group presentation, and only 22 of these actually attended. In total, 388 non-married people applied to attend a group meeting but only 156 actually attended. The other parent of the child accompanied three of these. Only 43 attendees, including the 22 who attended after receiving an information via the court, were involved in Children Act proceedings at the time they went to the presentation.

The opt-out rate among non-married applicants was higher than that of married applicants. Sixty per cent of non-married applicants failed to turn up for the meeting, as against 40 per cent of married people who made an appointment to attend a group meeting. The distribution of applicants and attendees across the various models is shown in Table 8.13.

Table 8.13 Attendance of non-married attendees at group presentations by model

	Model B	Model C	Model D	Model F	All models
Attended	27	52	43	34	156
Did not attend	49	81	59	43	232
All applicants	76	133	102	77	388

We examined whether there were any factors that were significantly associated with non-married people opting out between making an appointment and actually attending a group presentation. We found that:

- Men were more likely to attend than women: 49 per cent of male applicants attended, as against 33 per cent of female applicants.
- Non-resident parents were more likely to keep their appointment (47% attended) than were resident parents (35% attended). Male resident parents, however, were more likely to attend than female resident parents.
- Those applicants who were involved in Children Act proceedings were less likely than others to attend.

Fifty-seven per cent of non-married attendees were male, and 43 per cent female. Forty-four per cent were resident parents, 47 per cent were non-resident parents and the remainder had joint parenting arrangements. Twenty-eight per cent of attendees said they were divorced from the other parent of the children in connection with whom they went to the presentation, a further 32 per cent said they were separated, 35 per cent were previously cohabiting and 4 per cent had apparently never been together in a relationship. Of the parents involved in Children Act proceedings 13 were in dispute about residence, 28 were in dispute about contact, and three were involved in applications for a prohibited steps order.

As Table 8.14 shows, 12 per cent of unmarried attendees had used mediation in the year prior to their attending an information presentation, and 53 per cent had consulted a solicitor. There are, however, marked differences between those who were involved in Children Act proceedings and those who were not.

Table 8.14 Use of previous services by whether attendees were involved in Children Act proceedings

	Involved in proceedings %	Not involved in proceedings %	All unmarried attendees %
Used mediation	19	7	12
Consulted a solicitor	77	38	53
Number of respondents	43	113	156

After attending the group information presentation:

- 38 per cent said the presentation had been useful, 55 per cent said it had been fairly useful and 7 per cent said it had not been useful at all
- 31 per cent felt the information had been relevant to their needs, 61 per cent felt it had been fairly relevant and 8 per cent felt it had not been relevant at all

- 63 per cent indicated that they would definitely recommend the presentation to others, while 33 per cent felt that they might recommend it
- 35 per cent described the video as very helpful, 60 per cent said it was fairly helpful and 6 per cent felt it had been not helpful at all

As Table 8.15 shows, unmarried people who attended group presentations tended to feel that they had increased their knowledge about relevant topics. This was particularly the case concerning family mediation, about which 57 per cent indicated that they had learned much more and 29 per cent had learned a little more.

Table 8.15 Attendees' views about whether group presentation had increased their knowledge about different topics (N = 156)

	A lot more	A little more	No more	Not relevant/don't know
	%	%	%	%
Family mediation	44	22	8	25
Court welfare services	20	33	15	33
How children might feel	16	15	18	56
Protection from violence	8	21	21	35

There is no evidence of differences between models concerning customer satisfaction. However, it would seem that people who were involved in Children Act proceedings when they applied to attend a group presentation were less likely than others to have found the meeting useful (Table 8.16).

Table 8.16 Usefulness of group presentation by involvement in proceedings

	Involved in Children Act proceedings	Not involved in proceedings	All attendees
	%	%	%
Very useful	23.8	43.1	37.7
Fairly useful	54.8	55.0	55.0
Not at all useful	21.4	1.8	7.3
Number of attendees	42	109	151

Chi-squared = 18.97; $p < .001$.

Too few unmarried people have attended information meetings to allow us to have a great deal of confidence in findings such as those shown in Table 8.16. Nevertheless, the suggestion that people involved in Children Act proceedings are less likely than others to find the meeting useful does arouse some concern, given the suggestion of a compulsory group meeting mooted in the *Supporting Families* discussion paper.²⁷ In an attempt to

²⁷ *Supporting Families, op. cit.*

shed more light on this issue, we examined data generated from in-depth telephone interviews with 19 unmarried people who had attended a group presentation after they had become involved in Children Act proceedings. Thirteen of these attendees were male and six female. Most felt the information meeting was too late to be relevant to their circumstances. The following comments indicate the nature of the problem:

It would have been useful before the separation and divorce, especially for a way back together. It would have saved a lot of hassle. (M)

I had been to court several times before I got to the meeting. (M)

One attendee who indicated uncertainty concerning what she thought about the timing of the meeting told us:

This wasn't available before. If it had been, I would definitely have gone at the beginning of the divorce process. In earlier stages, I would have found it very useful and it would have changed the way I handled my divorce. I wish it had been available then. (F)

Children Act applicants tended to feel that the information presentation had been overloaded with information that was not relevant to their circumstances. Although one wanted information about 'property and dividing assets between parties' and two indicated that they were seeking general information, most simply wanted information on children's issues:

I was already divorced before going to see the presentation. I just wanted to know if there was anything more I could learn, about the new law and children. (M)

I am trying to share access to the children and my ex-partner is fighting this. I want to gain as much information as possible. (M)

I wanted to know about children's issues. (F)

Mediation proved to be the only issue about which the majority of these attendees regarded themselves as being better informed as a result of having attended the group presentation. A few of them indicated that they would be willing to use it if only their ex-partner would agree:

I thought about it before the divorce but my ex-wife wasn't interested. (M)

I wished that I had done more about persuading my ex-wife before divorcing to go to mediation to discuss arrangements for the kids. (M)

If my partner would have gone, I would have tried. (M)

It is the sensible option. (M)

Most felt that they had learned enough about the other issues discussed at the group presentation through their own experiences:

I have already been through it, so I know what it's like. (M)

I'm in the middle of it, so I knew it already. (M)

I already knew, as I am already divorced. (F)

Since these attendees were involved in Children Act proceedings it was clearly the information about children that was of most interest to them. Moreover:

- 84 per cent said they found the information about children's feelings useful
- 61 per cent said they knew more about children's feelings as a result of having gone to the meeting
- 29 per cent felt better informed about making arrangements for children, while 53 per cent found information on making arrangements useful.

Those who found the information on children's feelings useful did so because it made them more aware:

It's useful to reinforce the need to keep thinking of the issues and to reassure our child. (F)

It helped me realise that I couldn't use the children as a weapon and that was what I was doing. (F)

Those who neither found the information on children's feelings useful nor felt better informed about children's arrangements indicated that they were not told anything at the presentation that they did not already know:

I felt this was good information but not really suitable for me. I wanted information on the practical side; this was not discussed enough. (F)

The information didn't help my situation; I want to get access and a more important role in their upbringing. The information was all about people who were married, it's not relevant to me. (M)

Three of the attendees indicated that they would consider changing arrangements for their children because of the presentation, and one of these had already done so. Another, who indicated that she would not be changing her arrangements, suggested that the presentation had affected that decision:

Because I realised that our arrangements were ideal for our son, if not necessarily for us. (F)

Others, however, felt that questions about changing arrangements were not relevant, because the seeming impossibility of bringing about change was the reason they had gone to the information meeting in the first place:

Arrangements have been made but my ex-wife won't allow them. The court ruled in my favour but access isn't happening. Enforcing arrangements isn't happening. This isn't right: we are talking about children here – using the term 'enforcing' sums up the situation. (M)

A contact order and shared access is what I wanted and I can't get it. I was ignored by my solicitor. (M)

Not applicable to my situation as the courts are dealing with the issue of access. (M)

Such comments raise the question of whether it would be more appropriate for the other parent to attend an information meeting.

As Table 8.16 suggests, Children Act applicants had mixed feelings about the value of the group presentation. When asked how they felt after the meeting as opposed to before it, a third made positive comments, such as the following:

On balance, I was pleased I'd gone. I felt better informed. (M)

A fifth, however, were disappointed about not getting the information they had hoped for:

I felt disappointed. I wanted more on residence, and what would happen in court. (F)

However, the majority of the Children Act applicants indicated that they were glad they had gone to a group presentation. Their comments, however, reiterate the feeling that for some of them the meeting had come too late, and when asked if they would recommend it to others they made the following comments:

Yes, if earlier on, but not for those who had been to court. (M)

Not for people like me who are divorced already, but for people who are thinking about it. (M)

The Future of Group Presentations

Although the feelings of people involved in Children Act applications regarding attendance at group presentations were mixed, and in some cases confused, their views cast doubt on the validity of extending compulsory attendance at a group presentation, as it was conducted in the pilots, particularly if they shared that presentation with people whose main reason for going was to obtain a divorce. Moreover, the indications are that people who are embroiled in legal disputes about children find the meeting less useful than those whose disagreements have not gone so far as Children Act proceedings. The main objection would appear to concern the focus of the presentation, which currently goes well beyond issues about children. These people complained about sitting through information which, while it may have been relevant to them in the past, does not relate to their current circumstances. This is a view that is endorsed by some presenters. For instance, one of them suggested:

If the group were specific to married or non-married people, the presentation could be suitably tailored to the specific group. At present, I feel that there is some discontent/disappointment on the part of the non-married at having to sit through material that is almost certainly of no relevance to them.

We found similar views among married people who either had no children or whose children were adult. They tended to appreciate the opportunity to attend a group presentation, but felt that the presentation was tailored to people with children to such an

extent that much of it was not relevant to them. People who attended a group presentation after they had commenced divorce proceedings also seemed to feel that much of the content did not relate to their circumstances. There were, therefore, strong arguments in favour of information presentations that focus on particular groups, suggesting something akin to the 'shorter and more focussed information sessions' that have recently been introduced into the Australian Family Court.²⁸ This may be an appropriate way forward, although a more in-depth approach to information, as provided by the six-hour-long meeting about post-divorce parenting that is practised in the Canadian Province of Alberta, might be an option for some of the groups concerned.²⁹

Group presentations did not achieve the same levels of customer satisfaction as individual face-to-face meetings. Nevertheless, group presentations may be regarded as a more cost-effective approach to presenting information. If several people attend together, meetings can clearly be provided more cheaply. Moreover, differences in customer satisfaction are not matched by equivalent differences in outcomes. Nevertheless, a one-model-fits-all approach is clearly no more pertinent for group presentations than it is for individual meetings. People who attend meetings expect the information presented to be relevant to their circumstances.

There may be an argument in favour of continuing to provide group presentations, but adapting them so that they are directed at specific groups, such as parents. However, there must be doubts as to whether enough people would want to attend such presentations to render them viable if they were voluntary. The pilots experienced acute difficulties in generating sufficient numbers of volunteers for group meetings despite the fact that some of them only operated the type of group meeting which was available to all-comers. They would probably have found it impossible to conduct viable group meetings if they had been charged with spreading the applicants among different types of group presentation. There is, of course, no way of knowing at this stage whether a meeting with a different focus, such as parenting after separation, would attract more customers. This is a model which might benefit from experimentation.

In the White Paper preceding the Family Law Bill, it was suggested that group meetings might be less intimidating than individual meetings, but if this is correct, we need to ask why so many people who made an appointment to attend a group presentation failed to turn up. Although some people who attended a group presentation indicated that they found comfort in the presence of others with similar problems to their own, there were others who described feeling distinctly uncomfortable.

The obvious advantage of group presentations over individual meetings is clearly one of cost, although the extent of this is very much dependent on the potential size of the groups. If few people attend, it seems doubtful that substantial cost savings would accrue, especially if two presenters are required for each meeting. The research has indicated, however, that the presentation does not necessarily require presenters from 'prescribed' professional backgrounds. We found no evidence that people drawn from within the 'prescribed' professions of law, mediation and family court welfare were more competent than others, although the problems that pilots experienced in recruiting from particular groups may render comparison meaningless. We did find that people from backgrounds other than those that were originally prescribed could, with appropriate training, acquire the necessary skills. It also seemed that presenters who did not have a background in the divorce-related professions were less prone to cross the boundary between providing

²⁸ Glare (1999), *op. cit.* See also Ch. 34.

²⁹ Sieppert, Llybarger, Bertrand and Hornick (1999), *op. cit.* See Ch. 34.

information and giving advice. This difference, however, might well dissipate if they were to become more knowledgeable about the legal issues connected with divorce, as they probably would if they were engaged in the role of presenter for any length of time.

If group presentations are to be compulsory in any form, some improvements need to be made to the models piloted. Our observations suggest that the presentations tended to be extremely dull. Significant attention needs to be given to provision of a meeting that would be appreciated by those who attend reluctantly, as well as those who volunteer to attend. Video will no doubt continue to be an important element, but there are serious questions as to whether either of the videos used during the pilot programme would be suitable. It seems clear that a different video is required. However, one might ask whether it is feasible to restrict a video to people who attend a meeting. There are clearly other ways in which video technology can be used which would disseminate information to more people and, perhaps, at more appropriate times than would be possible in a group meeting.

Chapter 9

Receiving Information by CD-ROM

Peter McCarthy and John Kain

In a world in which the internet and other emerging technologies are having a profound effect on business, and everyday lives, we believe that the civil justice system must change to meet the likely needs of its users in the future; users who will expect access to the system through a variety of channels and improved services. We therefore need to look ahead in order to plan and develop the future shape of the justice system in the information age.¹

The Lord Chancellor's Department has charted how the civil justice system can respond to the challenges of new technology, and is considering ways in which information technology can improve the way civil justice is delivered in the future. The overall agenda is to empower citizens through increased knowledge of legal rights and responsibilities. The vision of an integrated civil justice system is one where the courts are a forum of last resort, and in which new technology can provide different ways of delivering both existing and new services.

During the pilots, information meetings were subject to experiment with new technologies. Two of the models (E and F) tested during the pilots provided information through a CD-ROM. Prior to the introduction of this approach, the Lord Chancellor's Department sought legal guidance as to whether information presented via a CD-ROM could constitute a meeting within the meaning of the Act. The view of the legal experts consulted was that the CD-ROM presentation, as it was to be conducted in the pilots, could be described as a meeting, given that an attendee would be met by a facilitator, who would explain how to access information via the CD-ROM and subsequently give the attendee an information pack. It was felt that a person sitting in front of a computer would not in itself satisfy the requirements of the Family Law Act, but when the whole event was considered it could readily be regarded as a meeting. Thus, the definition of a meeting crucially depends on the presence of a facilitator whom the attendee meets.

The CD-ROMs were commissioned by the National Council for Family Proceedings, and were produced by specialist companies following a process of competitive tendering. Two versions of CD-ROM were employed. The Solent and Isle of Wight and the Merseyside and North Wales pilots used a CD-ROM (Model E) which provided the same information as was given by a presenter to people who attended a Model A meeting – that is, information about all the elements stipulated in the FLA. The CD-ROM used by the Leicester and East Midlands and the North East pilots (Model F) provided the same information as that given by Model C individual meeting presenters, that is, information that focused on saving marriages and the availability of marriage support. Model F CD-ROM meetings were available only to people who were not involved in divorce proceedings (as in Model C). Those applicants who were involved in proceedings were directed to a group presentation. There were no restrictions as regards who could attend a Model E meeting, which was available to all married people irrespective of which point they had reached in the process of ending their marriage.

¹ Civil Justice 2000: 'A Vision of the Civil Justice System in the Information Age', para. 1.5.
<http://www.open.gov.uk/lcd/cj2000/cj2000.htm>

As with other models, everyone who attended a CD-ROM-based meeting was given an information pack to take away with them. Those who attended the Model F version were provided with a parenting plan, but these were not distributed after Model E meetings, thus preserving the similarity with the Model A meeting. A total of 2,438 people booked in to an information meeting at which information was obtained via CD-ROM, and 1,956 kept their appointment. The distribution of attendees by model and pilot site is shown in Table 9.1.

Table 9.1 Attendance at CD-ROM meetings

Pilot site	Model F	Model E	All models
Merseyside	–	411	411
Solent	–	717	717
Leicestershire	490	–	490
North East	338	–	338
All pilots	828	1,128	1,956

Collecting Data

CD-ROM-based meetings were evaluated via the same range of methodologies as were used to evaluate other models. These are outlined in Figures 9.1 and 9.2, and included:

- consultation with relevant professionals, both before and during the pilot implementation
- consultation with facilitators during and after training, and at the end of the pilots
- questionnaires completed by facilitators after each information meeting
- questionnaires completed by attendees after meetings
- interviews with attendees 4–6 weeks after the meeting
- interviews with attendees 5–7 months after the meeting

In addition, the CD-ROMs were shown to some serving prisoners, and were used in consultations with prisoners and prison staff (see Chapter 28).

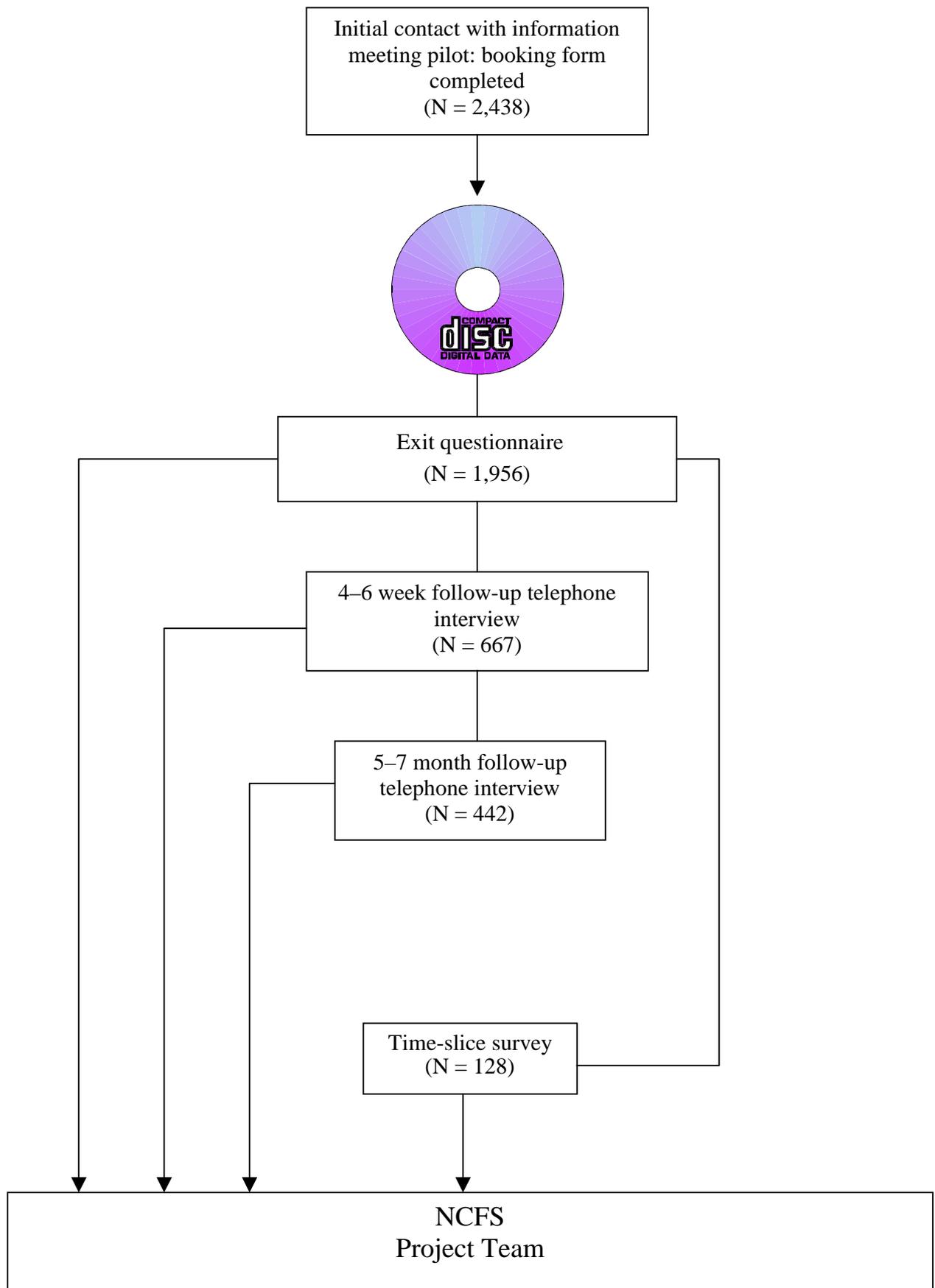


Figure 9.1 Data from applicants and attendees in respect of CD-ROM meetings

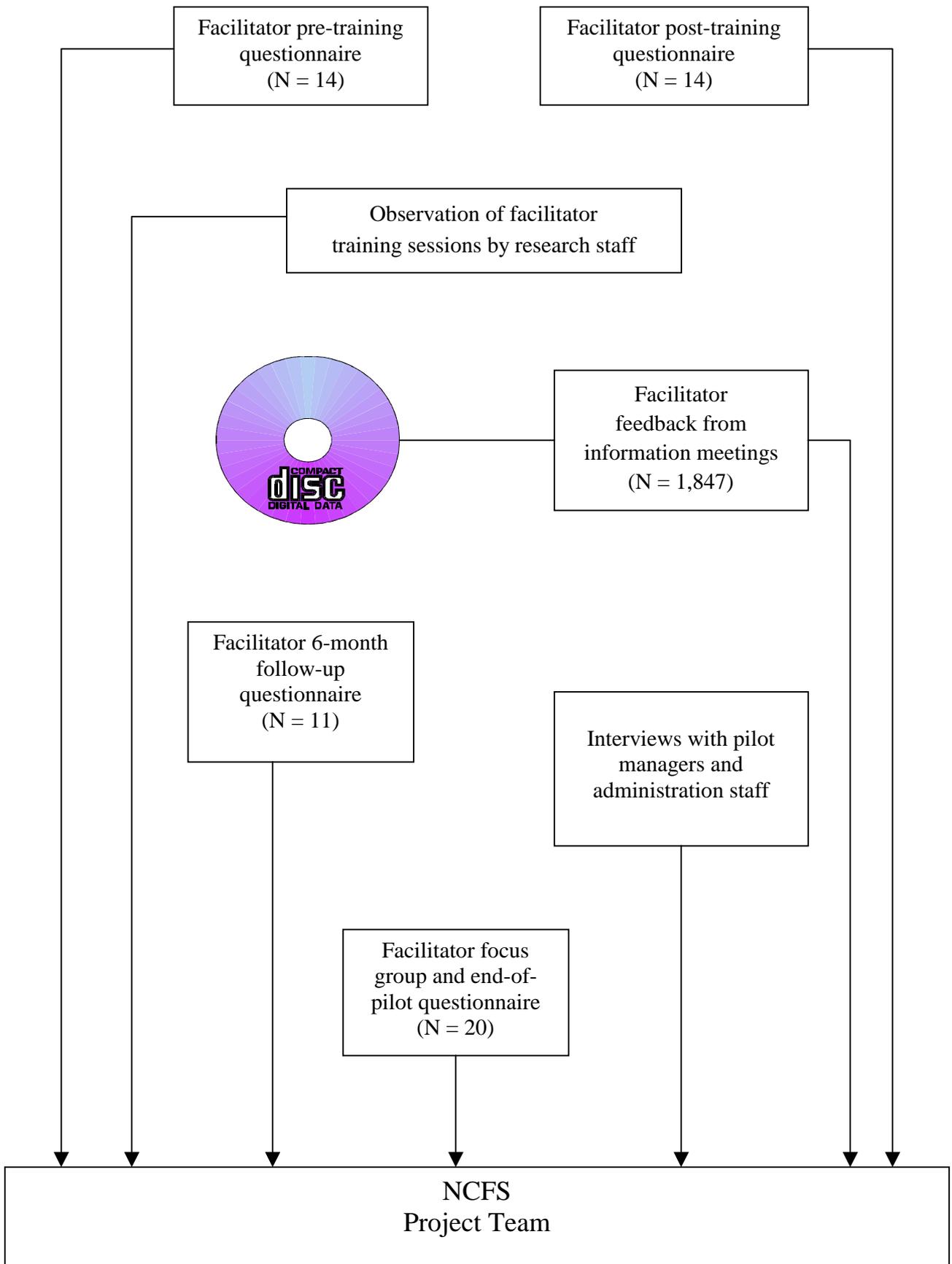


Figure 9.2 Data from facilitators in respect of CD-ROM meetings

Effectiveness of Computerised Information Systems

Although the use of computers has become widespread, there is a dearth of evidence as to whether they are an effective means of disseminating information. Computers have facilitated wider availability of information, but the important question is whether people assimilate information from a computer as readily or more readily than they do via traditional means. We were unable to find research evidence that dealt directly with this question, although there is evidence that computer-assisted learning is becoming commonplace in learning environments – schools and colleges. Computers have also been adopted as learning tools in industry, particularly in the area of staff development. Indeed, computer-based training and computer-assisted instruction, which employ computer programs in teaching/instructional courses, have commanded a significant niche in the training market. Moreover, there is a growing catalogue of off-the-shelf pre-constructed packages that are applicable to many settings (e.g. revision packages for GCSE and A levels).

One of the aims of information meetings, including those that used a CD-ROM, was that attendees should learn about marriage support and divorce processes, other relevant services, and the likely impact of divorce on their lives. It is possible to obtain an indication of the potential effectiveness of CD-ROMs by evaluating computer-assisted learning programs. James *et al.*² have complained of an absence of the evaluation of such programs from the perspective of users, suggesting that the studies which have taken place have tended to focus on technical issues. They have, however, evaluated a computer-aided learning initiative that used CD-ROMs in the teaching of geology students at the University of Adelaide. The program used in that study had a format similar to that of the one used in the information pilots. A facilitator showed students how to access the program, which recorded their progress and allowed them to repeat sections. Evaluation employed multiple methods, including a pre- and post-test questionnaire, in-depth interviews and analysis of students' exam results. The researchers compared the students who had used the program with their counterparts who been taught in the traditional manner. Although the participating students had little knowledge of the subject that they were learning about, and even less about the program and mode of delivery, they apparently 'showed a willingness and enthusiasm to embrace more student-directed and self-paced "flexible" learning'.³

James's study indicated that the students recognised that the program had given them greater control over the learning process. The students felt, however, that they had to become much more self-directed and independent in their approach to studying than if they had been taught in the traditional manner. The computer program enabled them to work at their own pace, and they found it useful to be able to repeat elements that they did not understand. One student told the researchers:

You can concentrate on parts you don't understand and move quickly through the parts you do ... You don't miss important points like you often do in lectures.

² James, J., Clark, R., Hillis, R. and Peterson, R., 'Evaluation of interactive multimedia in tertiary geoscience', *Learning Curve* (1998). <http://www.learning-curve.com.au/explore/adel.html>

³ *ibid.*, p. 5.

Storing and retrieving information

The introduction of CD-ROMs has had a powerful impact on the storage and retrieval of information. CD-ROMs have proved particularly effective for storing bibliographical references. An evaluation of the introduction of CD-ROM databases into a public library⁴ found that people generally found them easy to use, even if they had never used a computer before. The findings, however, demonstrated the importance of utilising software that can operate at different levels and which, therefore, can meet the requirements of different types of user:

To make the software suitable for both novice and experienced searchers, some products provide different levels of available features. A new or infrequent user can perform a basic search without being confronted with unnecessary features, while some wishing to perform a complex search can select an advanced level.⁵

Schultz and Salamon⁶ interviewed students who performed searches of the Business Periodicals Index, comparing those who used the CD-ROM version for the first time with other students who used a paper-based catalogue system. Of those who used the CD-ROM version:

- 83 per cent said it saved time
- 64 per cent felt it was easy to use
- 60 per cent were happy with the results
- 62 per cent thought the product was useful
- 85 per cent preferred the CD-ROM to the paper-based system

Even students who had little experience of CD-ROMs preferred using them to using the paper-based system, and two-thirds of students indicated that they would rather wait for a computer to become free than use the paper-based system. It seems, then, that CD-ROMs offer an effective way of providing information, and that a CD-ROM can be accessed by people with low levels of computing expertise with minimal instruction and support. Computers have facilitated the storage of vast amounts of information. Research evidence suggests that most people can develop the skills to be able to retrieve the information they desire. Moreover, with appropriate programming, computerised information systems can meet the needs of a range of users, from the complete novice to the computer professional. Computers can facilitate the assimilation of information, and be an aid to learning.

⁴ Tinanoff, S., 'End-user searching with CD-ROM databases', (1996).
<http://www.mirrored.ukoln.ac.uk/lis-j...w/review/winter1996/tinanoff.html>

⁵ *ibid.*, p. 4.

⁶ Schultz, K. and Salamon, K., 'End-user response to CD-ROM', *Library Journal* (February 1990), pp. 56–7.

Information meetings

The evidence suggests that computerised learning systems are effective primarily because users can learn at their own pace, and return to the program when they need to update their knowledge or seek answers to specific questions. If this is the case, requiring attendees to go to a meeting in order to access a CD-ROM might not be the best way of maximising the benefits of the medium. Since the information meeting is a one-off, there is limited opportunity either to proceed at one's own pace or to repeat parts that are not understood. One might argue, however, that computerised information offers a greater opportunity for self-pacing and reflection than information provided by a presenter who follows a script. However, as the James *et al.* (1998) study showed, computerised information provision alone may not be enough and ought, ideally, to be combined with other means of providing information such as group discussions or question-and-answer sessions with course leaders. This would suggest that people who access divorce-related information from a CD-ROM might get more from the exercise if they were to have the opportunity to ask questions or to discuss their experiences with others.

Access to Computers

Gender

One of the problems frequently mentioned in connection with the use of computers for disseminating information is that they are more appropriate for some groups than others. In particular there is evidence of a gender gap, men being more confident about using computers than women.⁷ Kiesler, Sproull and Eccles⁸ suggested that the world of computing 'seems to be more consistent with male adolescent culture than with feminine values and goals'. Markoff referred to women as 'bystanders in the passionate romance that men conduct with these machines'.⁹ Badagliacco argues:

As computers continue to enter every aspect of our daily lives, girls and women, and minorities in general, stand to lose considerably by not acquiring the requisite technical competence.¹⁰

Although there is evidence that the gender difference is not so marked among younger people – among the under-24s more women than men are connected to the internet¹¹ – it currently represents something of a problem. If information meetings are targeted at the person intending to apply for divorce, it seems likely that they will involve more women than men. During the pilots, women outnumbered men by about two to one, but it seems that women are less likely to have computing experience. Fifty per cent of the men who attended a CD-ROM meeting, as against 40 per cent of the women, claimed to have had a great deal of computing experience. By contrast, only 15 per cent of men and 16 per cent of women said they had never used a computer. Although computer technology has entered the workplace and become commonplace in the kind of office jobs which commonly employ women, male attendees were more likely than females to have used a

⁷ Badagliacco, J.M., 'Gender and race differences in computing attitudes and experience', *Social Science Computer Review*, vol. 8 (1990), pp. 42–63.

⁸ Kiesler, S., Sproull, L. and Eccles, J., 'Poolhalls, chips and war games: women in the culture of computing', *Psychology of Women Quarterly*, vol. 19 (1985), pp. 451–62.

⁹ Markoff, J., 'Computing in America', *New York Times* (13 February 1989), p. 7.

¹⁰ *ibid.*, p. 44.

¹¹ Weale, S., 'Women of the world, click here!', *Guardian G2* (20 January 2000), pp. 6–7.

computer at work: 58 per cent as against 48 per cent. It is also noteworthy that 33 women, but only 3 men, had a computer at home which they had never used.

Social class

The computer revolution has, thus far, not affected all social groups equally. Computer technology is more accessible to higher-status groups, and is more likely to be used by younger people. An online *Guardian* article referred to free internet access being offered by the *Sun*.¹² The article states:

It is the fact that the Sun is doing it which is important; it marks a cultural, attitudinal change. It shows the Net is not just for nerds, not just for people interested in technology, but also for people who are interested in entertainment. Up until now the Net has not been a mass medium but dominated instead by the male business user.

The article suggests that 30 per cent of people belonging to social class AB have access to the internet through a home computer. This compares with 16 per cent of skilled non-manual workers (C1) and only 2 per cent of people from the lowest socio-economic groups (DE). Apparently, fewer than 20 per cent of *Sun* readers owned personal computers, and only one in a hundred had internet access. It seems that the *Sun*, in offering free internet access to its readers, was actively trying to increase internet use among low-income groups and to break the current middle-class domination of the network.

Suggestions of inequality of access to computers are supported by our findings concerning people who attended a CD-ROM-based information meeting. As Table 9.2 indicates, we found a distinct association between social class and computing experience. People with higher-status socio-economic backgrounds tended to be more experienced in using computers. For example, as many as 78 per cent of professionals, as against only 17 per cent of unskilled workers, had a large amount of computing experience. This may mean that some groups are at a disadvantage when new technology is used to provide information. However, even those with no computing experience found using the program relatively easy.

Table 9.2 Attendees' experience of computing by socio-economic group

	A lot %	A little %	None %	Total (100%)
Professional	77.5	19.6	2.9	102
Managerial and technical	45.7	45.7	8.6	523
Skilled non-manual	61.4	32.8	5.8	466
Skilled manual	27.8	42.1	30.1	302
Partly skilled	25.8	51.5	22.7	163
Unskilled	17.0	43.4	39.6	53
All respondents	45.9	40.1	13.9	1,609

Chi-squared = 250.297; $p < .001$.

¹² 'Can the sun light up cyberspace for all?', *Guardian Unlimited* (4 April 1999), <http://www.guardianunlimited.co.uk/Archive>

Age

As one might expect, age is also significant factor in the use of computers. As Table 9.3 shows, computing experience was common among attendees aged under 50, but those aged over 50 were significantly less likely ever to have used a computer. As many as 43 per cent of attendees aged over 60 had no previous computing experience whatsoever. However, although conventional wisdom suggests that older people may feel the most anxious about using computers, one research study has found that older adults (aged over 55) were less computer-anxious, despite having generally less computing experience than younger adults (aged under 30).¹³

Table 9.3 Attendees' experience of computing by age

	A lot %	A little %	None %	Total (100%)
Under 30	49.0	36.7	14.3	147
30–39	47.8	40.7	11.5	724
40–49	45.2	40.2	14.6	677
50–59	29.5	46.3	24.2	244
60 and over	12.7	44.4	42.9	61
All respondents	43.3	41.1	15.6	1,850

Chi-squared = 82.073; $p < .001$.

The Importance of Previous Computing Experience

Different types of user

It is likely that many of those who attend a meeting where information is provided via CD-ROM will never have used a computer. Others will be casual users, who access a computer only occasionally. At the other extreme, some people who go to information meetings will be frequent users of computers, and even computer professionals. Such people are likely to seek programs that offer them a wider range of options and will not wish to be constrained by technology aimed at inexperienced users. Misjudging a user's capability can, it seems, create hostility, while underestimating of a user's ability and/or intelligence can lead to feelings of frustration that are not conducive to effective use of the medium.

Anxiety about using computers

The less computer-literate among information meeting applicants may be affected by computer anxiety, or by an 'irrational fear or apprehension felt by an individual when using computers or when considering the possibility of computer utilisation'.¹⁴ Such

¹³ Dyck, J.L. and Smither, J.A., 'Computer anxiety and the older adult: relationships with computer experience, gender, education and age', *Proceedings of the Human Factors Society, 36th Annual Meeting, AGING: Designing New Technologies for Older Adults*, Vol. 1 (1992), pp. 185–9.

¹⁴ Maurer and Simonsen, cited in A.G. Topper, K. Jong-Pil and Z. Hualiang, 'The affect of computer anxiety on computer-based learning: a study of adult learner performance' (1994).
<http://www.educ.msu.edu/homepages/topper/cep900/cep900a1.htm>

feelings may deter these people from attending a meeting or render them unable to use the meeting appropriately. Acute computer anxiety can apparently lead to frustration and irritation, which can lead the computer user into a state of panic. Fajou¹⁵ argues that fear of embarrassment, failure and disappointment often produces physical symptoms, the user becoming cold and sweaty, feeling nauseous, experiencing increase heart rate, becoming tense and feeling like crying. She writes:

There are two states of mind associated with anxiety. The first is the 'mind in chaos', where the mind is in a frenzy or turbulence and has trouble separating all its thoughts. The second is more common and involves a freezing up of the mind, a sense of paralysis or the mind locking up.¹⁶

There was little evidence of such dramatic states among people who attended information meetings. Some attendees admitted to feeling nervous about the prospect of using a computer, but few seemed to feel this acutely. One attendee described herself as 'terrified' at the prospect of using a computer since she had never used one before, but told us afterwards that she felt 'happy' about the meeting and glad she had gone to it.

Only one in ten (N = 1,956) of those who attended a CD-ROM meeting felt apprehensive about using a computer, and most of these indicated that the facilitator had put them at their ease. In the event, only one in a hundred indicated that they found using the computer difficult. Some attendees clearly did have difficulty relating to a computer, but as many as 82 per cent of those whom we interviewed within six weeks of their attending a meeting (N = 608) indicated that they felt a CD-ROM was a good means of providing information. Those who felt otherwise frequently referred to the absence of empathy that is endemic in computer-driven approaches to providing information:

It felt a bit cold. A lot of the information was not relevant. Would have preferred to have someone who was presenting. (F)

It is OK if you enjoy computers. But some people don't like clicking on a button, and would prefer a more personal approach. (F)

I prefer a two-way conversation with a trained person, so that I can ask questions and go into more detail. (F)

I am a bit old-fashioned. I don't think the screen communicates emotions. Doesn't establish rapport. (M)

You are in a very emotional state. The computer can hardly deal with you. (F)

I don't think the average 50-year-old would want to use it. Very off-putting. (F)

You are dealing with a very emotionally charged area. The circumstances of divorce can be anything from adultery to violence. People who are going to watch the CD-ROM are going to be in a highly emotional state, and watching the screen with two people giving you such bland statements, with the line saying 'Do you agree?', I think you are going to get a lot of people throwing the computer through the window, to be honest. (M)

¹⁵ Fajou, S., 'Computer anxiety' (1998). <http://www.usyed.edu.au/projects/compmed/fajou.html>

¹⁶ *ibid.*, p. 1.

Steinberg¹⁷ offered words of warning about over-reliance on computers for the dissemination of information, and suggested that a computer program will be successful only if users find interacting with it congenial. He emphasised the importance of the user feeling in control of the computer rather than feeling the program to be in control. One of the criticisms expressed about both CD-ROMs was that they were not interactive enough. One female user told us:

The computer is set to go on a particular route and, if the route is not suitable for you, you are stuck on it anyway. You cannot alter the course or jump from one item to another. You have to go through everything.

Nevertheless, most of those who thought the CD-ROM a good means of providing information felt they were in control:

Once my confidence built up on the computer, I found it quick and easy to get through. I didn't need a pen and paper to jot things down. (F)

In person, you may feel inhibited. With a computer, you have time to think about it, and it is easier, to be honest. (F)

If someone were trained to tell you the information, you would be wondering if he was giving all the information, or missing bits. They could also be giving tailored answers to suit the individual. It was more comfortable with the CD-ROM, as you can go at your own pace, and take everything on board – repeating and clarifying. Everyone is getting the information. (M)

If, as the preceding comment suggests, 'everyone' will be receiving the information, the type of user must be a prime consideration in the designing of programs. One of the problems relating to programs designed to provide information specified by the FLA is that users are drawn from a wide range of backgrounds. An information-providing program needs to be relevant to the technologically sophisticated as well as to those who have never used a computer before. It must also be responsive to the range of information needs, and be as useful to those who want specific information as to those who are unsure what they want or what they intend to do with the information when they get it.

Using a CD-ROM at a Meeting

Anxiety may be particularly acute if using a computer also involves the stress of attending a meeting. One of the advantages of the CD-ROM as a means of providing information is that it does not necessarily require a meeting. People who have appropriate facilities can take a CD-ROM home with them and use it in circumstances where they have more control over its use. They can view the CD-ROM at home in stages and return to it when they need to update their knowledge: we have already argued that different elements of information are appropriate at different times. Forty-three per cent of male (N = 701) and 46 per cent of female attendees (N = 1,159) apparently had access to a home computer. Having access, however, does not necessarily equate with being able to take advantage of it. For instance, 6 per cent of women who had a computer at home (N = 538) apparently had no experience of actually using it or any other computer, and 44 per cent said they had only 'a little' computing experience. On the other hand, men who had access to a

¹⁷ Steinberg, J., *Computer-assisted Instruction: A Synthesis of Theory, Practice and Technology*, Lawrence Erlbaum (1991).

home computer appear likely to use it. Seventy-two per cent of men who said they had a home computer (N = 299) indicated that they had ‘a lot’ of computing experience.

Thirty per cent of male attendees (N = 701) and 23 per cent of females (N = 1,159) had ‘a lot’ of computing experience, and access to a home computer. This suggests that a considerable number of people could use a CD-ROM at home. One might ask what the advantage is in expecting such people to attend an information meeting unless they are able to discuss the contents with a presenter or facilitator. It may have been more appropriate, and more cost-effective, to have provided people with a CD-ROM which they could have used at home.

The less experienced users, however, will need help with the running of the program and may need to attend a meeting in order to get help with the mechanics of accessing information. Our evidence suggests that previous experience of computing had a significant impact on how easy people found it to use the CD-ROM. As Table 9.4 shows, those who had experience were much more likely to find using the computer easy. Ninety-one per cent of those who had a great deal of computing experience found using the CD-ROM very easy, as against 53 per cent of those with no computing experience. Nevertheless, it is encouraging that only 8 per cent of those with no computing experience found using the CD-ROM difficult.

Table 9.4 Ease of using CD-ROM by previous computing experience of attendees

Previous computing experience	Very easy %	Fairly easy %	Difficult %	Total (100%)
A lot	90.9	8.9	0.2	802
A little	72.5	26.5	1.1	759
None	53.7	38.0	8.4	287
All attendees	77.5	20.6	1.9	1,848

Chi-squared = 245.75; p < .001.

Since computing experience is related to age, gender and social class, it is useful to examine to what extent these factors affect the actual experience of using a CD-ROM. We conducted logistic regression analysis to determine the association of these factors, and of the type of CD-ROM used, with finding using it very easy. The results revealed that there was no association with gender, men and women being equally likely to find using the CD-ROM very easy.¹⁸

The regression analysis showed, however, that people from minority ethnic groups seemed to have more difficulty than white attendees, although they were no less likely to have had computing experience. Younger attendees were more likely than older attendees to find using the computer easy, and there was clear evidence of a class effect. Table 9.5 shows that non-manual workers were more likely than those in manual occupations to find it very easy. Nevertheless, around three-quarters of manual workers found using the computer to be very easy, and very few felt it was difficult.

¹⁸ See Annexe 5, Table A5.19.

Table 9.5 Ease of using the computer by socio-economic status of attendees

	Socio-economic category					
	A	B	C1	C2	D	E
	%	%	%	%	%	%
Very easy	88.1	77.8	84.7	73.5	74.8	71.2
Fairly easy	10.9	20.7	14.0	24.5	22.1	26.9
Difficult	1.0	1.5	1.3	2.0	3.1	1.9
Total (100%)	101	523	465	302	163	52

Chi-squared = 29.22; p = .015.

It also seems that the Model F CD-ROM was easier to use than the Model E; 86 per cent of Model F (N = 790) users, as against 71 per cent of Model E users (N = 1,062), described using it as 'very easy'. It should be noted that the Model F CD-ROM contains less information than the Model E version.

The Role of Facilitators

People who attended Model E or Model F meetings obtained information from a CD-ROM run on a laptop computer. No information presenters were involved, but meetings were run by a facilitator who gave instructions in the use of the CD-ROM to those who needed help. At the end of the meeting, facilitators gave attendees an information pack and asked them to complete a research questionnaire. As part of our evaluation programme we observed the two-day training events for facilitators, and asked the trainees to complete post-training questionnaires. We reported on the facilitator training in the Third Interim Evaluation Report and summarise the main findings here.¹⁹

Facilitators were expected to help attendees with the technical aspects of running the CD-ROM, but not to get involved with them in a more personal way. Many trainees were enjoined to 'understand emotions', to 'understand anger', and to 'be able to direct to the correct leaflet'. Other strategies included letting shy attendees know they are valued and demonstrating empathy. More pragmatic tips, such as offering a glass of water and tissues to upset attendees, knowing the equipment and avoiding technical terms, were also mentioned. The bulk of these skills seemed more appropriate to the context of presenter training, suggesting that the facilitator's role was not clearly defined in the minds of the training providers. For instance, the instruction to direct the attendee to appropriate leaflets did not mesh with the facilitator's role as the research team understood it. Instead it implied a greater level of interaction with attendees, rather than that limited to answering questions about using the CD-ROM *per se*, since to direct an attendee one must first ascertain their circumstances.

¹⁹ Lowerson, R., Clavering, E., Hall, I. and Kain, J., 'CD-ROM facilitator training', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

Model E facilitators

There was considerable diversity in the backgrounds of trainee facilitators, but facilitators were linked by their common experience of IT and other training. Professions such as mediation, counselling and the legal profession had been deliberately avoided, although one part-time social worker had been recruited. Two reasons that were given in support of this recruitment policy were an awareness of the potential for increased role conflict on the part of facilitators, whose remit was to remain as uninvolved as they could with each attendee, and a possible lack of the relevant technical skills required to operate the computers.

The fourteen Model E facilitators represented a wide range of different occupations. They were: a teacher, a social worker, a housewife, a graphic designer, a business advisor, a retailer, a management/IT trainer, two self-employed persons, two retired persons and three students. In addition, one trainee had practised family law, mediation and advice work. Another had practised in family law and family court welfare. In the main the trainee facilitators viewed the training positively, and agreed that it had equipped them with the necessary knowledge and skills to prepare them for their role, although that role remained somewhat unclear.

Model F facilitator training

Fourteen facilitators attended the training. Eight were female and six male. They came from a variety of backgrounds, and included a laboratory technician, a training officer, a church administrator, a housewife, a community worker, a TA officer, a lawyer and two market researchers. In addition, one trainee had trained and practised in family law, two had trained in mediation, although only one had practised, and two had trained as advice workers, although only one had practised. The trainees whom the trainer described as coming from the 'caring professions' were warned to remain detached. The facilitators seemed to have no difficulty using the desktop or laptop computers, suggesting that, whether caring professionals or not, they all had basic IT skills.

The trainee facilitators had a number of technical concerns, and made the following comments:

It is impossible to go back to a specific point in the program.

Definition and contrast are not clear enough.

Problems are encountered if the wrong buttons are pressed.

The CD-ROM skips sections and jumps on to unexpected sections.

The CD-ROM is very fast in some sections and very slow in others. It needs a pause button.

The bullet points are far too small.

The language used in the CD-ROM is too 'middle-class'.

The CD-ROM does not get interactive quickly enough.

During training, the precise boundaries of the facilitator's role appeared hazy. For example, major concerns and uncertainty were expressed about using the leaflets, and some trainees expressed the view that it would be extremely frustrating for the facilitator and the attendee if the former could not direct the latter to the right leaflet or service. There was a vacuum in terms of provision of clear information about the role of the facilitator. In this respect, trainees were left unprepared and in the dark. There was a sense that they needed to play the information meetings by ear rather than employ skills and knowledge. This risked creating the unfortunate impression that the facilitators were expected to muddle through, which they appeared to accept in good humour albeit with a sense of underlying resentment. This is not necessarily to disparage the trainers. The CD-ROM meetings were, after all, part of a pilot scheme rather than the finished product. Nevertheless, greater clarity might have been helpful. At the end of the training, all but two trainees felt that the training had provided them with sufficient knowledge to enable them to enact their role as facilitators.

Attendees' perceptions of facilitators

As with the other pilots a range of different venues were used; hence the use of a laptop rather than a desktop computer. Facilitators were expected to leave the room once they had given appropriate instructions and the attendee had started to run the CD-ROM. At some of the venues, however, this was not possible, as there was no other room to go to. Indeed, at about half the meetings the facilitator remained in the same room as the attendee. In some cases this was necessary because the attendee needed help, and in some cases the computer crashed and needed facilitator intervention. When asked to describe their feelings concerning the facilitator's presence attendees divided fairly equally between those who felt the facilitator should stay in the room and those who felt people looking at the information needed privacy and should be left alone to work at their own pace:

Being left alone gives you the chance to get your head round things. Good if you are embarrassed. (F)

It is best if someone stays, so that you don't have to go looking for him or her if things go wrong. (F)

I felt that I was being watched all the time. (F)

I felt more comfortable being left alone, but it was nice to know [the facilitator] was outside. You could work at your own pace. (F)

It is better if someone stays, because when I had finished [the facilitator] was not around. Sometimes I got stuck on the screen and needed her help, so I was stuck wasting time until she came back into the room. (F)

The fact that even the least experienced users found the CD-ROM easy to use may be due to the help given by facilitators; 97 per cent of attendees indicated that they found this helpful. A few attendees did have problems, however. For instance, around one in ten Model E users indicated that they experienced technical problems when using the computer. These were problems, however, which the facilitator was usually able to resolve:

The program crashed. [The facilitator] took it away, and got it back to the stage we were at, then returned it and explained that you had to go through all sections. (F)

The computer froze three times and had to be restarted. (F)

On occasions, however, the facilitator may have been heavily involved:

[The facilitator] helped all the way through – sitting with me and showing me how to get from one section to the next. (F)

[The facilitator] controlled the mouse all the way through. (F)

Thanks to the help facilitators gave, most attendees, including those with no previous experience of computing, found the system very easy to use. Inevitably, some attendees needed more help than others, but the facilitators very easily dealt with most problems encountered. Although a small number of attendees expressed concerns about the prospect of using a computer, help from a facilitator served to minimise their anxieties, as the following comments, made during our telephone interviews, indicate:

I had never gone near a computer in my life, but my fears were soon dispelled. (F)

I didn't get in a flap – [the facilitator] explained everything when I got there, so I didn't really have time to get worried. (F)

Some attendees did nevertheless express concerns about the CD-ROM. Some felt it might be off-putting for people who had never used a computer, especially older people:

It might be a bit nerve-wracking if you've never used a computer, but it was good. I found it easy, but it might put some people off, particularly older and middle-aged people who might think they couldn't use a computer. (F)

If someone is not used to a computer it could be daunting, but facilitators helped. (F)

There were also some negative comments about the CD-ROM itself. These mostly referred to the fact that it was not possible to skip sections that were not felt to be relevant:

Bad programming – it did not go far enough. Not interactive enough. It asks and answers questions – could not skip areas that were not appropriate, e.g. Domestic Violence. (M)

Make the CD-ROM more specific to your needs, so you don't have to sit through irrelevant sections such as domestic violence. (F)

It did not cater for me – only one particular scenario, and that is not real life. Aimed at young people with children, and where it is more likely that neither partner is aggressive. (F)

Impersonal – you could not skip things. A lot was a waste of time. (F)

Model F provided more opportunity to skip sections, but there were suggestions that even that program was not as flexible as it might have been:

Couldn't skip one section. I clicked onto it by mistake. (M)

I wanted to get back to the domestic violence section but I couldn't. (F)

I got stuck on a screen, as a result of choosing the wrong answer, and jumped to the end and had to start again. (F)

Time Taken To Run the Program

Attendees tended to find Model F easier to use than Model E, a finding that may have much to do with the different length of the programs. Model F was designed to run for approximately twenty minutes while Model E was scheduled to take around an hour. In practice, Model F took between 12 and 70 minutes, with a mean duration of 25 minutes. The mean time spent running Model E was 52 minutes, but the time per person ranged between 32 and 160 minutes. Thus, as Figure 9.3 demonstrates, there was some overlap between models in respect of the time taken to run the program.

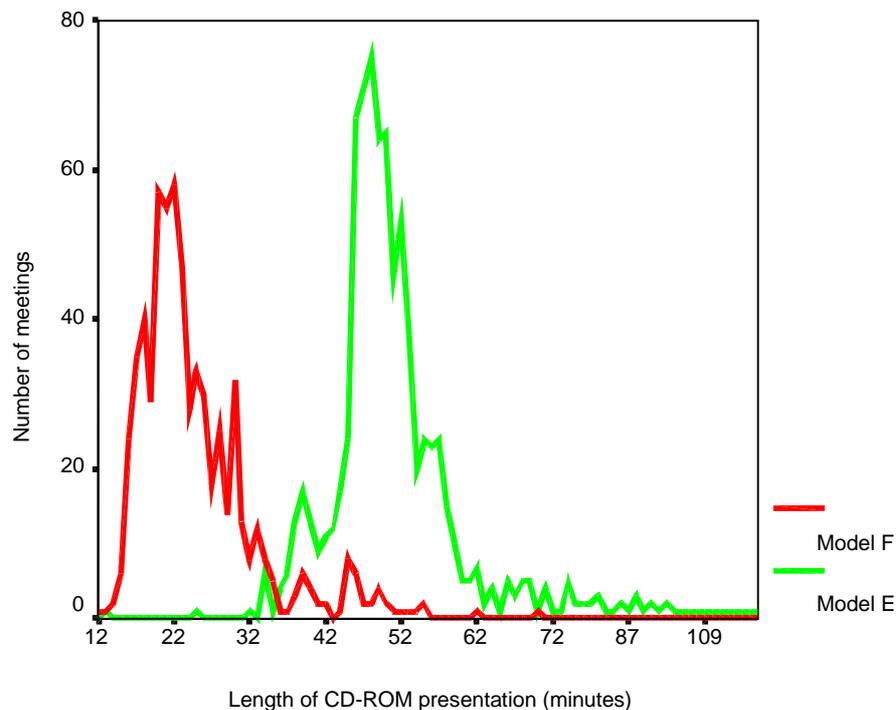


Figure 9.3 Time taken to run CD-ROMs

Asking Questions – Seeking Advice

The meetings tended to last longer than the time taken simply to run the program. Approximately one in five attendees had questions to ask the facilitator afterwards and, according to facilitators, 20 per cent of Model E attendees and 13 per cent of Model F attendees asked them to provide specific advice which they felt was beyond their remit. The issues on which they wanted advice were wide-ranging, though it was clear that

financial concerns were paramount. Of those who wanted advice 22 per cent referred to general financial concerns, while 11 per cent asked about property and 6 per cent about pensions, as the following reports from facilitators show:

The attendee wanted to know about legal costs and how to select a new solicitor.

What was a fair settlement? What was the actual letter of the law? How did the courts calculate the financial settlement? If he agreed to live like a pauper and his wife agreed to take all his money, would the court say 'Alright, you have reached an agreement', or would they say it was not a fair agreement?

The costs for having a divorce. How could she get her property from her previous home, where her husband was currently living?

... whether his wife should have a right to half of the family home.

Can he keep the house? Can he keep the children? How could he persuade her to give their marriage another go?

Fourteen per cent of those who wanted advice expressed broad concerns about the process of divorce process, as the following remarks by presenters suggest:

She wanted advice about how to proceed with divorce. Her husband has left her to establish what her needs would be on separation/divorce, and then to talk to him to discuss it. She wanted guidance about a template to start it off.

They have lived in the same house, separately, since 1992. What way could he get divorced?

How to respond to a divorce application, rather than be the instigator of proceedings.

[The attendee] wanted information regarding his personal case, i.e. divorce law in Southern Ireland, where his partner resides.

[The attendee wanted advice] about how to get her husband to respond to her solicitor's letters and to get him to move forward and make decisions about the future.

His wife wants a divorce, and so does he, but he cannot afford a solicitor. Therefore, he asked how he could get divorced without a solicitor.

Twelve per cent of requests for advice related to issues concerning children. As the following remarks illustrate, the advice sought ranged from legal advice to basic advice about the handling of relationships:

[The attendee wanted advice on] how to gain a court order or legal documentation to allow him to have total overall access to his children.

[The attendee wanted advice on] how to get his wife and sons back. How to get his wife, and his children, to talk to him.

[The attendee wanted to know] how her mental state would affect her ability to have access to her children.

We were unable to explain variations in the length of sessions in terms of the socio-demographic characteristics of attendees. It was clear, however, that previous computing experience was a significant determinant of the time taken to run Model E, but this was not true of Model F. However, as Table 9.6 shows, experienced computer users tended to take considerably less time to run Model E than people without computing experience. There was considerable variation among inexperienced users, however. One gave up after 13 minutes, while at the other extreme another spent 162 minutes running the program.

Table 9.6 Time taken to run Model E CD-ROM by previous computing experience of attendees

Previous computing experience	Mean	Number of cases	Standard deviation
A lot	49.73	334	9.90
A little	52.02	334	10.72
None	56.70	225	19.48
Total	51.73	783	12.30

$F = 14.38$; $df = 2,990$; $p < .001$.

Model F

Repeating options

The time taken to run Model F was to some extent influenced by whether attendees were convinced their marriage was over, and also by whether they were interested in receiving information about marriage counselling. The Model F CD-ROM was presented in six sections, the majority of which were designed to concentrate the mind of the attendee upon whether their marriage was over and, if so, whether divorce was their best option. The six sections were entitled:

1. Reasons why marriages break down.
2. Focusing on your feelings.
3. Sources of help.
4. Domestic violence.
5. Choices only you can make.
6. Information you may need.

The section on sources of help offered optional information about counselling, but 57 per cent of attendees chose not to run that part of the program. Attendees were also given the option of rerunning any of the six sections, but only one in twenty chose to do so.

The section 'Focusing on your feelings' contained a series of questions designed to help the attendee to think about their marriage and the issues that were of concern to them. At the end of the program they were given an opportunity to run through the questions again, and 17 per cent did so. One might have expected couples to be more likely than individual

attendees to return to the questions – so each of them could have a turn at answering them. However, individual attendees were just as likely as couples to revisit the questions.

Marriage support

Whereas Model E aimed to provide information about all the issues prescribed by the FLA and was available to all married people irrespective of the stage they had reached in the divorce process, Model F was targeted on marriage support and provided information that aimed to help attendees decide whether their marriage was over and tell them where they could get help. A few (6%) of those who went to a Model F meeting (N = 794) claimed that they were well-informed about marriage support beforehand. However, 45 per cent admitted to knowing nothing about marriage support, and 49 per cent said they knew only a little.

Attendees who knew nothing about marriage support were clearly most likely to benefit from the meeting in terms of being able to increase their knowledge about that subject and, as Table 9.7 shows, most indicated that they learned something. More than a third knew much more after the meeting, but a few apparently still knew nothing. Those who thought they knew a lot beforehand also had something to learn, and more than a third indicated they knew more afterwards, with one in ten knowing much more. Clearly, attendance at a Model F meeting resulted in people being better informed about what marriage support had to offer.

Table 9.7 How much attendees knew about marriage support after the meeting by how much they knew before it

Knew before the meeting	Knew after the meeting			Total (100%)
	<i>a lot more</i> %	<i>a little more</i> %	<i>no more</i> %	
A lot	10.6	27.7	61.7	47
A little	29.2	60.0	10.8	380
Nothing	34.7	61.3	3.9	357
All attendees	30.6	58.7	10.7	784

Chi-squared = 146.02; $p < .001$.

Despite the overall increase in knowledge, fewer than half of the Model F attendees opted to receive information about counselling. This suggests that many attendees were well past the stage at which they wanted to spend time reflecting on whether to end their marriage. Moreover, half of those who opted not to view the information about counselling indicated that they knew nothing about marriage support services, while 44 per cent indicated that they knew only a little.

Eighteen per cent of Model F attendees (N = 828) had been to marriage counselling in the year preceding their attendance at an information meeting. These attendees were no more likely to have opted out of viewing information about counselling than were those who had not been to counselling. Not surprisingly, those who had chosen to view the information on marriage support were significantly more likely to have found the meeting

useful, and relevant to their needs (Figure 9.4). They were also more likely to have got the information they needed and to be willing to recommend attendance to others.

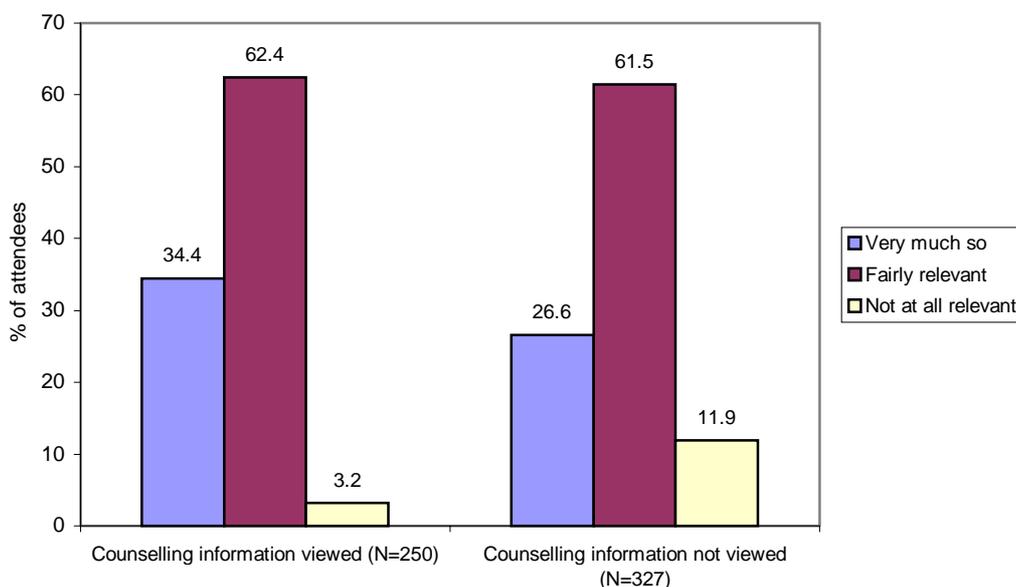


Figure 9.4 Model F attendees' views on whether the meeting had been relevant to their needs by whether they had viewed information about counselling

The evidence leads us to question the appropriateness of Model F for people who are convinced that their marriage is over and/or do not want information about counselling. More than half of the attendees were certain that their marriage was over before they went to the meeting and tended to want information about the divorce process, rather than information that they felt was aimed at encouraging reconciliation. The following comments are typical of those made by this group:

We had been separated for a long time before the meeting, and there was absolutely no chance of reconciliation. (F)

I had already decided what I wanted a long time ago and needed practical information, and there wasn't enough on the CD-ROM. (F)

It was more geared up towards people who were thinking 'Should I leave my partner?', but we had split up two months ago. (F)

I had expected a checklist about how to get divorced – what steps to take. (F)

I thought there would be more of a legal base to it – more information really. (F)

Many of these people acknowledged, however, that the CD-ROM might have been useful had they attended a meeting earlier. As one attendee put it:

It would probably have been far more useful when our problems had started. The advert said 'Are you considering separation and divorce?' I think that is

too late. It would be better coming at the time the problems are beginning to emerge. (M)

Only around one in five attendees changed their views about divorce through having attended a Model F meeting, and many of these felt that divorce was more likely. In this sense, Model F performed no differently from Model E, which did not have such a deliberate focus on saving marriage. One person who had attended a Model E meeting was particularly caustic about its reference to marriage support and said:

Any idea that an information meeting consists of sitting in front of a computer, alone and in a distressed state, is naïve in the extreme. (M)

Focusing on feelings

Model F offered more opportunities to interact with the computer than Model E, which simply provided the attendee with a choice about the order in which to run the various modules. In the case of Model F, the key element of user interaction consisted of a series of twelve multiple-choice questions which aimed to help attendees explore how they felt about their marriage and to determine which issues particularly concerned them. These questions could be bypassed, but most people chose to answer them. Indeed, 17 per cent of attendees answered them twice.

Of the 227 people who answered the questions and were interviewed within the following six weeks a third indicated that they had not found the exercise useful. Most of these people felt that the questions were simply not relevant to their circumstances, but others were unhappy about how the computer interpreted their responses and classified the issues that were of the most and the least concern to them. In particular, people seemed to resent being told that they were more concerned about money than about children:

It made me think 'Ooh! I don't think of myself like that'. I couldn't believe that the computer came up with that statement because it was completely wrong. My children are what I am most worried about. (F)

It is not nice to be told that the children are the least of your priorities. (F)

Clearly, if CD-ROMs are to be used in the future to provide information, any attempt to employ multiple-choice questions to help people explore their feelings should avoid producing elementary analysis which may not reflect how people feel and which in some cases may cause offence.

Comparing CD-ROMs to Face-to-face Meetings

User satisfaction

Since the CD-ROMs were designed to be an alternative to Model A (Model E) or to Model C (Model F) it is useful to compare the responses of people who attended each type of meeting. One possible indicator of whether attendees found interacting with the CD-ROM acceptable is whether they would recommend these meetings to others. Table 9.8 indicates that more than half of Model E attendees and 46 per cent of Model F attendees felt so positive about the meeting that they would definitely recommend attendance. They were, however, not as positive as people who had attended the

equivalent face-to-face meetings with a presenter, more than 70 per cent of whom would definitely recommend attendance.

Table 9.8 Attendees' willingness to recommend meeting to others

	Model A %	Model C %	Model E %	Model F %
Yes, definitely	74.3	70.7	53.8	45.9
Yes, possibly	24.5	27.5	37.9	44.8
Probably/definitely not	1.2	1.8	8.3	8.3
Number of attendees	1,398	549	791	1,071

Chi-squared = 261.18; $p < .001$.

Model E attendees were more likely than Model F attendees to have found the meeting very useful (Table 9.9), but they were less likely to have found it useful than those who had been to a face-to-face meeting. It seems that those who attended longer meetings – whether with a presenter or a facilitator – were more likely to find the meeting useful.

Table 9.9 Attendees' views about the usefulness of the meeting

	Model A %	Model C %	Model E %	Model F %
Very useful	66.4	56.7	43.1	35.4
Fairly useful	32.3	40.6	51.7	58.1
Not useful	1.3	2.7	5.2	6.4
Number of attendees	1,470	552	1,068	793

Chi-squared = 262.45; $p < .001$.

With the introduction of Model C, we began asking attendees if the meeting had been relevant to their needs. As Table 9.10 shows, those who used the longer CD-ROM (Model E) were more likely than those who used the shorter version to find the meeting relevant. They were not, however, more likely to find the meeting relevant than those who had attended Model C (the face-to-face equivalent of Model F). It seems that attendees' assessment of relevance was influenced more by the medium of provision than by the actual information provided.

Table 9.10 Relevance of the meeting to information needs

	Model C %	Model E %	Model F %
Very relevant	55.8	35.8	28.8
Fairly relevant	42.2	57.2	61.9
Not at all relevant	2.0	7.0	9.3
Number of attendees	547	1,067	784

Chi-squared = 101.99; $p < .001$.

We asked people who attended a CD-ROM meeting whether they had obtained the information that they had been looking for. As Table 9.11 indicates, fewer than one in five obtained all of the information they were seeking, but most received at least some of it. They were more likely to receive all the information they were seeking if they went to a meeting that employed the Model E CD-ROM, which is not surprising given the greater amount of information on the Model E CD-ROM than on the Model F version.

Table 9.11 Amount of information that the attendee obtained

	Model E %	Model F %
Attendee got all the information	20.7	16.6
Attendee got some of the information	73.3	74.3
Attendee got none of the information	6.0	9.1
Number of attendees	1,063	781

Chi-squared = 9.93; $p = .007$.

When asked whether they felt it a good idea to use a CD-ROM for communicating information most interviewees felt it was. Only 17 per cent suggested it was not, with Model F attendees being more negative (23% of these, as against 15% of Model E attendees, felt this way). The main objections seem to revolve around the medium itself. Those who did not like the CD-ROM tended to suggest that they would have preferred to have been given information personally:

Many questions were left unanswered. Specific information on the individual was impossible for the computer to cover. (F)

Some points could be clarified by a human, if they were not understood. (M)

I couldn't explain how bad I felt. It was rather like watching something like *Blue Peter*. You can cry in front of a person but a machine does not take any notice. (M)

A real person can answer questions relevant to you, show sensibility and, most importantly, offer support in a personal fashion. (F)

If there were nobody else in the room, I would have felt very isolated. When it is just you and the computer, you feel a bit low and isolated, and if the facilitator had left the room I would have felt very awkward. Having somebody there to talk to would make you feel at ease. (F)

You need to have a human being in front of you, so that you can gauge the way the interview is going, and give the person the information they need. And, if it is getting a bit emotional you can try to tone it down and guide the person, whereas a computer cannot. (M)

Nevertheless, as one attendee pointed out, the computer is 'more interactive than just reading the information on paper'. Another commented on the complementarity of written and computerised information:

It needs to be backed up with written information, either before or after, so the person can recall what it was they were reading. The computer on its own was not good enough, but it was good. (F)

Most of those who were positive about the CD-ROM as a means of providing information simply reiterated the view that is a satisfactory medium. It seems that people liked being able to work through the information at their own pace, and some clearly appreciated the anonymity:

It is probably easier for people who find it hard to communicate with strangers. It lets you go through it at your own speed. (F)

You can just sit there with your eyes on the screen and just absorb the information. (F)

Good! Especially if you have just separated, because you can go at your own pace, and you are less likely to get upset. (F)

It is very easy to go back to it again if you want to, rather than just reading a book. (M)

It is interesting to note that people's opinions about the CD-ROM as a means of providing information are very much shaped by points of reference. Those who thought the CD-ROM was a good means of providing information tended to suggest that receiving information in this way was better than just getting written information. On the other hand, those who were negative about the use of CD-ROMs tended to compare receiving information via one with receiving information at a face-to-face meeting with a presenter. This is not to say, however, that there were not some who preferred the CD-ROM to a face-to-face meeting.

Actions following attendance at the meeting

Although the CD-ROM meetings did not elicit as much customer satisfaction as their face-to-face equivalents, they seemed to perform as well in terms of basic outputs. There was no apparent difference between models concerning post-meeting use of solicitors or mediation. However, as Figure 9.5 demonstrates, people who went to a Model F meeting were more likely than those who had attended either of the other models to go on to counselling. This may be a somewhat misleading finding, however, since part-way through the Model C pilot attendees were given an invitation to a free meeting with a marriage counsellor. This offer was not available at all to people who had attended a Model A meeting. If we compare Model F attendees only with those Model C attendees who received an invitation to the MWMC, there was no significant difference in terms of the proportion who went on to attend counselling. The findings indicate that although

people who received information via CD-ROM tended to be less satisfied with the mode of information presentation than those who went to an individual meeting conducted by a presenter, the meeting seems to have had no differential effect on their subsequent behaviour. It seems that the mode of presentation affects what people feel about the meeting, but not what they do afterwards.

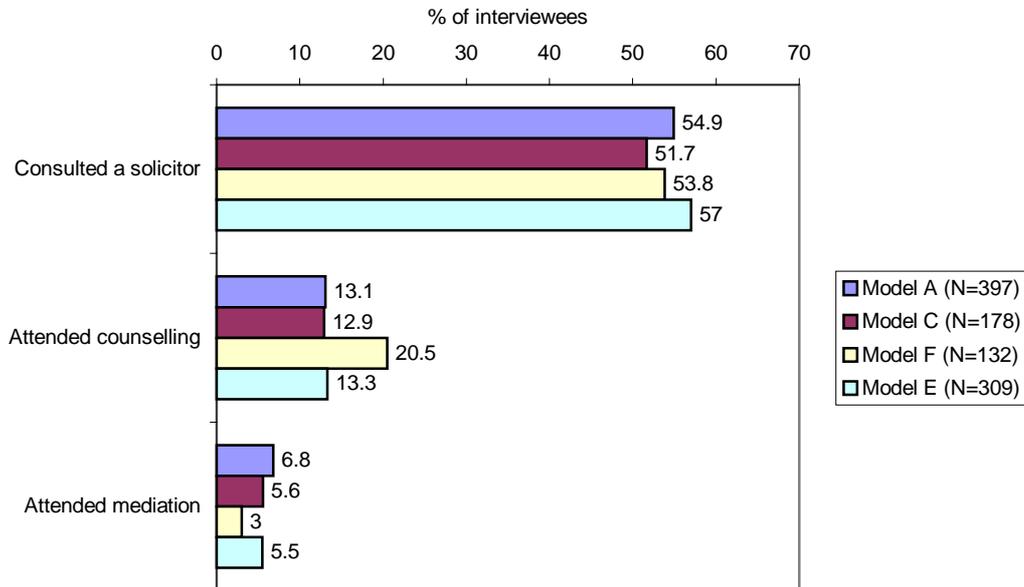


Figure 9.5 Use of services following attendance at an information meeting

Attending a CD-ROM Meeting as a Couple

Some of the students in James's study²⁰ referred to earlier worked in pairs, or in groups, rather than individually. However, they preferred to work alone since the tendency for different individuals to want to review different sections made working with others difficult:

Students generally believed that they should work one-to-one with the computer, and discuss ideas as needed with other individuals.²¹

Although the information meeting pilots did not facilitate group use of CD-ROMs, one in ten CD-ROM meetings was attended by a couple. Sometimes this was helpful. For example, one facilitator told us that a female attendee had indicated that

if she had been alone, she wouldn't have wanted to cope with the computer.

On the whole, however, facilitators tended to have mixed feelings about whether the CD-ROM was appropriate for couples. It could be helpful when spouses discussed issues as they worked through the program, as facilitators' comments testify:

As the attendee was accompanied by her partner, they held many discussions during the CD-ROM presentation.

²⁰ James, Clark, Hillis and Peterson (1998), *op. cit.*

²¹ *ibid.*, p. 8.

As the attendee came with partner, they took some time out to discuss items and points.

One facilitator thought that using the CD-ROM had proved extremely useful for one couple, stating that

because both attendees went through the CD-ROM together, as with other couples, the information meeting, I feel, was of a higher value and worked better. Both attendees left the meeting with the intention of trying to resolve their marriage and informed me that all legal action was about to stop. Solicitors were to be informed in the morning after the meeting.

Another facilitator described the degree of intimacy that working together involved:

I did make one interesting observation ... both persons shared the use of the mouse to control the CD-ROM.

Sometimes, however, the attendance of both spouses had a negative effect, as the following remarks by facilitators attest:

It seemed to me that one member of the couple was disinterested [*sic*] in being there and, as they were the one who wanted out of the marriage, they tended not to participate.

The sections cater only to individuals, and conflict was caused by this and disagreements over the navigation through the programme. People who are contemplating separation/divorce are unlikely to agree on these matters.

For some facilitators time was an important factor:

Generally, it takes longer as they discuss points raised by the programme.

Sessions take on average fifteen minutes longer.

In one case, they were hardly talking and hostility existed between them. The meeting did go at a normal pace and time; in another case the couple were still very friendly, stopped to discuss many points and the meeting took much longer to complete.

Model F presented particular problems because of the question-and-answer section, which was designed to be used by individuals and was inappropriate for couples:

When they answer questions only one of them can answer. Questions should be asked to both partners.

Complications can arise when they come to the questions.

The atmosphere is more tense and strained; difficulties arise with the questions and answers section – either in the form of disagreements or in the clumsy way the system is set up.

One facilitator chose to alert attendees to this problem and recommended that they attend separately:

I felt it necessary to advise (warn) about the type of questions they would be asked and suggest that separate meetings may be better.

If a CD-ROM program were to be considered for an implemented system, there may need to be provision for couples who wish to use it together, and the content would need to be reconsidered particularly in respect of the interactional questions.

The Views of Facilitators

In their responses to questionnaires, and in focus group discussions at the end of the pilots, facilitators indicated that they had clearly enjoyed their role, although the majority would have liked more work. Most of the 21 facilitators felt the meetings had worked well; 7 felt they had worked 'very well', but the rest were more reticent and indicated that they had worked 'fairly well'. Several raised concerns such as the following:

Some customers were disappointed that they were not allowed to discuss personal circumstances with facilitators.

When the customer is under threat of violence, we have no real powers to protect or give guidance to help them.

Many of the customers seem to have been separated for several years or well into the divorce process; [they are] already receiving marriage guidance and therefore seem to be at the wrong stage to benefit from the information provided.

The facilitators also expressed technical concerns relating to the computers and the CD-ROM itself:

The fact that the CD-ROM was inclined to crash and that we as facilitators had no means of fast-forwarding: customer would have to sit through entire program again; all information would be lost.

Problems with computer program, which I cannot rectify, this spoils meeting. I feel this reflects badly on the organisation, and therefore on me.

One facilitator, referring specifically to the Model F CD-ROM, complained that the CD-ROM

could be better presented. Some portions are very stereotyped, e.g. whiskey bottle on the table, council flats, and domestic violence section.

All the facilitators mentioned elements of the CD-ROM that they would like to change. The following comments were typical:

Too patronising.

Too much middle class language and there is too much stereotyping.

It needs to be more interactive and easier for the customer to navigate.

The customer should be given a printout of questions and answers, as well as a printout of relevant information.

Needs flexibility to skip irrelevant sections. CD-ROM has a heavy emphasis on family throughout: perhaps a second CD for those without children.

Practical suggestions for change included the following:

Revised graphics.

Bigger video picture.

Quieter music.

Change colour scheme.

Problem areas

Facilitators were asked to describe the most difficult situation they encountered during the information meetings. Their responses suggest that they found not being able to answer personal questions frustrating:

A man ... was very annoyed at the fact that I could not give specific information on his particular situation.

Not being able to help them [attendees] more by giving them the answers to their questions, if known.

Coping with emotions also tended to be problematic:

Not having the time to listen to a man who clearly needed to unload.

Dealing with those who feel so inadequate that they are nervous.

Distressed customer pouring out his worries when I was unable to do anything to answer his problems.

A couple who attended together but wanted separate sessions. The male was potentially violent and very disturbed. He wanted to draw me into the situation.

Sometimes, however, technical difficulties caused problems:

I had a very emotional customer, and the children's section failed two times; I felt that she left short-changed.

... programme crashed two times with same client.

Venues

When facilitators were asked what they would regard as the ideal venue in which to hold a CD-ROM information meeting in terms of location, facilities and safety, they all voiced fairly similar opinions. As regards location the venue should be:

Central, city centre.

Neutral, known to public (such as library, CAB offices). Not Relate; also no solicitors' offices or courts.

Accessible by public transport, parking facilities.

Accessible by disabled people.

Non-discriminatory (no moral/religious overtones).

The facilities they felt necessary included the following:

Receptionist.

Good lighting, proper heating and cooling.

Tea and coffee making facilities.

Toilets.

Rooms that ensure confidentiality.

Place for children.

Comfortable/appropriate furniture.

Safety was a common concern, and it was felt that this was enhanced when the following were available:

Well-lit car parks/entrances.

Fire exit.

Security on site.

No isolated room, within reasonable distance of others.

Receptionist.

Telephone.

The Views of Professionals

Divorce-associated professionals

The Merseyside and Solent pilots provided CD-ROM consultation exercises which were attended by 204 professionals.²² The vast majority of those who attended thought that the CD-ROM conveyed the information well. A number of negative comments were made, however, and one in five professionals felt that the method was too impersonal. Others thought it patronising or condescending, and a substantial number suggested improvements.

Just under half the 204 professionals (42%) thought that the CD-ROM might not be an appropriate medium for presenting information about divorce, and around a third thought its use might put a number of attendees off attending a meeting. It was felt that the actual technology might intimidate or confuse attendees, especially those of the older generation. Some thought that the CD-ROM was insufficiently responsive to individual needs and felt that a face-to-face meeting would be more appropriate.

Solicitors, in particular, tended to feel that many people would be intimidated by computerised information systems, and that certain sections of the community would be unable to cope with using a computer. The evidence from those who attended a meeting appears to refute this, however, since even those with no computing experience tended to find it fairly easy to run the program.

The CD-ROM as a Means of Providing Information

Although the models that used CD-ROMs to convey information were not as well received as face-to-face interviews, most of those who used them thought they were useful, and a good way of providing information. Moreover, although the pilots began with concerns being voiced about the appropriateness of computer-based systems for certain groups of people – for example older people, people from lower socio-economic groups, people who had never used a computer – few people reported real difficulties. There were complaints, however. Some of these were similar to those made about other models. In particular, there was a tendency to complain that the meetings were impersonal, and that questions or requests for advice did not get appropriate responses. Facilitators, like presenters, tended to respond to questions by suggesting to attendees that they consult a solicitor. Consequently, it seems that the CD-ROM was helpful in providing basic information, but there are questions as to whether it went far enough. This is a criticism of the CD-ROMs that were used rather than a criticism of the medium itself, although a small number of users simply did not like using a computer to get information.

Other complaints about the CD-ROM related to inadequacies concerning the particular programs used. They provided little opportunity for interaction or the asking of questions. In particular, Model E attendees complained about having to run sections they felt were not relevant to them. Nevertheless, attendees tended to appreciate the opportunity to access the information at their own pace and to go over sections that they did not understand, although restriction of the use of the CD-ROM to a meeting setting gives limited opportunity for pacing and/or reflection. In some cases, it may have been more useful to provide a CD-ROM for use at home rather than at a meeting. It seems that there

²² See Ch. 32.

were appropriate numbers of people with both sufficient knowledge of computing and access to a home computer to have rendered this exercise worthwhile.

We can divide CD-ROM attendees into three groups:

1. Those with sufficient knowledge of computing to be able to run the CD-ROM, who had access to a home computer.
2. Those who had sufficient knowledge but no home computer.
3. Those who did not have sufficient knowledge of computing.

It would be feasible to supply the first group with a CD-ROM that they could view at home. The second group would require a venue where they could view the CD-ROM, but they would be unlikely to need a facilitator, although they might benefit from an opportunity to discuss their personal circumstances. With regard to the third group, it seems necessary to provide a venue, along with someone who could help them run the CD-ROM, so for these people a meeting and the help of a facilitator would be essential.

It seems that if Part II of the FLA is to be implemented, a meeting at which a facilitator assists an attendee in the process of obtaining information from a CD-ROM would meet the definition of a meeting prescribed by the Act. We doubt, however, whether a CD-ROM-based meeting would be the most effective way of providing standardised information. It may be a more cost-effective approach, however, especially if the capacity of the CD-ROM to allow simultaneous multiple meetings were to be utilised. As one facilitator pointed out, use of a CD-ROM offers the potential to

house three or four separate booths to retain customers' privacy. One facilitator could then manage to run multiple meetings, reducing the unit cost considerably.

If meetings should be provided in this way we would suggest a central site with desktop computers – or television screens – rather than a roving facilitator carrying a laptop computer around a range of venues of variable quality. We also feel that each of the CD-ROMs that were used in the pilots would require considerable revision. In particular, it may be doubted whether the Model F CD-ROM is appropriate for all those who have not started divorce proceedings, since many seem to have already decided that there is no prospect of saving their marriage. They had gone to the meeting specifically to obtain information about the process of divorce.

Family law online?

The CD-ROM pilots made use of the potential modern technology offers for disseminating information. Although the models used a CD-ROM, however, attendance at a meeting was required. In this sense, the pilots made limited use of new technology. It would be possible to make information more widely available if this were not necessarily connected with the requirement to attend a meeting, although a meeting might be desirable if it provided the opportunity to ask personal questions afterwards.

If information were available on the World Wide Web, it could be readily accessed by anyone with appropriate access, and the number of people who have this is fast increasing. Nearly one in four of the population of the UK uses the internet regularly, and

there are more than 11 million users over the age of 15.²³ Various initiatives aim to increase use of the internet even further. For instance, the Government, backed by leading players in computer technology and marketing, intends to link every school in the United Kingdom to a national grid. Such initiatives – along with technological developments that will make the World Wide Web accessible from television sets – are likely to make the internet a major source of information provision in the near future. The potential of computers for disseminating information is illustrated by a *Guardian* article²⁴ that described how parents can obtain a print-out of childcare provision at the touch of a button. Users simply enter their particulars and requirements on to a computer (located in a high-street store) and receive a print-out of childcare facilities in their area. There seems to be no reason why an electronic directory of relevant providers of divorce-related services could not be similarly accessible.²⁵ Indeed, one can get access to a proliferation of sites which provide information about divorce, and about going through the divorce process, simply by typing keywords such as ‘divorce’ into a search engine. Until recently most of these sites were American,²⁶ but British sources are on the increase, an example being the site of the Family Law Consortium,²⁷ which provides information on divorce process, counselling, mediation and the impact of divorce on individuals, families and children. Divorce-online²⁸ offers what it describes as

an internet divorce service that enables you, the customer, to run your own divorce proceedings with pre-completed forms, sent to you by e-mail, post or on disc... It claims to give free e-mail advice until you are divorced ...

This package costs £65 to cover all documentation through to decree absolute – the customer being responsible for court fees. Clearly, divorce-related information is already being made available over the internet, and this is part of the Government’s strategy for increasing access to justice. The discussion paper ‘Civil justice-resolving and avoiding disputes in the information age’ went so far as to suggest the development of a website that functioned as virtual advice worker or online civil justice service. It was suggested that such a site would

act as a central point of reference – a first port of call – for anyone seeking information or advice on a legal problem, guiding users to the appropriate information sources or products or services.²⁹

The Community Legal Service website is now operational and provides information about a range of legal issues. Its ‘Just ask!’ portal, launched in April 2000, seems likely to become a first port of call for many people who are seeking information about divorce. Such an approach to information provision can clearly be developed further, as the technology becomes more widely available and more sophisticated. Indeed, there is a strong case for a dedicated website at which all relevant information about family matters could be obtained and which would provide information about marriage support services as well as information that will help people to negotiate the process of divorce. The idea of ‘a checklist of questions’ that will ‘enable people to make informed choices about their

²³ Waldman, ‘How we fell in love with the web’, *Guardian G2* (17 January 2000), pp. 2–3.

²⁴ ‘Child care details at push of button as stores go online for pilot scheme’, *Guardian* (June 1999).

²⁵ The LCD discussion paper ‘Alternative dispute resolution’ (1999) proposes an electronic directory of providers of ADR services.

²⁶ e.g. <http://www.divorcewizards.com>

²⁷ <http://www.tflc.co.uk>

²⁸ <http://www.divorce-online.co.uk>

²⁹ ‘Civil justice – resolving and avoiding disputes in the information age’, Lord Chancellor’s Department discussion paper (September 1998).

own disputes'³⁰ is also distinctly promising. Clearly too there is increasing recognition that 'technological advances open the door to very different ways of delivering services, and indeed delivering services which are new altogether',³¹ and that 'technology can assist in addressing ... education, making the law available' and in facilitating 'access to self-help'.³²

We note the commitment of the Government 'that a 100% of transactions with the citizen should be capable of being delivered electronically by 2005'.³³ This suggests a more prominent role for computer-based systems than was envisaged in 1996 when the FLA was enacted. Given that it would probably take at least two years to set up nation-wide provision of information meetings,³⁴ it is clear that the climate so far as information provision is concerned will be very different at the point of implementation from how it was when the pilots were conducted.

The internet offers a relatively cheap way of providing access to information about divorce. There is clearly scope for providing information via this medium, but it is an approach that will not be appropriate for everyone. An ONS report shows that, although the percentage of households with internet access increased from 9 to 25 per cent in two years, as few as one in twenty households in the lowest income decile have access, as against almost 50 per cent of those in the highest income decile.³⁵ Despite rapid growth in the use of the internet it seems likely that in the foreseeable future there will continue to be large numbers of people who have marital problems who do not have access to the internet. It is important that their information needs are not neglected in the drive to exploit the potential of computer technology. In order to ensure that all sections of the community have equal access to justice, it is important that information be provided through a range of different media, including websites, CD-ROMs, information packs and face-to-face meetings.

³⁰ *ibid.*

³¹ Civil Justice 2000, *op. cit.*, para. 3.3.

³² *ibid.*, para. 3.11.

³³ *ibid.*, para. 3.38.

³⁴ Lord McIntosh of Haringey, Official Report (H.L.), 30 June 1996 at col. 1261.

³⁵ 'Internet access: 1st quarter 2000, *National Statistics* (10 July 2000).

Chapter 10

Receiving Information by Post

Peter McCarthy and Heather Varley

What is reading but silent conversation?¹

Reading furnishes the mind only with materials of knowledge; it is thinking makes what we read ours.²

Silent conversations may be an important element in the process of personal reflection which the Family Law Act anticipates. One way of making it possible for people to create their own inner dialogue after attending an information meeting is to provide them with the material in such a form that it is available whenever it is required. Hence the production of the information pack that was given to all information meeting attendees. In the pilots, the written material was supplementary to the information delivered by presenters or via CD-ROM.

In October 1998 a special study was launched to examine the value of providing written information by post. This study ran until the end of January 1999 and aimed to establish whether the information required by the Family Law Act could be conveyed effectively through the medium of leaflets and to enable us to consider how far actual attendance at a meeting makes a difference in terms of how information is received and acted upon. It was clearly not an information meeting pilot as such, since no meeting was involved. People who requested information were sent an information pack through the post. This pack contained all the leaflets that were provided to people who attended an information meeting, including a parenting plan and an invitation to attend a meeting with a marriage counsellor.

The study was managed by the Greater Manchester pilot and covered the geographical area of that pilot and the area covered by the London pilot. Thus, it focused on the areas in which Model C meetings had been held. When the postal pack study started, the London pilot had terminated, while the Manchester pilot had ceased providing individual meetings but was continuing to provide group presentations for people involved in divorce proceedings. The availability of information packs was advertised within each of these pilot areas. People who wanted the pack telephoned the Manchester pilot and received their information pack through the post, or arranged to collect it at an address within their local area. During the study period 1,468 applications for information packs were received, of which 660 came from people within the Greater Manchester area and 808 from people located in the London area. The process of data collection from postal pack applicants is shown in Figure 10.1.

As Table 10.1 shows, most people who asked for an information pack (83%) had learned of its availability via the media. The media was also the most important source of

¹ Walter Savage Landor [English poet and writer], 'Aristotle and Callisthenes', *Imaginary Conversations* (1824–53).

² John Locke, *Of the Conduct of the Understanding* (1706), p. 20.

information for people who attended an information meeting, although fewer (64%) information meeting applicants had learned of the existence of information meetings via the media. The fact that many people had received information about meetings from the courts primarily accounts for the lesser impact the media had on information meeting applicants. During the period July 1998 to end January 1999, an invitation to attend an information meeting was sent out from the courts to people who were involved in divorce proceedings. This practice was abandoned in the London area from September 1998, but continued throughout the special study in the Manchester area. Manchester-based applicants who were involved in divorce proceedings were allocated to a group presentation instead of being sent an information pack. This explains why only 1 per cent of postal pack applicants had learned of the availability of the pack through the court. It also seems that divorce-associated professionals were less likely to recommend applying for a pack than they were to suggest that people should attend an information meeting. Only 3 per cent were informed about the availability of postal packs by a solicitor, a mediator, a counsellor or a Citizen's Advice Bureau. This contrasts with the 12 per cent who were informed about information meetings via one of these sources.

Table 10.1 Sources of information about meetings

Source of information	Manchester	London	All postal pack applicants	Information meeting applicants
	%	%	%	%
Media	86.3	79.3	82.5	63.6
Court	1.1	1.2	1.2	12.2
Solicitor	0.8	0.6	0.7	2.2
Mediator	0.2	0.1	0.1	0.4
Counsellor	0.8	0	0.3	5.1
CAB	1.1	2.5	1.9	4.2
Family	4.6	8.4	6.6	1.8
Friend	3.6	4.4	4	3.6
Other	1.7	3.5	2.7	6.8
Total (100%)	659	800	1,459	9,993

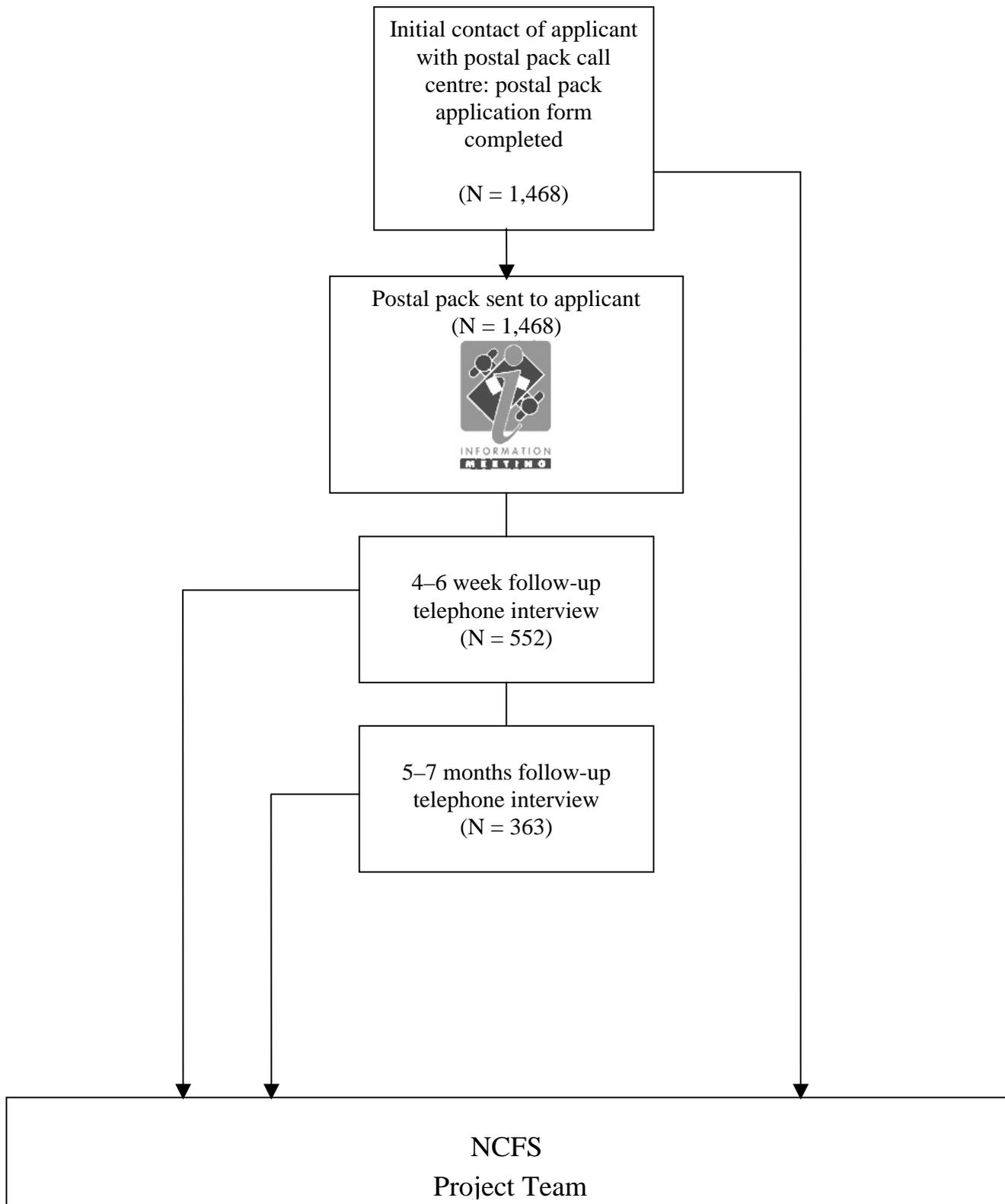


Figure 10.1 Data from applicants in respect of the postal pack study

The Applicants

More women than men applied for a postal pack: 41 per cent of the applications received were from men, and this represents a marginally higher proportion of men than applied to attend an information meeting (36% of applications).

Some applicants (69) did not provide information about children. Of those who did, 15 per cent had no children and 16 per cent had children aged 18 or over. Thus, 69 per cent of postal pack applicants had children under 18. Indeed, 25 per cent had children under 5 and 56 per cent had children under 12. Nevertheless, people who asked for an information pack were less likely to have children under 18 than were those who applied to attend an information meeting, 74 per cent of whom had dependent children.

More than half (53%) of the postal pack applicants were living apart from their spouse. Table 10.2 shows that of those who were separated and had children, men tended to be the non-resident parents and women tended to be the resident parents. In this respect, postal pack applicants were similar to those who applied to attend an information meeting.

Table 10.2 Parental status of applicants who were living apart from their spouse

	Males		Females	
	<i>information meeting applicants</i>	<i>postal pack applicants</i>	<i>information meeting applicants</i>	<i>postal pack applicants</i>
	%	%	%	%
Resident	21.6	18.7	90.2	84.9
Non-resident	71.7	72.9	7.1	13.7
Shared parenting	6.7	8.4	2.8	1.5
Total (100%)	1,461	262	2,103	344

People from the Manchester area who were involved in divorce proceedings were allocated to a group presentation, but a few (9) were sent postal packs. On the other hand, 18 per cent of people from the London area who received postal packs were involved in divorce proceedings at the time they applied. As was the case with applicants for information meetings, males who applied for an information pack were more likely to be involved in divorce proceedings (14%) than were female applicants (8%). As Table 10.3 shows, males involved in divorce proceedings tended to be respondents, while 76 per cent of the females involved in proceedings were petitioners. Indeed, the data suggest that where divorce proceedings were current, women were the petitioners in 70 per cent of them.

Table 10.3 Applicants' involvement in divorce proceedings

	Males %	Females %	All applicants %
Petitioner	34.7	76	51.6
Respondent	65.3	24	48.4
Total (100%)	72	50	122

Chi-squared = 20.13; $p < .001$.

The majority of applicants were in their first marriage (88%) while 11 per cent were in their second marriage and 1 per cent in their third marriage. The median duration of current marriages was 15 years, which is similar to that of people who attended an information meeting. As Table 10.4 shows, however, information pack applicants tended to have been married longer than members of the divorcing population.

Table 10.4 Duration of marriages of postal pack applicants compared with those of information meeting attendees and the divorcing population¹

	Postal pack applicants %	Information meeting attendees %	Divorcees %
Under 5 years	11.2	10.9	23.2
5–9 years	22.6	19.8	28.3
10–14 years	21.2	20.0	17.1
15–19 years	14.6	18.5	12.1
20–24 years	12.6	14.2	8.8
25–29 years	9.0	9.1	5.8
30 years and over	8.8	7.5	5.6
Total	1,394	7,721	172, 973
Mean	15.17	15.39	11.85
Standard deviation	9.62	9.62	8.84

¹ Data on divorcing population provided by ONS.

Sixteen per cent of applicants had attended marriage counselling in the year before they applied for an information pack, while 3 per cent had been to mediation, and 33 per cent had consulted a solicitor. For 59 per cent of applicants, the information pack represented their first port of call in that they had not been to counselling or mediation, nor had they consulted a solicitor or applied for a divorce.

Table 10.5 Ages of postal pack applicants and of the divorcing population

Age	Males		Females	
	<i>applicants</i>	<i>divorcees</i>	<i>applicants</i>	<i>divorcees</i>
	%	%	%	%
Under 26	0.9	3.5	1.7	7.9
26–30	73	15.8	12.7	20.8
31–35	19.4	22.3	19.7	22.8
36–40	20.1	18.8	21.7	17.5
41–45	17.1	14.2	17.2	12.5
46–50	13.9	11.8	12.4	9.6
51–55	10.0	6.7	7.9	4.8
56–60	5.2	3.7	3.8	2.3
60 and over	6.1	3.0	3.0	1.6
Total (100%)	561	173,005	822	173,005
Mean	42.83	39.35	40.43	36.86
Standard deviation	10.26	9.94	9.52	9.44

The age structure of applicants for information packs was similar to that of the population who had attended an information meeting. However, as Table 10.5 shows, applicants tended to be older than members of the divorcing population.

Few of the applicants described themselves as unemployed; 85 per cent of men and 70 per cent of women were either in employment or were self-employed. It would seem that there was an over-representation of people who were in work, especially in respect of male applicants (Table 10.6).

Table 10.6 Employment status of applicants and of the general population

	Males		Females	
	<i>applicants</i>	<i>Great Britain</i> ¹	<i>applicants</i>	<i>Great Britain</i> ¹
	%	%	%	%
Employed full-time	73	58.8	35	35.3
Employed part-time	3	4.8	31	26.5
Self-employed	9	12.8	4	4.7
Unemployed	8	7.0	3	4.1
Other	7	16.6	28	30.0
Total (100%)	568		834	

¹ Source: *Social Trends* 28, ONS (1998), Table 4.2.

We allocated applicants to the Registrar-General's socio-economic categories – an indicator of social class – and found that applicants were drawn from across the social

spectrum. There was, however, evidence of a slight class bias, especially among female applicants, who were drawn disproportionately from the managerial and technical strata (Table 10.7).

Table 10.7 Social class of attendees and of the general population

	Males		Females	
	<i>applicants</i>	<i>United Kingdom</i> ¹	<i>applicants</i>	<i>United Kingdom</i> ¹
	%	%	%	%
Professional	8	8	4	3
Managerial and technical	24	29	33	28
Skilled non-manual	22	12	36	37
Skilled manual	32	31	11	8
Partly skilled	9	15	13	19
Unskilled	5	5	4	6
Number of cases (100%)	456		545	

1. Source: *Social Trends 28*, ONS (1998), Table 1.11.

Two-thirds of postal pack applicants agreed to participate in the research. Applicants who had children were more likely to consent (69%) than those who had no children (60%), and it seemed that consent was more forthcoming from people who were at more advanced stages of divorce/separation. For instance:

- applicants who were still living with their spouse were less likely than those living apart from their spouse to consent: 53 per cent of the former and 77 per cent of the latter consented
- applicants who were involved in divorce proceedings were more likely to consent than applicants who were not involved in divorce proceedings: 77 per cent of the former and 65 per cent of the latter consented
- applicants who had previously been to see a solicitor were more likely to consent: 77 per cent consented, as against 64 per cent who had not been to see a solicitor
- applicants for whom the information pack was the first port of call were less likely to consent than those who had already been in contact with other agencies: 59 per cent of the former and 76 per cent of the latter consented

Factors which had no apparent effect on propensity to agree to participate in our evaluation were geographic location, gender, employment status, social class and number of marriages.

We intended to interview people within six weeks of their receiving the pack. In the event, we were able to contact 58 per cent of them. We therefore have information from 552 postal pack recipients concerning their views about the information provided and its immediate impact on behaviour. We were unable to contact 8 per cent of those who consented, owing either to telephone problems or to other extenuating circumstances, while a further 5 per cent were contacted but indicated that they were no longer willing to be interviewed. The remainder were not contacted simply because of pressure on research time (the postal pack study was introduced towards the end of the pilot period) forcing us to make a decision that we would target 550 as a sufficient research sample.

Of the 552 people who were interviewed:

- 57 per cent were female and 43 per cent were male
- 56 per cent were from the London area and 44 per cent from the Manchester area
- 70 per cent had children under the age of 18
- 32 per cent of applicants from London, as against 18 per cent of applicants from Manchester, were involved in divorce proceedings at the time they were interviewed
- 4 per cent of applicants from the London area were already divorced

Receiving the Information

All those whom we interviewed had received their packs through the post, and most indicated that the packs had reached them without any problems. Three applicants experienced delivery problems, which could have been problematic in respect of confidentiality. These problems related to the size of the pack:

My husband didn't know that I'd sent for it and the postman left it on the windowsill and my husband took it in but didn't open it. (F)

It was too big to go through the post box so it was left outside on the doorstep. It had been opened, but I'm not sure whom by. It didn't upset me but it might upset others. (M)

Couldn't post it. I had to collect it, as it was too big for the letterbox. (M)

Another three applicants received packs that had been damaged in the post. One of these – who happened to be a packaging supervisor – was critical of the packaging, feeling that the envelopes used were far too flimsy. Another received an envelope that no longer contained any leaflets, while the other told us:

It was a bit bashed, and when I saw it was all ripped. I was a bit concerned that my husband could have seen the contents, but he didn't. (F)

Clearly, if it were to become standard practice to provide information through the post serious consideration would need to be given to the size of information packs and to the packaging.

Getting the Right Information

Sixty-two per cent of the 552 people interviewed indicated that they had been seeking specific information when they had applied for an information pack, and Table 10.8 provides a breakdown of the type of information that they required.

Table 10.8 Specific information sought by applicants

	Those living at same address as spouse %	Those living apart from spouse %	All those who wanted specific information %
Legal process of divorce	50.9	46.6	47.9
Finance	33.9	25.6	28.2
Children – general	26.8	23.5	24.5
Property	23.2	15.0	17.4
Children – contact and residence	10.7	18.8	16.2
Children – CSA maintenance	10.7	18.4	15.7
Children – effects of divorce	11.6	16.2	14.5
Role of a solicitor	8.9	11.1	10.5
Mediation	8.0	6.4	6.8
DIY divorce	3.6	8.1	6.8
Counselling	8.9	3.4	5.1
Legal aid	2.7	5.6	4.6
Benefits/welfare	4.5	4.3	4.3
Reconciliation	2.7	3.0	2.8
Changes to divorce law	0.9	3.4	2.8
Emotional issues	0.9	3.4	2.6
Pensions	1.8	2.6	2.3
Support groups	1.8	1.7	1.7
Domestic violence	0.9	0.9	0.9
Other issues	2.7	1.3	1.7
Total (100%)	112	234	351

Note: five people did not provide information about their living arrangements. These people are included in the final column.

The most common type of information sought by 48 per cent of those who wanted specific information was that which related to the legal process of divorce. Twenty-eight per cent of those hoping for specific information wanted to be informed about the financial implications of divorce. Twenty-five per cent were hoping for general information about children, 16 per cent for information about contact and residence issues, 16 per cent for information about child maintenance and/or the CSA, and 15 per cent for information about how divorce might affect children.

There were some differences between people who were still living at the same address as their spouse and those who had separated. The former were more likely to have been specifically seeking information about finances and property, while the latter seemed more concerned about children's issues. Only 5 per cent of those who said they were seeking specific information referred to information about counselling, while just 7 per cent were specifically seeking information about mediation. It seems that only one in a hundred was seeking information about domestic violence.

Most people (74%) who were looking for specific information claimed that they found it in the pack they received. It seems, however, that some types of information were harder to find than others, especially those relating to finances. Only 63 per cent found the information they were seeking about finances, and just 59 per cent found the information about property that they hoped for.

Opinions about the Information Pack

Forty per cent of those who were interviewed (N = 552) claimed they had read all the leaflets in the information pack, while 2 per cent indicated that they had not read any. The most-read leaflets were those that described the divorce process (read by 79%) and those that gave information about finances, which were read by 74 per cent of recipients. There were no apparent gender differences in respect of which leaflets were read.

Thirty-nine per cent of the 552 interviewees said the pack was what they had expected, while 41 per cent said that it was not what they expected and the rest apparently did not know what to expect. Nearly all those interviewed (98%) thought the pack was a good way of giving information. Over half (57%) found the pack very helpful and 34 per cent found it quite helpful, while only 9 per cent had not found it helpful. Seventeen per cent, however, indicated that they would have preferred to have attended a meeting where they could have had the information provided explained verbally, and a further 16 per cent indicated a preference for a meeting and receipt of the information pack. Nevertheless, the majority (64%) indicated that they were happy to have received the pack in the post and would not have wanted to attend a meeting.

In an attempt to understand which people were likely to express positive views about the information pack, we conducted a logistic regression analysis to calculate the odds of attendees finding the information 'very helpful'. The results indicate that the information pack tended to be most helpful for people who had not yet consulted a solicitor or been to a counsellor (as Table 10.9 shows), and those who had been married for less than ten years.³ Nevertheless, it seems that even those who had used counselling or consulted a solicitor tended to find the information pack helpful.

³ See Annexe 5, Table A5.20.

Table 10.9 Views about the helpfulness of the pack by use of other services

	Contacted solicitor or counsellor	No contact with solicitor or counsellor	All respondents
	%	%	%
Very helpful	50.6	63.4	57.1
Fairly helpful	38.2	30.8	34.4
Not very helpful	9.0	4.3	6.6
Not at all helpful	2.2	1.4	1.8
Total (100%)	267	279	546

Chi-squared = 11.16; p = .011.

Nearly all those interviewed (97%) said that they understood the leaflets and found them easy to read. Most (62%) indicated that they had found it easy to find their way around the information, while 36 per cent found it fairly easy. Some interviewees (37%) identified information that they were unable to find in the pack that they felt might have been useful, or information they felt did not have sufficient depth. Nineteen per cent of these people simply wanted more general information on the divorce process, while 3 per cent wanted help with DIY divorce and 2 per cent felt some guidance on filling out legal/financial documents would have been useful. Twelve per cent wanted more information on children (specifically, information about contact and residence, children's emotions and counselling). Two per cent wanted information about parental rights for children over 16. Twelve per cent wanted more information on finances, including information on pensions, wills and the cost of divorce. Eight per cent wanted more local contact numbers, while 8 per cent wanted more information on counselling and emotional issues. Seven per cent wanted more information on property rights.

One in five people offered suggestions for how to improve the pack. Twenty-four people suggested a booklet should be provided rather than leaflets, and eight people suggested there should be fewer leaflets. Fifteen people commented on the print size:

The print size is far too small. The leaflets are too throw away – too much loose material – it needs to be made easier to play around with. (M)

Some of the writing was a bit small. I had no problems with it, but I think others may. (M)

People with dyslexia may have problems and may need larger print particularly with the form examples, as they are very small and hard to read. (F)

Twenty-four people thought the leaflets could be better-presented:

Colours are very bland but otherwise very good. Need more bold colours, especially leaflets that could be shown to the children. (M)

Poor presentation – leaflets not in order and no plastic wallets for the leaflets. (M)

Other suggestions included simplifying the language, using languages other than English, making the pack more user-friendly, including information relevant to ethnic minorities, and producing better children's leaflets.

Only 15 per cent of the 552 interviewees had contacted an organisation that was included among those listed in the pack. The majority of these had contacted CAB (19) and marriage guidance agencies (19). Nine people had contacted a mediation service and five people had contacted the Child Support Agency. Other bodies contacted included Gingerbread, Families Need Fathers, Asian Women's Rights, the Legal Aid Board, the Department of Social Security, the tax office and courts.

Only 14 per cent of those who received an information pack had shared the information with their spouse. Posting information does not, therefore, solve the problem of ensuring that both parties have the information. The other party could, of course, apply for the information themselves, but would not know that their spouse had the information unless they were told so. Alternatively, the other party could be sent information if their partner were to make a statement of marriage breakdown or, under current legislation, petition for divorce.

Information for Children

Two of the leaflets were designed to be given to children; one of these was targeted at younger children (under ten) and the other at children over ten.⁴ Seventy per cent of those interviewed had children under eighteen, but only 7 per cent of them had given the children's leaflets to their children. One in four of those who had not given the leaflets to children indicated that they felt the children were too young. What parents felt to be too young varied, however. The children parents described as 'too young' were aged anything between one and twelve. Over half of those who had not given leaflets to children indicated that they did not intend to do so. Of the 153 people who gave reasons for not having done so, 53 said they preferred to adopt, or had already adopted, their own approach. One said:

I'm already very open with the kids and will deal with the issues in my own way. I have nothing against the leaflets. They were interesting for me, but if I show them directly to the children, they might be stigmatised. (mother of children aged 7, 9 and 11)

Twenty-five people indicated that they did not intend to give the leaflets to their children because they wanted to protect them:

I want to protect them and I don't want to upset them. (father of children aged 4, 8 and 11)

I don't want to involve them at the moment. My daughter is in the middle of her GCSE year and I don't want to upset her. (mother of children aged 8, 15 and 18)

I don't want to worry them too much until it is final and I have decided myself what is happening. When things are final, we will talk to them. (father of children aged 1, 6 and 8)

⁴ We discuss the provision of information for parents and for children in more depth in Chs 23 and 24.

It is too soon. They are shocked and angry. (mother of children aged 13 and 16)

Nineteen people commented that they did not think they had reached the appropriate stage to be telling the children:

We're trying to sort things out at the moment. (mother of children aged 2, 4 and 8)

Depends on whether we separate or not. (mother of children aged 9 and 11)

I am not that far down the line yet. (father of one child aged 16 and three aged over 18)

It is too early in the process – [we are] not even separated yet, and [are] hoping to sort out problems in the relationship. (father of children aged 6 and 11)

Seven people commented that leaflets were not appropriate for children of sixteen and over:

Nothing in there [is] of any interest to him as he's nearly seventeen and he sees his dad whenever he wants. (mother of child aged 16)

Ten people had either not read the pack yet or had not thought about showing the leaflets to their children. Five had not had an opportunity to show the leaflets to their children, owing to lack of contact with them. Some had apparently been warned off:

I'd like to [give the leaflets to my children], but my wife's solicitor has stopped me discussing anything about divorce with the children. (father of children aged 7, 10 and 13)

I have talked to him and my wife went mad and told his solicitor. So I daren't give him anything in case I get into trouble. (father of child aged 6)

Almost one in three parents (N = 370) had talked to their children about the leaflets. Of those who had not, 38 per cent said they would discuss them in the future, 29 per cent said they would not discuss them, and 33 per cent said they did not know whether they would discuss them or not. All these findings are similar to those for information meeting attendees.

All the applicants with children should have been provided with a parenting plan booklet. Eighty per cent (N = 381) indicated that they had received one, but 5 per cent said they had not, while 15 per cent did not know if they had. Almost half (44%) of those who had received the parenting plan said they found it useful. Moreover, 46 per cent said they would consider using it. At the time they were interviewed, however, only 6 per cent of those who had received a parenting plan had actually used it, while 39 per cent indicated that they did not intend to use it.

Given that the research interview took place only six weeks after the interviewee received an information pack, it is not surprising that few parenting plans had been completed. Indeed, only 11 of those interviewed said they had completed a parenting plan, and only

two had involved children in the process. Two people apparently changed the arrangements for their children as a result of having completed the plan.

A total of 228 of those we interviewed at the follow-up stage (some 5–7 months after they had attended an information meeting) had dependent children, but only one in ten of these had shown the leaflets written for children to their children. Thirteen per cent (N = 160) claimed they had completed the parenting plan, while a further 22 per cent felt they might complete it at some point in the future. In addition, despite not having completed the plan 15 per cent indicated that they had found it useful, and only 32 per cent indicated that they did not intend to use it in any way.

Saving Marriages

All those who were not already involved in divorce proceedings at the time they applied for a postal pack (N = 1,315) were sent an invitation to a meeting with a marriage counsellor, but only 41 (3%) chose to take up the offer. In this respect, receiving information by post has significantly less impact than an information meeting. Even the least effective of the information meetings (Model E) resulted in a three times greater take-up of the MWMC than was achieved by the provision of information leaflets. This suggests that an information meeting has an impact that goes beyond that which could be achieved by simply making written information available.

At the time of the our telephone interview, approximately six weeks after receipt of the information pack, 153 people were involved in divorce proceedings. More than half of these (59%) had become involved since receiving the information pack. It is noteworthy that 65 per cent of those who applied for an information pack (N = 552) felt that they were receiving the information at just the right time, while 26 per cent felt it had come too late to have any real impact on them. There was a significant difference, however, between those who had already started divorce proceedings and others. Almost two-thirds (64%) of the former (N = 153) thought they were obtaining information too late, whereas only 21 per cent of those who had not started proceedings when they had applied for the information (N = 1,315) felt that way. There was no difference regarding perceptions of timing between people who were still living at the same address as their partner and those who had already separated.

Longer-term Changes

We interviewed some people who had received an information pack a second time 5–7 months afterwards. At this stage we managed to conduct 363 interviews, 151 with men and 212 with women. At the time they had requested a postal pack, 126 interviewees were still living at the same address as their partner and 222 were separated (15 did not give information about their living arrangements). At the time of the follow-up interview, 4 per cent of those who had been living with their partner had divorced and 30 per cent had separated. Of those who were living apart from their partner, 10 per cent had divorced when we contacted them again, while 6 per cent had returned to the same address as their partner. A third of those who had been living together when they requested a postal pack were still living together at the time of the follow-up interview and reported that they would be continuing to do so. Another 20 per cent were still living with their partner but were uncertain about the future.

Table 10.10 Intentions of applicants regarding divorce following receipt of postal pack

	Residence at time of attending information meeting		
	<i>with partner</i>	<i>apart from partner</i>	<i>all interviewees</i>
	%	%	%
Involved in divorce proceedings	22.2	40.1	33.6
Intending to petition	13.5	17.6	16.1
May petition	34.9	25.2	28.7
Will not petition	27.0	11.3	17.0
Other	2.4	5.9	4.6
Total (100%)	126	222	348

Chi-squared = 24.92; $p < .001$.

As Table 10.10 shows, a third of those interviewed had become involved in divorce proceedings since receiving an information pack, while 16 per cent indicated that they were intending to do so and 29 per cent felt that they might initiate proceedings. There were indications that the information pack had helped those who received it to find their way through the divorce process. For instance, one interviewee who was planning a DIY divorce with his wife said:

It clarified things we were not sure of. For instance, whether we needed a solicitor and how to get to mediation. All that was made clear. It also civilised us and made us realise that, if we were at each other's throats, we would need a solicitor. So maybe it saved us money. (M)

Other comments indicated how their having the information available helped people to make key decisions about what to do:

It straightened the brain out, and said 'Come on, stop waffling', 'Answer this question', 'What do you really think?' and things like that. It helped answer the straight and simple things like 'Do you actually believe your marriage is over?' ... It literally brought the strands together and made me focus. It taught me not to be pushed around, or be told what to do, and that helped a lot. (F)

Some parts of it were useful. It made everything more logical, and gave me a pathway to go down for different situations. It calmed me down and made me think properly. (F)

It is the opportunity to have information at my disposal, to look through it in my own time and go back to. Initially there is so much going on, and so many people telling you what to do, and giving you contradictory advice. This is neutral and lets you come to your own decision in your own time. (F)

The issue of time and timing has been a continuous one in our evaluation of information meetings, and has suggested many questions. What is the right time to give information about mediation? At what point in a marriage breakdown is it reasonable to harbour expectations of the marriage being saved? What is the optimum point at which to provide

a parenting plan? Divorce is clearly a process rather than an event, and information on how to negotiate a way through that process might be needed at different points. One person who had received a postal pack told us:

The whole thing is a gradual process. You can't believe 'this is happening to me'. Looking through the pack, you start to come to terms with all this, at a time when you are starting to make very big decisions. It gave me a feeling of 'I am in control of what I will do next because I have the right information'.
(M)

Seventeen per cent of those with whom we conducted follow-up interviews (N = 363) indicated that they did not intend to petition for divorce. Those who were still living with their spouse when they had requested a postal pack were less likely to be intending to divorce than were those who had already separated. Nevertheless, only 27 per cent of them were certain they would not be seeking a divorce. Twenty-five people who had been separated from their partner at the time they had sent for an information pack indicated that they were not intending to divorce. Fifteen of these people had become reconciled with their partner at the time of the follow-up interview, and ten did not intend to seek divorce although they were living apart from their spouse. Approximately half said that they had consulted a solicitor about divorce since receiving an information pack, and a further 20 per cent were contemplating doing so. More than half (53%) of those who had been to a solicitor indicated that they had arranged to do so before receiving the information pack. Only one in five interviewees indicated that they did not intend to consult a solicitor, and a third of these indicated that this was because they were opting for DIY divorce. Only 9 per cent of those interviewed indicated that they had no need to consult a solicitor.

Just three people (1%) had been to mediation since receiving a postal pack: significantly less than the 7 per cent of information meeting attendees who attended mediation. The low take-up of counselling and mediation among people who received only written information suggests that going to a meeting to receive information does make a difference to what people do afterwards. However, this finding should be treated with some caution. By attending an information meeting attendees have demonstrated a willingness to discuss their problems with a third party. On the other hand, people who send for a postal pack may be doing so because they do not want to involve a third party.

Eighteen per cent of interviewees (N = 363) indicated that, although they had not been to mediation, they had seriously considered it. Most of these indicated that they had been influenced to do so by information about mediation that they had gleaned by reading leaflets contained in the information pack. Nevertheless, most of those we interviewed (80%) indicated that they had no intention of going to mediation. The main reason, given by 34 per cent of those with no intention of going, was a feeling that mediation was not necessary. A further 13 per cent indicated that their spouse was unwilling to attend and 10 per cent said they could not see the relevance of mediation. We suspect that some people did not fully understand what mediation is about, and their responses concerning it may have been the result of their misunderstanding its purpose.

A third of the interviewees told us that their partners were aware that they had got the information pack. The reaction of partners to this seemed varied. One in five partners (N = 123) apparently offered no reaction, but others were shocked (21%), angry (3%), interested (12%), uninterested (4%) or dismissive (4%). In 5 per cent of cases (N = 363),

tension between spouses increased as a result of one of them sending for an information pack. On the other hand, 30 per cent of partners engaged in discussion about their marital problems when they became aware that the pack had been requested. Thus, on balance it seems that the outcome of partners being made aware was positive.

Providing Information by Post

The postal pack proved a useful but limited means of providing information. It was useful primarily because it was able to reach so many people in a short period. An average of 76 packs were sent out per week. During the first two weeks in January 1999 the weekly number of applications for packs reached over 180. By contrast, attendances at information meetings in the two pilot areas involved never rose above 43 in any week, and averaged around twenty per week. Moreover, those who received a pack were generally appreciative of it. For instance, when asked 5–7 months afterwards, 95 per cent of the 363 information pack recipients whom we interviewed said that they were glad they had received the pack, and only 2 per cent wished they had not sent for it. Over half the recipients claimed that they had learned something new through reading the leaflets. Eighteen per cent said the pack had provided them with comfort, 7 per cent said it had made them stop and think, and 17 per cent suggested it had focused them on what they needed to do. Those who wished they had not sent for a pack stated that they had learned nothing new.

If information meetings were not available, it would clearly be worth continuing to produce written information. The Vice-President of the UK College of Family Mediators⁵ described information meetings as ‘the problem child’ of the Family Law Act. Nevertheless, he suggested that the principle of ‘giving parties to divorce some quality, objective and factual information’ was ‘a good one’, and recommended that leaflets be sent out ‘to all Petitioners and Respondents at the time of issue or service of petition’. If the leaflets were to be a sole source of information provision, however, the main limitation would be the obvious dependency on a literate divorcing population. Leaflets are not an appropriate means for conveying information to the less literate sections of the community. A recently published report suggested that in Europe, only Poland and Ireland have poorer standards of adult literacy than the UK.⁶ It seems that 23 per cent of UK adults are at the lowest literacy level, as against 24 per cent of Irish and 44 per cent of Polish adults. Figures show that ‘one in six UK adults are unable to read well enough to cope with such simple tasks as reading a bus timetable or a menu’.⁷ The information leaflets require a much higher level of literacy, and in their present form would be much too difficult for such people. The complexity of the written material was a concern frequently expressed by the various professionals we consulted during our research. Moreover, the marketing of the special study relied heavily on newspaper coverage, which would be unlikely to reach people unable to read. One suspects, therefore, that our analysis of use of the postal pack could only address its impact on a comparatively literate section of the population.

It may also be questioned whether written information alone can achieve the objectives of the FLA in terms of saving marriages and encouraging use of mediation. Most people

⁵ Hodson, D., ‘The Family Law Act: where now?’, Annual Conference of the United Kingdom College of Family Mediators (1 July 1999).

⁶ ‘Literacy crusade aims to hit home’, *Guardian* (26 March 1999).

⁷ ‘Classes at work for adult illiterates’, *Guardian* (24 March 1999).

who received a postal pack seemed to be well down the path to divorce. It seems that the information contained in the leaflets did not contribute significantly to slowing down that process. Six months after having received the pack the majority of recipients were either involved in divorce proceedings or intending to be, and most had consulted a solicitor. Moreover, it does not seem that the information in the pack leads to the use of either counselling or mediation services. People who attend an information meeting are more likely than postal pack recipients to go on to either mediation or counselling. This may be because they are more inclined to discuss their problems with a third party than those who have received information by post, but it is also likely that they will have had the services explained to them, thus encouraging them to consider using them.

The conclusion arising from the postal pack experiment seems to be that it is a cheap and practical means of disseminating information, but that it has serious limitations. On the positive side, it contains information that could be provided to both parties involved in divorce proceedings, ensuring that both have the same opportunity to be informed. Although everyone could receive information provided this way, however, there is no guarantee as to how many would actually read it. Moreover, many people would be unable to do so. One might also ask whether information provided in paper format is somewhat old-fashioned – and wasteful of trees – given the existence of new means of conveying information via computer which we discussed in the previous chapter.

In the absence of other means of reinforcing messages – such as an information meeting – we have doubts as to how much impact the leaflets might have on those who read them. Although some people who received the pack suggested that the information had helped them feel more in control of events, there is insufficient evidence to suggest that reading the information significantly changes what people will do. Nevertheless, written information will enable some people to be more informed. For these people at least the leaflets will have been useful. How many people would be helped if information packs were to be provided for all divorcing couples it is not possible to predict, seeing that our study was based on evidence gleaned from active seekers of information, that is, people who specifically asked for a pack. It seems likely that such people will have been more inclined to read the leaflets provided than people who received them unsolicited.

It is likely that the information pack is most appropriate for people who have decided they are going to divorce but require general information about the divorce process. For those who received an information pack but who were still struggling to decide whether divorce was what they wanted, however, such a focus on the divorce process would be unhelpful. One might, for instance, ask whether it is appropriate to provide information about marriage saving at the same time as giving information that is designed to help people through the divorce process. Is there too much to take in? Is it better to provide additional information anyway, in case it needs to be referred to in the future? Although people intent on divorce occasionally change their minds, information about marriage support is likely to have most impact before the parties have decided to separate. On the other hand, people are likely to be more receptive to information about mediation after they have separated. This leads to the suggestion that the information pack might be more effective if the leaflets were made available in phases, rather than delivered in one batch to people who are at varying stages within the divorce process. Several divorce-associated professionals have expressed concerns about the overwhelming bulk of written information, and they may be right in suggesting it is too much for people to take in. We know enough about marriage support to state that it works best if people are able to access it early. Thus, efforts need to be concentrated on making the leaflets about saving

marriage and marriage support publicly available at all times (through public libraries, doctors' surgeries, promotional campaigns and so on) rather than relating their availability to actions that are required before one can gain access to divorce procedure.

There remains, of course, a dilemma concerning the optimum point at which to provide information about mediation. There might be less chance of confusing mediation with marriage counselling if it were provided at a time when people are ready to use it, perhaps when they first consult a solicitor. Mediation becomes appropriate at the point when parties separate, but there is no public action that registers when a separation occurs. One might provide information about mediation, and other issues related to divorce, at the time divorce is applied for. However, almost two-thirds of those who were involved in divorce proceedings at the time they received an information pack felt that the information was for them too late. By contrast, 70 per cent of those who received the information pack before starting divorce proceedings felt they were receiving it at the right time. In order to understand who was likely to feel that the information was too late, we conducted a logistic regression analysis. The results indicate that men, those who had already been to a solicitor and those with children aged 5–17 are the groups most likely to feel that the information has come too late.⁸ The relationship between gender and contact with solicitors is demonstrated in Table 10.11. It shows that men are more likely than women to feel that the information has been obtained too late, and that men and women who have consulted a solicitor are more likely than those with no solicitor contact to feel it is too late.

Table 10.11 Feelings about timing of information by gender and contact with solicitor

Timing of information	Males		Females	
	<i>consulted a solicitor prior to meeting</i> %	<i>had not consulted a solicitor</i> %	<i>consulted a solicitor prior to meeting</i> %	<i>had not consulted a solicitor</i> %
Too late	52.7	18.3	38.0	11.9
Too early	1.1	4.2	7.4	7.8
Right time	41.8	74.6	51.2	77.2
Unsure	4.4	2.8	3.3	3.2
Total (100%)	91	142	121	193

Chi-squared = (males) 33.18; $p < .001$; (females) 31.17; $p < .001$.

Receipt of an information pack will be just as important for the party who does not initiate divorce. Our study of the impact of information meetings on people involved in divorce proceedings suggests that those who initiate proceedings are likely to have gone to some lengths to obtain information before going ahead with a divorce application. At the point when they receive notice of the petition, however, the other party may have considerable ground to make up, and an information pack may well be particularly useful for them. Whenever information is made available, however, it needs to be presented in a clear, coherent way. Bundles of leaflets may not be the most helpful format, and certainly the leaflets used during the evaluation were often complex and overly detailed. They also

⁸ See Annexe 5, Table A5.21.

contained mixed messages about what services to use, and how to access those that were chosen. A simpler pack might provide one way forward in the absence of implementation of Part II.

Chapter 11

Understanding Impact

Janet Walker and Noel Timms

Those who wish to be well-informed must first equip themselves with doubt.
Doubt breeds questions, and questions beg answers.¹

Over the course of the research, increasing attention had been paid to the impact and outcomes of information meetings. These have included those outcomes which the Lord Chancellor has indicated he hoped the information meetings would achieve, namely encouraging people to consider marriage counselling in order to save marriages and the increased use of mediation services.² We consider these outcomes in detail in the next two sections of the report. However, over the course of conducting over 5,000 telephone interviews, it became apparent that for some attendees the information meeting had little, if any, impact and did not influence them in any particular way. For others, the experience of having attended an information meeting had impacted on them in a variety of more subtle ways which the attendees themselves felt to be significant. Our interviews provide compelling qualitative accounts of the ways in which an information meeting can have a variety of effects upon individuals who experience it. In this chapter we aim to get closer to a broader understanding of what attendees were looking for when they went to an information meeting and the varying impacts of that experience.

Assumptions and Expectations

The Family Law Act, which introduces compulsory information meetings, inescapably makes assumptions about:

- the extent and the effects of the ignorance of particular populations
- the contribution information plays in these populations, knowing how to execute the social practices of marital reconciliation, separation and divorce
- the contribution information plays in their knowing how to execute these practices correctly

Information may be described as

the explicit ingredient of knowledge, where what we know may be itemised. Information consists of facts, specific intellectual artefacts (often arranged in sets or bunches). It is impersonal (not a matter of opinion). Most of it is

¹ Kerr, P., *A German Requiem*, Penguin (1992).

² The Lord Chancellor, Lord Irvine of Lairg, in answer to a Parliamentary Question, 17 June 1999.

accepted on authority, and it is to be found in dictionaries, manuals, textbooks and encyclopedias.³

Pieces of information are seen as supplying rule-like propositions related to knowledge in either of two different ways:

They may be items of information which must be known as a condition of being able to perform; or they may constitute the criterion by means of which a performance may be known to be incorrect, though here they are never the only means by which mistakes may be detected.⁴

Information on marriage counselling and other marriage support services illustrates the first connection; information relating to how the parties may acquire a better understanding of the ways in which children can be helped to cope with the breakdown of a marriage illustrates the second.

Our conceptual framework, outlined in Chapter 4, draws attention to three kinds of ignorance attendees may attempt to address through information meetings. If we consider these categories to represent states of mind rather than categories of people, we can define more closely the notion of tailoring information which has already emerged as a significant factor. We can also attempt to connect categories with distinct profiles in relation to:

- feelings about 'going public'
- the definition of the problem to be solved
- appreciation of an elaborated or a restricted meeting
- valuation of the meeting or the information
- appreciation of the symbolic or instrumental function of information meetings
- effects of information meetings on a sense of agency
- appreciation of troubles-telling or advice giving
- category of knowledge or advice sought

These profile elements have emerged from the research and help us to understand how people have responded to the experience of going to an information meeting and to the information provided. We have hypothesised that people went to an information meeting in one of three basic states of mind: not knowing what to do or where to turn; not knowing how to proceed in a process on which they have already embarked or are about to embark; and not knowing the answers to specific questions, usually concerning financial matters or children. The first group were looking for guidance and for some kind of explanation as to the paths they could take. The second group voiced their concerns in terms of, for example, what is best for their children, how to avoid the detrimental

³ Oakeshott, M., (1965) 'Learning and teaching', reprinted in T. Fuller (ed.), *The Voice of Liberal Learning*, Yale University Press (1989), p. 51.

⁴ *ibid.*, p. 52.

consequences of their actions, or how to achieve a fair or civilised or legal outcome. The last group simply wanted particular issues to be settled.

Going Public

It might be assumed that this element would produce no differential between attendees: all the attendees had, after all, volunteered to attend an information meeting. In the pilots there was no element of compulsion. Nevertheless, degrees of hesitation and nervousness were evident, particularly on the part of those who did not know what to do about the situation they were in (the first level of ignorance). Those people who had already consulted a solicitor, or had been to marriage counselling prior to attending an information meeting, had already placed their problem in the public domain. Those who had not taken that step may well have sought help from informal networks before going public, but have discovered that the help might be biased towards one or other of the parties and, therefore, have perceived it to be less helpful than it might have been had it been more objective:

You get support from friends, but then that's all biased with family and friends and stuff like that ... they tend to see things from your slant and not necessarily from both points of view. They can't ... stand back objectively and have a look at the situation, and they haven't got the facts. They don't know what's the best way forward for both of us. (F)

Going to the information meeting was itself a big step for some people:

It was quite a big step for me. I found it extremely upsetting at the time, which surprised me because I thought that I was getting to grips with things. I think that it was quite a big step for me, but I don't think I realised it until afterwards. (F)

I'm glad I took the opportunity to find out what was available and what steps I'd got ahead of me, although it frightened the life out of me at the time ... and for this to be completely free, no pressure for donations or anything, was really good. (F)

We know from other research that men are more reluctant to turn to a public agency than women, and it is no surprise that fewer men than women volunteered to go to an information meeting. Nor is it surprising that the motivation for attending was often different. We can see this particularly clearly when we examine the use of the meeting with the marriage counsellor and marriage counselling in the next section of the report.

Problem Definition

Lack of knowledge about what information meetings might be did not stop people having certain expectations about the experience, and formulating ideas about what they wanted to derive from it.⁵ It was our contention that people's expectations and needs would undoubtedly influence their experience of the meeting and play a part in subsequent

⁵ We explored attendees' expectations in some depth in our First Interim Evaluation Report. See Stark, C., 'Meeting expectations', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998).

assessments of the meeting's usefulness and merits and, therefore, in what happened afterwards.

We have found that people went to information meetings with a wide variety of agendas: to get personal support at a time of crisis in their marriage; to check on legal rights; to avoid using other services such as solicitors; to save their marriage; to get information and advice about how to help their children; and to find out about services and processes so that they could take the next steps with more confidence. Others wanted answers to particular questions.

For some people, then, the problem was not at all clearly defined when they attended the information meeting:

At the time I needed someone to talk to and some advice as to what I could do to sort things out. My husband had left me. I was seven months' pregnant. I had a little boy who was four years old. So I was emotionally quite upset and very distressed. We'd been married for nearly eight years. All of a sudden your husband decides he wants a divorce – God, what do I do now? At first you just sit and cry, don't really talk to anybody, but bottle it up. (F)

Others came to information meetings with a clearer view of the problem to be solved:

There were a few points I was a bit hazy on. The procedure, where I went and what was the next step ... (F)

[I wanted to know] what my rights are: this was a fact-finding mission. (M)

I wanted to know some technicalities about how much my wife would get from me. How the court decides how much money goes to each partner. (M)

For some, getting information was a priority and a motivator for attendance, while others considered information as something that could be useful in the future. Some attendees were clearly on a deliberate information-gathering exercise; others may have realised only in retrospect that an information-based event had been useful following their actual experience of the meeting itself. For some attendees the meeting was part of a process of checking or collecting as much information as possible; they did not define a problem as such, but were merely taking advantage of an opportunity:

I just felt it was an opportunity to see if I'd overlooked anything. (F)

If I hadn't gone I would have wondered if there was anything I should have known. (F)

I've done all I can, I think, and I've tried to get as much information and to be aware of as many different aspects as possible. (F)

I'm the kind of person who likes as much information as possible. (M)

I wanted to check out that I had got all the info possible. (M)

From the above comments we can see that some people wanted to access all the information available in order to feel confident about what they were doing.

Appreciating an Elaborated or a Restricted Meeting

Policy implementation envisaged the information in simple terms. The meeting, as structured in the pilots, was not a meeting of minds, but a neutral locus for the delivery of set pieces of information according to a script. The meetings were conceived as a series of scripted events, delivering a specific and carefully crafted range of information, albeit in a variety of models. Presenters of the information were instructed that they should not discuss individual circumstances. The standardised nature of the content and the delivery seemed more congenial to those whose state of mind left them unsure of what to do next and how to proceed amicably:

I felt I perhaps needed to talk to somebody to know I was on the right track, that I was doing things correctly. I've been very negative. I've just let him make the arrangements, contact the telephone people ... I let him sort out the bank, and it all went wrong ... He'd done part of the job, but had not done it all properly. I wanted someone to say to me, whatever you're doing, you're on the right track. (F)

Others questioned the simple, compendium approach either because it was too basic and general or because they believed that a more sympathetic approach would meet their needs:

The solicitor gives you more structured advice. You're in there for an hour talking about personal things and circumstances, but in the information meeting, it's a bit more ambiguous – they don't want to know about it. (M)

I expected to be able to leave having a better understanding of the questions I would ask a solicitor and how to find the strength to move forward. It was different, because she just read from the script and pointed out what was in the pack. (F)

I expected to go into much more depth about each area and discuss possible scenarios. (F)

The presenter was ... able to ... I don't know, possibly she'd been divorced herself ... but she seemed well able to understand your position, to put herself – not exactly put herself in your position, but she did seem to have an understanding of what was going through your head at the time ... she might just have been a counsellor who'd dealt with a lot of people in my situation. (F)

[I expected] someone asking me where I'm at and what I'm doing next. You gear yourself up, flood out what is happening to me and what I'm thinking of feeling ... I wanted to pour my heart out and I couldn't. (F)

As we have seen in Chapter 7, some presenters found the rigidity of the script unhelpful, and on occasions adapted their presentation to provide a more person-friendly excursion through the meeting. Others stuck rigidly to the script, displaying a mechanical, and somewhat even robotic, belief in sticking to the rules.

Valuing the Meeting, the Information, or Both

Those attendees with a strong desire to assert their ability to escape from limbo-land may have appreciated being able to use the information pack in an individualised way, rather than having to attend a meeting that was inflexibly structured.

I was very glad I received the information pack, but the meeting was an absolute disaster. It was not what I was expecting – the time limit was strictly adhered to, so there was no time for my concerns, and I was not able to make any comments about my own situation ... I thought, ‘How can they do this to me when I’m very vulnerable and could do with some help?’ ... I had the impression that they could not give a damn about what you are going through ... the big thing that came out of it was the information pack ... it allayed a lot of fears, made me realise that basically it was about moving a lot of paper around and that I shouldn’t be intimidated by that fact. (F)

When you go along you don’t know what to expect and I don’t think you take things in. I think when you are emotionally unstable it’s very difficult to glean information that’s handed down to you. I think you are better to go away with some information [the pack] and you can take it in at your own pace. I think emotions just wreck your ability to take things in. (F)

Others found the exhaustive coverage of the information in the pack either of comfort or overwhelming. One woman described the pack as her lifeline:

The meeting has given me all the information I need to sort my life out. I feel more secure. I know the information is there and all I need to do is to get the relevant number and act on it. There is no need to sit here wondering what’s going to happen because I know enough contacts in the pack to put me on the right track if I’m not sure. (F)

Another woman, by contrast, said she had read the first few leaflets, but soon got to the point where she could not take in any more information. For some, the information pack provided a framework with which to move forward:

The leaflets were great. It’s given us a framework for our separation ... We knew very little before we went to the meeting ... (F)

As we have seen in the preceding chapters, however, the vast majority of attendees valued the information meeting itself. Some people liked it because it was neutral and anonymous. Others liked it because the presenters enabled (allowed?) them to talk with someone who was outside the situation:

I think it was just talking to somebody totally outside your own environment, somebody professional who actually knew something about what you were going through, and getting the interview pack and being able to read something concrete rather than having to run around about four people and think, ‘Do I need to go here? – do I need to go there?’ (F)

It was the discussion, dispassionately, with the presenter involved which enabled me to put everything in more order. (M)

It was nice to sit down with somebody independent and discuss things. She was a very, very helpful lady and gave us lots of encouragement. (M)

I think having a disinterested third party was the main thing, because at that point everyone is on sides and so it is quite useful just to have someone neutral. (F)

Others simply needed to feel supported:

You could say you could just grab a pack [the information pack], but in those circumstances when you don't feel you are getting any support, it's nice to be able to go and speak to a person – that was actually helpful. That's very important that there is someone there to guide you through it and respond when you are very mixed up and very distressed. (M)

I needed some support. Someone to tell me I could get through it on my own. The solicitors I had seen made me more worried, so I did need the meeting and it was very helpful ... (F)

Feeling supported was perhaps the culmination of a broad range of experiences. Many attendees felt positive, stronger, reinforced, or found the meeting affirming:

It was basically an affirming experience for me. (F)

I felt more focused and positive ... I'm not a very assertive person. I've been out of work so long – with having kids and your partner as well, you tend to lean on him. I feel very positive. Things are coming together. I think I'm moving on. (F)

It was often difficult for attendees to differentiate between their appreciation of the meeting and their appreciation of the information pack, however – hence the rationale for conducting the postal pack study. As we have seen in Chapter 10, the bundle of information leaflets on their own proved to be a useful but limited means of providing information. We suspect, overall, that they were appropriate for people who had decided that they were going to divorce but required more general information about the divorce process – people at the second level of ignorance. Those at the 'not knowing where to turn' stage may be even more confused without the guidance through the pack offered at the information meeting, while those wanting very specific answers to queries would be frustrated by the general content of the leaflets.

Appreciation of the Symbolic or Instrumental Function of the Information Meeting

In developing our conceptual framework for the research and our analyses of data, we recognised that the information meeting could have both instrumental and symbolic significance. So, for example, one man who had used the meeting instrumentally told us:

I knew where I wanted to go ... It [the meeting] lets you explore every avenue ... and I wanted to cover every little – you know, everything ... I wanted to make sure that before we split up ... we covered everything to make sure that this is the right thing for us ... I left no stone unturned. (M)

This man wanted to know everything, but those people who wanted answers to specific questions were most likely to use the information meeting strategically and to feel disappointed that the meeting was not sufficiently instrumental in its approach.

Others valued attendance at an information meeting for what it symbolised. One woman, for example, appreciated that her going had brought home to her husband the seriousness of her concerns about the marriage. Other attendees described how attendance had enabled them to feel more in control simply because they had taken the step of doing something about their situation:

I felt I was doing something positive about my situation, taking charge and not just sitting back and letting it roll over me. (F)

At least I did something instead of sitting round the house not knowing what to do. (F)

We would suggest that the closer attendees were to the first level of ignorance, the more their attendance at the meeting was symbolic for them. Yet at the same time their attendance fulfilled important instrumental functions:

It was a step forward for me. I needed to know a lot of information. It's not something you've got to go light-hearted into. You've got to find out what you're entitled to and what you've got to do and all sorts of things. I'm glad I did go to the information meeting ... It covered most things – not everything – but most things you need to know to make a start. (M)

I think it helps you to know that you are not the only ones going through this. And it gives you some direction ... you are not there floundering, you know, wondering where to go next and what to do ... you are given numbers of people who can help – who you can talk to. (F)

[The meeting] seemed to be part of a process. There are a series of stages you can go through when you are humming and hawing and when you realise it's not going to work you go to the information meeting and each bit was a stage, but not too dramatic a stage, and at each point you can reconsider which way you are going to go. It is when you ring up the lawyers that you think 'That's it, I won't come back'. The information meeting is a way of making the thing real rather than thinking confusedly about it all. (F)

It started the ball rolling. I went within a matter of weeks of being separated and it showed me the way to go. (F)

Those veering towards the third level of ignorance were unlikely to see anything symbolic in their attendance.

A Sense of Agency

Some people experienced the information meeting as contributing to their ability to act. The research has reminded us that marriage breakdown is usually a long, protracted process during which there may be periods of busy activity and periods when nothing much happens. The following extract from one of our research interviews illustrates how the information meeting could move the process along:

I did not want to be dictated to, I suppose. All along I knew I wanted a divorce and just needed someone to say 'Go ahead'.

This woman explained her feeling that the presenter's own confidence had given her the confidence to take action:

She was very confident when she spoke to me. She was kind as well. She knew what she was talking about, telling me things I already knew but was too distressed to start.

Others described this impact as follows:

It was an information gathering exercise and the more you know, the more you know where you can go if and when you need help and advice ... professional or whatever ... the better prepared you are ... when or if you decide to make a break. In a sense it's reassuring because you've taken that step. You've found out things. You've made a positive decision to investigate ... that's helpful when you are in a turmoil. (F)

I knew the ultimate decision was with me and if there was a right time to go, I would know when it was ... But I was confident that I would have all the information that I thought that I would need at least initially to get me going, anyway, and that gave me kind of peace of mind. (F experiencing domestic violence)

It gave me someone to talk to, to share issues with. It gave me the courage to actually tell my wife and then come to the conclusion that I did come to [to stay married]. I have absolutely no regrets – I would recommend anybody going. (M)

Others were able to move forward from rather stuck positions where divorce seemed inevitable, but both parties had been reluctant to take the final decisive steps, or else had been paralysed:

It gave me confidence to move forward. I didn't feel the meeting or the leaflets gave me the answers I wanted to hear because the answers were personal ones. It was just a generalisation of what happens, but at the end of the day I was given a kick up the backside to make up my mind as to whether I want to leave my husband and stay where I am for the rest of my life. You will be surprised how much confidence I got to go out and do my own thing because deep down I have got a strong character ... The initial confidence came from venturing out to see what all this separation might be about. (F)

I'm glad because it actually got a decision out of my husband to go somewhere for information and an actual 'Yes' to he wants a divorce as well ... (F)

When you have been told for so many years, 'You're not worth it' – it gave me strength ... just talking aloud that I can do this. I can build myself up. I can look ahead. This is a new life – go for it ... and there are places set up to help. The Presenter said, 'No one can make the decision for you' – she repeated that and said, 'If you decide this, then here is how to get help.' I came out of the information meeting after talking, convincing myself 'Yes, this is right'. The tools were on offer to help with what you decide. I wasn't going back like in 1988 [when she and her husband had previously split up], it was going forward and it was my decision and what was best. (F)

It was really just the best way of going about it to achieve the end ... and she [the presenter] did give us a list of contact numbers. (M)

Appreciation of Troubles-telling and Advice Giving

One of the concerns solicitors frequently raise is that information provision and advice giving are inseparable, and that the more attendees are able to tell their troubles, the greater the risk of the presenter giving advice. As we noted in our Third Interim Evaluation Report,⁶ the distinction between advice and information emerged as grey and murky, irrespective of the model of information meeting, and it has been a recurring issue in our examination of the different types of information meeting. The anxiety about steering clear of advice giving resulted in presenters being reluctant to answer any questions which had a personal slant. As we have seen in previous chapters, it was particularly problematic, unnecessary and frustrating for attendees, however, that the meeting failed to provide them with answers to personalised questions.

There is no doubt that people whose state of mind exhibited the third level of ignorance were looking for answers to specific questions, or for information that was more narrowly focused. By contrast, those demonstrating the first level of ignorance were more likely to want to tell their story to the information presenter. The model of information meeting had some impact on the extent to which attendees could do that: Models A and B were more conducive to troubles-telling than any of the more narrowly focused individual meetings (Models C and F). The group presentations and CD-ROM meetings created the type of environment where troubles-telling was clearly not a possibility. Presenters often had to control attendees who wanted to unburden themselves, and most did so sensitively. Studies of advice-giving and troubles-telling encounters within institutional settings highlight the need for a 'troubles teller' to be aligned with an appropriately constituted 'troubles recipient' from whom they properly receive and accept 'emotional reciprocity'.⁷ Failure of the troubles recipient to behave in this way derails troubles-telling. The introductory section of the information meeting set the ground rules for nipping potential troubles-telling in the bud. Presenters were defined from the outset as people who were not appropriate troubles recipients. Skilled presenters acknowledged troubles and moved on, while conveying appropriate levels of empathy.

Category of Knowledge or Advice Sought

Looking at the three levels of ignorance, it seems logical that, as the separation and divorce process progress, the attendee's interest will narrow (not least because initial concerns are likely to have been dealt with and can therefore be discounted). The questions attendees asked became more specific the further they were in the decision-making process. Although presenters in all of the models encountered questions which undoubtedly required specialist advice, many questions related to specialist areas, but were, in fact, of a largely procedural nature. For example:

Don't I need to be referred from a GP [to marriage counselling]?

Does the pack tell you about the differences between divorce and separation?

⁶ Lowerson, R., 'Individual information meetings observed', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

⁷ Jefferson, G. and Lee, J., 'The rejection of advice: managing the problematic convergence of a "troubles telling" and a "service encounter"', in P. Drew and J. Heritage (eds), *Talk at Work: Interaction in Institutional Settings*, Cambridge University Press (1992).

If I do that now [file for divorce under a two-years' separation fact], two years later my children will be over eighteen. Does that mean that no one is responsible for them?

If and when presenters did answer these kinds of questions, attendees often expressed gratitude for the helpful 'advice'. It is clear, then that attendees frequently perceived the giving of answers to personalised questions as some kind of advice giving, as in the following example:

I asked questions and she [the presenter] gave me advice she thought I needed ... The main thing was the children ... I did not know how I stood in the law. The other thing was the advice – is your marriage really over? Had I decided it was over? ... (F)

This attendee, like others, valued greatly the quality of talking and listening which characterised some information meetings. Her perception of the presenter as understanding arose from the fact that she listened, and then delivered the information in a way which was meaningful to the attendee.

The Place of the Information Meeting in Complex Lives

One thing that our interviews with attendees have revealed is that the way in which policymakers have anticipated the impact of information meetings may have underestimated the existence of elements such as the state of mind of the attendee, the stage of problem definition, the level of ignorance with which individuals entered information meetings, fears about going public, and the desire to tell someone about personal troubles. All of these will invariably influence how the information meeting is valued and the subsequent actions which are taken. An overly-simple link has perhaps been made between information provision and outcomes such as the use of counselling and mediation services. Our evaluation has pointed to the continuous presence of many other factors which impinge on the lives of couples facing the possibility of getting a divorce.

Although attendees occasionally described the experience of an information meeting as having a massive impact on them or as being a watershed in their lives, for most the information meeting was simply a stopping-off point along the road to separation and divorce. Because separation and divorce were often a momentous experience, the messages given at information meetings had to be fitted into complex lives. What was particularly apparent from our interviews with attendees was that information meetings were converted to the use that individual participants cared to make of them. The perspective, then, needs to change from that of policymakers to that of a very wide range of people undergoing complex transitions, often of some years' duration. Even where people felt powerless, overwhelmed or confused, most either continued to retain a sense of control or else welcomed initiatives that allowed them to return to a sense of being in control of the direction of their lives.

Ninety per cent (N = 1,827) of follow-up telephone respondents told us that they were glad that they had gone to an information meeting. When asked why, 40 per cent said that the meeting had generally been helpful and that they had acquired new information at it. Twenty-seven per cent said that the meeting had had a positive effect on how they were feeling and had made them more confident, or had reassured them in some way. By contrast, the 10 per cent who were not glad they had gone to the meeting said they had

learned nothing new or had not had their questions answered. What is apparent is the lack, in absolute terms, of one shared major response to the meetings. The most frequent responses were that the meeting was generally informative and eye-opening and a helpful source of information about children, mediation and solicitors. It seems the information meeting was not a mechanism that was particularly effective in marshalling individuals along a particular pathway. Nevertheless, attendees were not concerned only with pathways, but with motivations, their feelings and thoughts, and the need for information that fulfilled a wide range of purposes. Our interviews revealed descriptions of individual lives and the interaction between the meeting and these circumstances.

Our categorisation of states of mind, or levels of ignorance, coupled with a better understanding of how people have presented themselves at information meetings and responded to the experience, has enabled us to develop a simple grid. An understanding of outcomes needs to take account of the elements we have delineated (Table 11.1).

Table 11.1 Levels of ignorance and presentation characteristics

	Not knowing where to turn	Not knowing how to proceed	Wanting specific issues resolved
Going public	Worried: going public may have undesirable consequences	Necessary in order to establish correct performance	Part of acceptance of social consequences of actions
Definition of problem to be solved	Experiencing vulnerability/confusion	Seeking the achievement of a perspective	Seeking solutions to current defined problems
Elaborated or restricted use	Wanting emotional support	Seeking sanction in the formation of a judgement	Wanting answers beyond basic ones
Meeting or information more valued	Personal qualities or experience valued. Meeting essential for understanding pack	Knowledge of presenter appreciated	Neither particularly highly valued
Symbolic or instrumental	Liberation from a negative self	Able to face future on sound grounds	In instrumental mode
Agency	Weak sense of agency: strong sense of pressure	Reasonably self-confident in use of perspective	Assured agents
Troubles-telling or advice-seeking	Wanting to tell story. Possibly weak informal support	Seeking guidance on their circumstances	Seeking specific information
Categories of advice	Advice as recognising the importance of the question to the person	Seeking those with specialist information about procedures	Have narrowed their own choices and need definite answers

Valuing a Range of Outcomes

One of the key policy questions relates to the extent to which the provision of information makes a difference to attendees' lives. At the beginning of the study we set out a number of research objectives relevant to this question, including the following:

1. To determine the perceived relevance and usefulness of the information provided.
2. To determine what people do with the information in terms of the actions they subsequently take.
3. To determine whether the information received is sufficient to enable other services/processes to be accessed and used effectively.

We would contend that the information meetings did make an impact on most of the attendees, not only in terms of giving them very specific information on a range of topics but also in empowering them. We here refer briefly to five topics about which attendees said they had been given information which had made a difference to them.

Information about children

The comments of attendees who said that information about children had made a difference to them were wide-ranging. Responses ranged from a generalised feeling that being reminded about the needs and welfare of children was helpful to an appreciation of specific pieces of information. For example:

The meeting made a difference because of giving me ... greater understanding of how to deal with children. (F)

It did give me some information about counselling services for parents and children, so it has made me aware of that and that is useful if ever I needed it ... (F)

Financial information

This topic was one which featured regularly in attendees' accounts of the information they were looking for. We know that attendees who wished to get specific answers to specific financial questions pertaining to their own situation were unlikely to have been helped by the information meeting in its format during the pilots. However, for those seeking generalised first-stage information the information had been useful:

They highlighted that there is no hard and fast rule about how to split finances, but it rests on circumstances of individual cases ... (M)

Some attendees used the information provided by the meeting, although not individualised, to achieve a better outcome for themselves:

It enabled me to achieve a better settlement in my favour than otherwise. (M)

Overall, however, financial information was one of the least well-presented subjects.

Mediation

Mediation was probably the subject least well-known to attendees. Most people were pleased to have found out about it and have been able to consider its relevance to them. As Section 3 of the Report makes clear, however, few attendees accessed mediation services as a result:

The pack was really good because it gave you loads of contact numbers and it made you think about mediation. (F)

I know that it [mediation] wasn't for us, but I had to find out for myself ... so I was glad I went so that I could find out things for myself. (F)

Divorce

The people who were most pleased to have learned more about the divorce process seemed to fall into two of the categories of ignorance – not knowing how to proceed, or wanting specific answers to specific questions. The comments of those who wanted to know how to proceed with a divorce once the decision had been made suggest that the information they had received had been useful and this, in turn, is why they described the information meeting as having made a difference to them:

It was an entrance into the process of divorce. (M)

It was very, very helpful. It settled a lot of things that was on my mind ... I didn't know how much things would cost, who was liable to pay for them, what you had to hand in to the courts when you file for petitions, etc. and it was all sort of there, more or less laid out as what you needed ... how much things were going to cost ... time periods ... it was pretty good and informative. (F)

Domestic violence

The information about domestic violence, although difficult for some presenters to handle, was clearly important for some attendees:

I didn't realise that it was mental abuse or verbal abuse ... that that was actually violent. I just thought that violence had to be physical all the time. (F)

[The information pack] clarified where I could go and what I could do. (F)

This latter woman went on to describe how the meeting

turned my ideas around ... I mean, I was leaving. It had got to the stage where I had to walk out ... it just sort of swung everything around and made me deal with my problems rather than running away from them. (F)

We would suggest that this kind of information is relevant to attendees regardless of what state of mind they are in when they attend the information meeting.

Looking at Things Differently

Although information meetings appear to have been designed with a limited set of policy aspirations in mind, many attendees described what was a richer experience, one which may be viewed as far greater than the sum of its parts. Attendees described changes in thinking, changes in ways of looking at things, and how meetings had assisted them in their thought processes:

I think it made me look at things differently. I feel it was a turning point. (F)

It crystallised things in my mind ... it removed the fear that I would be forced to see him [her former husband]. (F)

It confirmed things for me – confirmed my marriage was over. (F)

It did change my outlook towards my daughter. I did realise that I was probably being a bit dogmatic and it did make me think ... in fact, that was something that struck home very hard. (M)

It broadened my horizons really. I never thought it was going to be so complicated really. I thought it was just going to be sign a paper and it's over and done with. (M)

Taking time to reflect on the decision to divorce is an important objective of the FLA. Telephone interviews provided ample evidence that information meetings had provided space for people to stop and think. Stopping and thinking led to contrasting responses:

The information meeting made me stop and think 'Is this really what I want?' and it made me realise it wasn't just me that would be affected by divorce and it just gave me time to think, 'Hang on!' It made me think about my daughter – how she would be ... upset by divorce ... you tend to forget the relationship children have with their father. (F)

We have been separated for a while. It stopped me in my tracks and made me think, 'Where do I want to go from here?' It gave me strength that it was the right direction for all three of us – not just for myself, because I wanted out a long time ago. (F)

Attendees who did not know what to do or where to turn were looking for some kind of exploration of the plight in which they found themselves. Many found reassurance as a result:

It reinforced things to me in a positive way, that I was moving in the right direction, that I couldn't do any more, I was doing the optimum. (F)

It was helpful to me at the time, as far as information goes, and talking to someone, and being a bit ignorant really, and telling me all the things I needed to consider. At the time it was fairly useful in reassuring me as to what was going on, I think. (M)

It was reassuring. It was nice to have all that information at my fingertips. (F)

It reassured me I was on the right track for [my] child. More useful to have gone earlier. (M)

Other attendees described how the meeting had calmed some of their more acute emotional feelings and given them some peace of mind:

I was really angry at the time and I probably would have been divorced by now ... but I think the meeting and the pack helped calm me down. (F)

My perspective on divorce changed slightly. I thought it had a bad augur ... it's the most stressful experience you'll go through ... it takes the stress out of divorce. The solicitor couldn't tell you half of this ... (M)

It put my mind at ease. I thought I was going to lose everything. I was a bit of a mess believe it or not. I didn't realise I was entitled to joint custody before the meeting. (M)

It probably calmed me down a lot. I can't say it made me change direction. It probably reassured me that I wasn't wildcarding and [that] the information I had was valuable. (F)

Some attendees felt that the meeting had supported them and had helped them to realise that they were not on their own:

At the time it's like clutching at straws to think i) that you might be able to save your marriage and ii) I'm not the only person who is in this boat that is sinking – it is very emotionally driven going to the meeting. (M)

Gaining Confidence and Taking Action

Attendees provided rich descriptions of the effect the meeting had upon their propensity to act, and we explore these in more depth in the following chapters. In seeking to understand outcomes, however, it is important to note that a range of different expressions were given to this realm of experience:

It opened up a lot of knowledge I didn't have and gave me confidence to discuss with a third person this part of my life which I have not faced up to before. It gave me confidence to actually approach other people and discuss it. I did think that I found it worthwhile on those two accounts. (M)

Although at the start it made me frightened, eventually, once I'd had time to absorb it all I think it gave me confidence. It made me feel I'm not the only one going through this. 'Other people have done it, so can I.' (F)

The evidence suggests that the meetings facilitated people to take control and to be assertive:

I think it's about giving you back some control really. People who go to solicitors, it's like they have control taken away. (F)

It was a way of taking back some control. It was doing something for me. I was getting information and I wasn't feeling quite so helpless. I keep dipping into the pack and reading things in there. It gave me something to hang on to. (F)

I felt more focused and positive ... it really made me more assertive with everything I'm dealing with and the fact that I was reassured that I was doing right [with the children] and you are always worried that the information you're giving is given in the right way and is saying the right things really. I felt very positive. Things are coming together. I think I'm moving on. (F)

It gave me some control at a time when I was needing some control. I needed my own agenda. I needed some kind of hanger to put things on. (F)

I think I felt empowered by it. I felt, 'Yes, there is information there', and I also bought the books, which gave me a lot more detail ... so that is empowering. (F)

I like to assimilate as much information as possible. Knowledge is power really, isn't it? I don't mean that in a negative sense. (M)

Some people were empowered to manage their own divorces without external professional help:

[DIY divorce] ... was actually the best option. The information meeting gave me loads of information on who to see, where to go and what do, and I have managed to do it myself. (F)

It explained how you could do things very clearly, told me I could do it by myself and didn't need to see a solicitor, which has saved me a lot of money, and it was just nice to sit there and listen to someone telling you how to do things. (F)

I had no money to pay for the divorce myself ... yet I couldn't get legal aid. The only option was to do the divorce myself ... the meeting told me I could do this or that and gave me options to choose. I was really pleased. (M)

Complex Lives: Complex Experiences

For the most part, outcomes are not easily measurable in terms of saving marriages or using specific services, but understanding impacts requires consideration of more subtle benefits which may well have contributed to some people being able to save their marriage or to manage the divorce process more amicably. The information meeting could provide these people with the opportunity to become more focused, more knowledgeable and more positive. Attendees described the strength they derived from the information meeting to move forward and to be confident that they were making the right decisions. Information could give people the courage to talk to their partner about their feelings and the confidence to take time to stop and think about whether the relationship might be revitalised.

The message, of course, is that people who are facing divorce find themselves in a variety of emotional and social states, and the discomfort associated with not knowing what to do or how to proceed can be very distressing. The imparting of information can be very reassuring and can provide the necessary impetus and confidence to take the next steps. In this connection one man told us:

I know it was a trial, and I'm sure it was costly, but I believe it should be kept on, and be available to people. It's a good first stage – it gives you a holistic view of what to expect. It made me better prepared. I wouldn't have done what I did do, at the time I did it, if I hadn't gone to the meeting.

We would suggest that these outcomes are positive. If we are to understand outcomes fully, we need to recognise the huge complexity of attendees' personal circumstances.

Timing and Content

In our First Interim Evaluation Report⁸ we pointed to a number of tensions within the design of the information meeting. The first relates to the difficulty of designing an information meeting which will be of relevance both to those in the very early stages of marriage breakdown and to those who have made a firm decision to divorce. The second highlights the distinction between information giving as the provision of ordered knowledge (the bare facts) and information giving as a service (the facts personally tailored to the specific circumstances of the attendee). This raises the question of whether the information should be general or specific, and of whether it is purely technical in nature or is designed to be practical. These tensions are encapsulated in considerations of timing and content. The models being tested at the time the First Interim Evaluation Report was written (Models A and B) were delivering general information covering the whole gamut of subjects as prescribed in Section 8, by means of tightly structured scripts in which there was little room for deviation or dialogue. Although the attendees were almost universally positive about the information received, and valued the experience, there was disappointment and frustration about the 'one size fits all' approach.

Our more in-depth analysis of the first five pilots confirmed the early findings, and in our Second Interim Evaluation Report we addressed some of the key questions in more detail. We concluded⁹ that the extent to which information is recognised and absorbed depends to a large degree on each attendee's notion of the relevance of the information to them given the judgements they face, and that this in turn depends on their view about where they are in their relationship – be it in trouble, on the verge of breaking down, or well past the stage of no return. Whatever the stage, however, attendance at an information meeting is for many people undoubtedly both a symbolic and an instrumental step. When attendance is instrumental it is not surprising that people expect that an individual meeting with someone who is the custodian of a great deal of information (knowledge) will deliver a service tailored to their specific needs. In our view, a one-to-one meeting is always likely to be construed in this way by the majority of attendees.

⁸ Walker, J. and Timms, N., 'Looking ahead', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998).

⁹ Walker, J., 'Drawing conclusions', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998).

During the first five pilots we hypothesised that group presentations might be less likely to raise the same expectations – after all, a lecture is by definition a structured presentation which takes little account of the individual personal situation of each person in the audience – but as Chapter 8 showed there were problems in making this a relevant experience for all-comers. We also thought that the CD-ROM might offer an element of personal tailoring if attendees could make choices about the information being delivered, but the CD-ROMs used did not offer sufficient flexibility, as we showed in Chapter 9. Models C and F were designed to offer individual meetings which involved an exploration of uncertainty/certainty about whether the marriage is over and focused specifically on marriage support. These meetings, too, contained an insufficient element of personalisation.

Unlike Model A, Models C and F consist of two meetings, one of which is accessed pre-proceedings, hence the marriage-saving focus, and the second of which, a group presentation, was accessed post-proceedings, hence the focus on divorce process and dispute resolution. These two models made an explicit attempt to address the twin objectives of saving marriages and promoting civilised divorce by making the reasonable assumption that attendees who had begun divorce proceedings would be less likely to be able to save their marriage and therefore more receptive to a focus on mediation and on the needs of children, whereas attendees who had not set divorce in motion might be more receptive to considerations of marriage support. Although few attendees in the pilots experienced both meetings, the findings suggest that timing and content were still problematic.

In the preceding four chapters we have presented the findings across all the models which were piloted, and have considered whether the later models of information successfully addressed the identified tensions. It is striking that those receiving information via a CD-ROM were less likely to find the meeting helpful and the information relevant. We conclude that receiving information from an individual has added value. Thus the Model C individual meeting is more highly valued than the Model F CD-ROM individual meeting, although they both focus on the marriage-saving objective.

There are, however, as we have seen, other problems with meetings which focused only on one aspect of the information. By the time many people attended the information meeting the focus on marriage had come too late. This was a common reaction from people whose relationships had deteriorated beyond repair. By the time the pending breakdown is acknowledged in some public way, it may already seem too late to reverse the situation. This is hardly surprising given that around half the attendees were already separated from their spouse and almost as many were certain that they wanted a divorce before going to the information meeting (over a third had already consulted a solicitor, and a quarter had already been to marriage counselling). The research indicates that for the vast majority of attendees the meeting made no difference to the probability of their getting divorced. There is also evidence that the information meeting tipped those who were uncertain about divorce into divorce mode. This may, of course, have been a positive outcome for those who had grappled with uncertainty and indecision and needed the courage to move forward. Stopping to think may well be the necessary prerequisite for taking the next decisive steps.

Many presenters across all the models attempted to avoid the ambiguity of legislative intention, by finding an appropriate focus for attendees and thereby injecting ‘relevance’ into the encounter. This became problematic, however, when presenters strayed into responsive mode but saw the choices open to attendees as being limited either to saving

the marriage or to getting a divorce. This conceptualisation fails to take account of uncertainty and the muddle people find themselves in when relationships are in the process of breakdown, and fails to acknowledge that there are more than two ways forward.

The differing levels of ignorance, or, in other words, the different agendas, needs and expectations of those attending information meetings, have considerable implications for the timing and content of the meetings. Since the beginning of the research programme we have contended that ensuring that appropriate information is available to people at the optimum time constitutes a particular challenge for policymakers. The preliminary findings from across all the models of information meeting confirm this belief. If any assessment is to be made about 'appropriateness' or 'optimum timing', the information presentation has in some way to be both sensitive and relevant to the individual attendee.

It is clear from our interviews with attendees that the information meeting may be the 'starting point', the first public realisation for those who simply do not know what to do next. As one attendee put it,

the meeting makes you aware of all the options available ... even if they're not relevant to you. I didn't know where I was going or what I was doing and that was a good starting point for me ... and it made me realise something I wanted to eliminate ... I didn't want to go into a divorce straightaway ... it does home in on what the realities are ... and all the different things which are available if you are in a certain situation. The meeting enabled me to say to my husband, 'Well, you can't actually go ahead and get a divorce: I've been to a meeting and this is what I have found out.' This sort of made him realise as well. (F)

Another woman described how the information had 'cleared the way forward' for her, although she had not taken any particular action on the basis of the information provided when we spoke to her several months later:

I haven't followed up any of the things. The meeting seemed to clear the way forward. It made me think a bit deeper with respect to the children and also finances ... It's so easy to see yourself in isolation, to see the two of you ... My husband sat up and thought more about what he was doing with his life. I had taken the initiative to go along and say I'm not happy with the situation. This brought him to his senses.

The information meeting gave some people 'permission' to take their time. One couple discovered:

We could take our time. We weren't having to rush into making any decisions one way or the other ... that is why we went, because we didn't know what to do next ... and the woman we spoke to says 'Well, you don't have to do anything if that's what you want to do ...'. We were living apart at the time and she says 'Well, if that's what you want, just carry on. You don't have to do anything officially.' We had thought you had to talk to a solicitor, but the lady explained that we didn't have to. We felt once you start with solicitors you get pulled down that road and we just wanted to take our time.

The experience of this couple, who went to a Model B individual meeting, contrasts starkly with the experiences of Model C individual meeting attendees, who seemed to be given one of two options: try to save the marriage and opt for marriage counselling, or

proceed to divorce. The evidence would suggest that the 'fork' in the Model C meeting needed to have more than two prongs if it was to provide a range of options and choices, including the 'do nothing' scenario. This latter option may be particularly important for those who are struggling to come to terms with the breakdown of their relationship and who are experiencing a plethora of emotions including profound grief: attendees at the first level of ignorance. If information meetings do not make allowance for the misery associated with divorce, they may merely reflect the legal provisions and fail to do justice to the opportunities inherent in the provision of information on an individual basis. One attendee explained to us that, in his view, the divorce professionals had failed to make any allowance for his feelings

that someone is to blame, or is hurt ... The judges aren't interested, it's just get on with the practicalities of divorce, the rudiments of divorce, the set procedures are set down ... I'm in grief, and there's very little support for that.

The Law Society commented that the Green Paper assumed that most people seeking information will be calm, literate, articulate and objective, when in reality they will be experiencing feelings of extreme hurt, anger and distress.¹⁰ The vulnerability of some attendees is starkly illustrated in the following chapters, which are concerned with saving and supporting marriages and the meeting with a marriage counsellor.

Comparative analysis across all the models of information meeting has promoted greater clarity in the quest for the best possible approach to information provision. We are of the view that understanding the impact of the pilot information meetings needs to go far beyond simple statistical counts of the numbers using specific services or demonstrating specific actions.

¹⁰ *Fairness for Families: The Law Society's Blueprint for Resolving Disputes on Family Breakdown*, The Law Society (1994).

Volume

2

**Information Meetings and Associated Provisions
within the Family Law Act 1996**

**Final Evaluation Report
Volume 2**

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Newcastle Centre for Family Studies

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Supporting and Saving Marriage

3. Supporting and Saving Marriage

Part I Section 1(b) of the Family Law Act lays down the principle that parties should be encouraged to take all practicable steps to save the marriage, whether by marriage counselling or otherwise. While many politicians, policymakers and practitioners would like to be able to reverse the current trends which have seen the marriage rate falling and the divorce rate rising, few believe that merely changing the law relating to divorce will provide the solution. During the passage of the Family Law Bill it was recognised that marriages break down over time, that some people attempt marriage counselling before seeking legal advice, and that most people attending an information meeting will have thought long and hard about the step they may be taking to end the marriage. Information meetings are expected to spell out the availability of marriage support services, with the pathways into counselling clearly signposted. The information meeting was required to be 'sensitive' and 'relevant' and able to provide information 'that is useful to people, rather than a hoop that they must go through either to save or destroy a marriage'.*

All the models of information meeting have involved the provision of information about marriage support services. Model C focused specifically on examining with the attendee whether the marriage was truly over. The group presentations paid less attention to marriage support services, primarily because most of them were targeted at attendees who had already commenced divorce proceedings. The CD-ROMs both covered marriage support, with Model F providing the same focus as Model C.

During the Committee Stage in the House of Commons, a series of amendments were tabled which included the provision of a special meeting with a marriage counsellor, an invitation to which was to be offered at the information meeting. This meeting was to be free of charge for those who qualify for legal aid. Although it was acknowledged that this provision may make no difference in respect of some 95 per cent of divorces, it was felt that saving a few marriages would have a beneficial effect on society. The offer of a meeting with a marriage counsellor is enshrined in the legislation (Section 8(6)(b)). During the pilots the development work for such a meeting was undertaken, and the meeting was piloted in eight information meeting pilot areas and through the postal pack special study.

In Chapters 12–17, we turn our attention to the ways in which the pilots have attempted to support marriages and to save those which may be saveable. We consider: the impact of the information meetings on attendees' decisions about whether the marriage could continue; the uptake of counselling and attendees' experiences of going to marriage counselling after attending an information meeting; the development of, and experience of providing and receiving, the new meeting with a marriage counsellor; and the extent to which information provision assists in the prevention of marriage breakdown. Chapters 14 and 15 offer a number of personal stories which demonstrate how some people dealt with uncertainty about the future of their marriage, and how others worked towards reconciliation. In Chapter 17 we explore the concepts of marriage support and marriage saving, and the extent to which they can be integrated effectively into legislation which is primarily about divorce.

* Mr Peter Bottomley MP (Eltham), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 162.

Chapter 12

Saving Marriages: The Impact of Information Meetings

Peter McCarthy

While information about a number of matters will be given in the information meetings, the availability of marriage counselling is so fundamental and central to the stated principles that lie behind the Bill that it is crucial that it should appear in print ...

Of course, it will be entirely up to the couple as to whether or not they avail themselves of such marriage counselling. Moreover, in the majority of cases, it is likely that the divorce process will simply go on.

However, some marriages can be saved and will be saved.¹

Although many hours of parliamentary debate were devoted to the need for divorce legislation to do as much as possible to save marriages, no one expected that very many people would be turned back from the brink of divorce. That some couples would be, however, was sufficient justification for a distinct focus in the Family Law Act on providing information about and access to marriage support services. In this chapter we examine how successful the information meetings were in achieving the objectives of supporting and saving marriages. First we consider the process of going from an information meeting and on into marriage counselling as it was experienced by all those who attended an information meeting. Secondly, we look more closely at the impact of Model C individual meetings, which specifically focused on marriage support and were available only to people who had not started divorce proceedings.

The Information Meeting as a First Port of Call

Our evaluation devoted attention to the question of whether information increased knowledge about marriage support and the likelihood of attendees using marriage support services. Our data suggest that many of those who attended an information meeting had already gone some considerable way towards ending their marriage beforehand. During the pilot programme, 7,863² people attended an information meeting. More than half (55%) of these had already separated from their spouse, 34 per cent had consulted a solicitor about divorce, and 16 per cent had already begun divorce proceedings. Moreover, many had sought help in trying to save their marriage. Around one in five (21%) had been to marriage counselling within the previous year, and our telephone interviews revealed that many others had attended counselling more than a year before they applied to attend an information meeting. Almost half (46%) of the 1,675 attendees who had been to counselling within the previous year were still living with their partner, but it would seem that counselling had not saved their marriage given that they were considering separation and divorce and felt the need to go to an information meeting. Indeed, 11 per cent of the 765 people who had been to counselling and were still living

¹ The Lord Bishop of Oxford, Official Report (H.L.), 22 February 1996 at cols 1181, 1182.

² For particulars of attendees see Ch. 5.

with their partner were involved in divorce proceedings, while one third had already consulted a solicitor about divorce.

Given that many people had used marriage support services before they attended an information meeting, and that others had already taken other decisive steps towards ending their marriage, we were concerned to discover whether information meetings work most effectively when they are accessed as a first port of call. The notion of an information interview being a single first port of call was suggested in the Green Paper put forward by the last government.³ The hope was that, by absorbing information early in the process of marital breakdown, couples would be encouraged to think carefully before consulting lawyers in order to initiate divorce proceedings. We compared the impact the information meeting had on married people who had previously not petitioned for divorce, nor been to counselling or mediation nor consulted a solicitor with its impact on people who had engaged in at least one of these activities previously. Attendees, apart from the four people who did not provide information about previous activities, could be divided almost equally into the two groups that became the focus of the analysis: 3,985 were using the information meeting as a first port of call, whereas 3,873 were involved in divorce proceedings, had consulted a solicitor, or had been to counselling within the year prior to their accessing the information meeting.

We would expect first-port-of-callers at information meetings to be at an earlier stage in the separation process than those who were involved in divorce proceedings or had used counselling or sought legal advice. One indication of this is that only 45 per cent of first-port-of-callers, as against 64 per cent of other attendees, were living apart from their spouse. We do not know how long ago separation took place, but it seems that some first-port-of-callers had, in fact, gone a long way towards ending their relationship. Our follow-up interviews, for instance, suggest that some of them had been to marriage counselling in the past, although they had not been within the year preceding their application to attend an information meeting. The dissolution of marriage is clearly a process that can take a long time, and people who are engaged in the process may use, and reuse, available support services before they or their partner finally makes the decision to divorce. Those people who we describe as first-port-of-callers had not consulted a solicitor, nor had they used either counselling or mediation services, nor had they become involved in the divorce proceedings in the year preceding their attendance at an information meeting, but they may have done any combination of these things earlier than that.

Reflections about the Meeting

There were no significant differences between first-port-of-callers and others with respect to their views about the information meeting. Both groups tended to be equally positive when completing questionnaires after the information meeting and in responding to questions posed by telephone interviewers. A total of 3,311 attendees were interviewed within six weeks of their going to an information meeting.⁴ Approximately half indicated that they had read the leaflets about marriage and 42 per cent had read the leaflet about

³ *Looking to the Future: Mediation and the Ground for Divorce*, Cm 2424 (1993).

⁴ The data gathered via telephone interviews were largely qualitative, and the nature of the questions varied over time. More extensive questions about marriage counselling were included with the introduction of the Model C individual meeting, which we describe below.

marriage support – perhaps indicating the degree of interest in issues connected with marriage saving and marriage support. There was no difference in this respect between first-port-of-callers and other attendees. However, the key questions relating to marriage support were whether the information meeting meant attendance at counselling would be more likely, how many people went on to consider counselling as an option, and how many subsequently experienced counselling. Most attendees (70%) indicated that their going to the information meeting had made no difference to the likelihood of them using marriage support services. Four per cent said that they were less likely to seek marriage support as a result of having gone to the information meeting, and just over one in five (22%) indicated that their having gone to the information meeting had led to them being more likely to use marriage support services. As Table 12.1 shows, the information meeting was more likely to have a positive impact in this respect on first-port-of-callers, of whom 26 per cent indicated an increased likelihood of using marriage support services. Nevertheless, the majority of this group (64%) indicated that the information meeting had had no impact on the likelihood of their using marriage support services.

Table 12.1 Attendees' views about the impact of the meeting on the likelihood of using marriage support

Use of marriage support considered to be:	First-port-of-callers %	Others %	All interviewees %
More likely	26.1	18.4	21.8
Less likely	4.7	4.2	4.4
No difference	64.3	74.1	69.7
Don't know	4.9	3.4	4.1
Total (100%)	1,216	1,509	2,725

Chi-squared = 21.51; $p < .001$.

Comparing Models

One of the reasons the Lord Chancellor gave as to why he felt it inappropriate to make a decision about the implementation of Part II of the FLA last year was disappointment that the information meetings had not diverted sufficient people into marriage counselling. In this context it is important to determine whether some models are better than others in encouraging users to attend counselling, and so we employed logistic regression techniques in order to compare models, while taking into consideration other factors that might affect knowledge about, and attitudes towards, counselling.

The logistic regression analysis⁵ suggests that Models A and B were more successful than other models in increasing knowledge about marriage support. In addition, people who attended one of those meetings were the most likely to find the information about marriage support useful. However, Models A and B seem to be the least effective of the individual meetings in terms of the number of attendees who felt they were more likely to use marriage support services as a result of attending an information meeting. These results may suggest that some people approach marriage support agencies because they do not get enough information from the information meeting. For instance, 13 per cent of

⁵ See Annexe 5, Tables A5.22, A5.23, A5.24.

the 1,215 attendees who said they were not better informed about marriage support indicated that they had become more likely to go to marriage counselling. Consequently, going to marriage counselling might be a negative outcome in some circumstances – people may go because they feel that attending an information meeting has not given them what they hoped for. For instance, one man who attended a meeting with a marriage counsellor told us he was not sure why he had gone, but indicated that his wife had gone to get the information she had been unable to obtain when she had gone to an information meeting:

It was the wife's idea, from the information meeting. We'd had a blazing row. She went to the information meeting, which she felt was a shambles. No one could answer any questions.

This kind of evidence creates problems for us in our attempts to compare models, at least so far as take-up of marriage counselling is concerned. Clearly, it is not sufficient to know whether or not people follow attendance at an information meeting with attendance at marriage counselling – we also need to know much more about why they go to see a counsellor. Statistics alone do not tell us this.

The evidence also indicates that the information about marriage support had little impact on people who had been to marriage counselling in advance of attending an information meeting. Perhaps the fact that they had been to counselling beforehand meant that they thought they knew all there was to know.

Going to Counselling

Table 12.2 indicates that first-port-of-callers were marginally more likely than others to proceed to counselling. Fifteen per cent of first-port-of-callers indicated that they had been to counselling since attending the information meeting and 29 per cent had given it serious thought, while the comparable figures for other attendees were 10 per cent and 19 per cent. Thus, although counselling is more likely to attract people who use the information meeting as a first port of call, it is far from irrelevant to those who have been involved in other divorce-related activities. The majority of attendees in both groups, however, indicated that they had neither been to counselling nor had thought about going.

Of particular note is the finding that counselling seems more likely to be seen as an option by those who have not yet separated (Table 12.3). Indeed, those living at the same address at the time they attended an information meeting were twice as likely as those living apart to have gone to counselling after the information meeting, and those who had not gone to counselling were more likely to have thought about going.

Table 12.2 Use of counselling at time of initial interview (Model C, D and F attendees only)

Whether attendee had used counselling since attending the information meeting:	First-port-of-callers %	Others %	All interviewees %
Attendee had been to counselling	14.6	10.4	12.2
Attendee had thought about going to counselling	28.8	19.4	23.3
Attendee had neither been nor had thought about going to counselling	56.5	70.2	64.5
Total (100%)	451	634	1,085

Chi-squared = 21.51; $p < .001$.

Table 12.3 Use of counselling by residential location (Model C, D and F attendees only)

Whether attendee had used counselling after attending an information meeting:	Same address %	Different address %	All interviewees %
Attendee had been to counselling	18.6	8.8	12.4
Attendee had thought about going to counselling	28.7	19.9	23.1
Attendee had neither been nor had thought about going to counselling	52.7	71.3	64.5
Total (100%)	387	680	1,067

Chi-squared = 40.64; $p < .001$.

Responses from the 3,311 telephone interviews conducted within six weeks of the information meeting suggest that around one in eight of those who attended an information meeting went on to counselling quickly afterwards. This finding needs to be treated with some caution, however. In the time involved, those who had attended counselling were unlikely to have been to more than an initial counselling interview. It was impossible to know at that stage how many of them would go on to complete a course of counselling. Previous research⁶ has shown, however, that more than a third of the clients of one counselling agency opted out after the first interview, while only one in three remained in counselling until agreeing with the counsellor to end the process. Moreover, some people who go to counselling have objectives other than reconciliation in mind. McCarthy, Walker and Kain⁷ have shown, for instance, that 30 per cent of men and 40 per cent of women who went to a counselling appointment at Relate were not going in the hope of improving their relationship with a partner. As we will show, these findings were replicated among information meeting attendees who went on to

⁶ McCarthy, P., Walker, J. and Kain, J., *Telling It As It Is: The Client Evaluation of Relate Counselling*, Newcastle Centre for Family Studies (1998).

⁷ *ibid.*

counselling. A total of 1,838 attendees were interviewed for a second time between five and seven months after the information meeting. By this time, the proportion who indicated they had been to counselling had increased very slightly to 14 per cent.

There was no evidence that any of the models was more effective than others in diverting people to marriage counselling, although the Model F individual meeting did marginally better than the other models. Logistic regression analysis⁸ suggests that the most significant determinants of attendance at marriage counselling were residential status and previous experience of counselling. Seventeen per cent of the 260 interviewees who had been to counselling before the information meeting went again after the meeting. This is a significantly higher take-up of counselling (Chi-squared = 8.5; $p = .003$) than the 11 per cent attendance relating to people who had not been to counselling before the information meeting. As we have shown earlier in the chapter, however, those who had been to counselling previously were less inclined to feel that they were more likely to go to counselling because they had attended an information meeting. Clearly, some people were attending an information meeting between counselling appointments, which explains why those who had been to counselling before the meeting were more likely go to counselling afterwards than were those who had not been to counselling within the previous year.

The Longer-term Perspective

In order to gain a longer-term perspective on the impact of information meetings, we conducted a further follow-up survey in November 1999.⁹ This survey (referred to as the time-slice survey) involved sending questionnaires to samples of people who had attended an information meeting a year, eighteen months and two years previously. We sent out 1,507 questionnaires and received 701 completed responses. Twenty-three per cent of those who responded indicated that they had been to counselling since attending an information meeting. Of these, 57 per cent had attended with their spouse while the rest attended alone.

One in ten of the 159 survey respondents who had attended counselling after going to an information meeting indicated that the information meeting had 'very much' influenced their decision to seek counselling, while a further third indicated that it had influenced their decision 'a little'. Thus, the majority (56 per cent) indicated that their decision to attend counselling was not influenced by their having attended an information meeting.

⁸ See Annexe 5, Table A5.25.

⁹ See Ch. 6 for particulars of this survey.

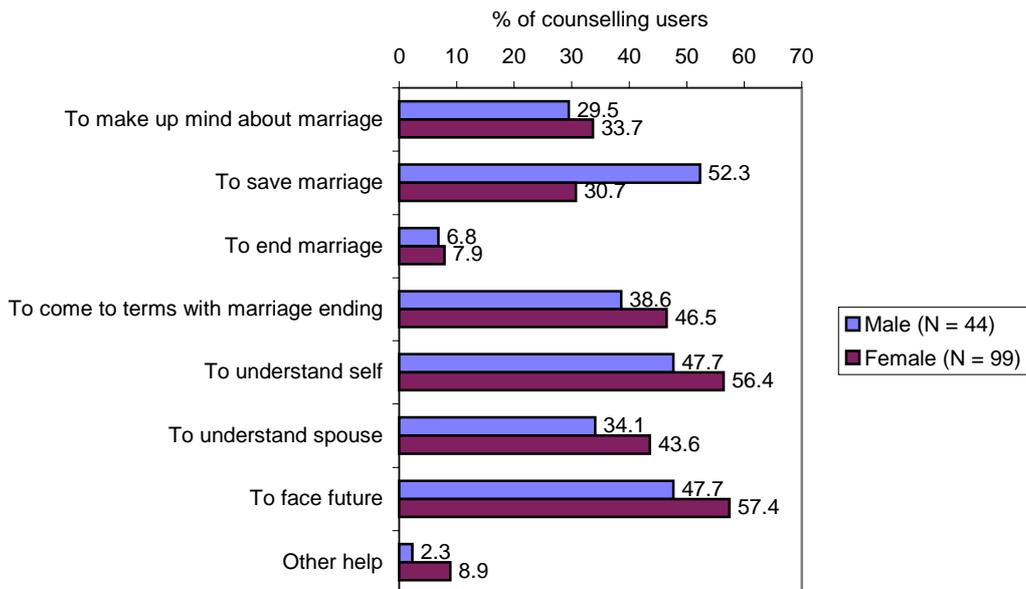


Figure 12.1 Reasons attendees gave for going to counselling

Around a third of those who went to counselling indicated that they had gone in the hope of saving their marriage. As Figure 12.1 shows, men were more likely than women to go with that objective. Indeed, saving marriage was the main reason men went to counselling. Women were more likely to have personal objectives such as to obtain help in understanding themselves and/or their spouse or to obtain help in facing the future after their marriage had ended.

Of the 54 people who indicated that they had gone to counselling to save their marriage, only eight felt that they had achieved that objective at the time they completed the survey questionnaire, while 17 were in the process of divorce and 16 were already divorced. However, there were eight people who indicated that their marriage was saved by counselling, although that had not been their objective when they had first attended counselling. Two of these people, although they indicated that their marriage had been saved, suggested that this might have happened without counselling:

The marriage was already saved. Counselling helped to cement this. (F)

I don't feel that this was a result of counselling, but of events. (F)

Another person indicated that the saving of her marriage was temporary:

It initially saved the marriage but now, two years on, [we have] marriage breakdown.

Men were more likely than women to have gone to counselling in the hope of saving their marriage, but were less likely than women to have achieved that objective. Of the 23 men who were hoping to save their marriage by going to counselling only two succeeded in doing so. Nevertheless, ten of those who did not save their marriage indicated that they were satisfied with the service provided, while eight said they were dissatisfied. The two

men who saved their marriage went to counselling with their wives, as did twelve of those people who failed to save their marriage. Thus it seems that saving marriage is a difficult outcome to achieve after attending an information meeting, even when spouses attend together. It is significant, in our view, that none of the people who went to counselling alone felt that counselling had helped them to save their marriage, while 17 per cent of those who went with a spouse felt this.

Although almost half of those who went to counselling attended alone, the most common reason people gave for not going to counselling – referred to by 39 per cent of the 542 people who did not go to counselling – related to the unwillingness of a spouse to participate. It might be important to consider why some people made the decision to attend a counselling appointment even if their partner did not go with them, while others seemed to feel that counselling was not an option if their partner would not go. It is also apparent that many of those who did not go to counselling simply saw no need to, either because they and their partner had reconciled or because they saw no prospect of reconciliation. Twenty-nine per cent indicated that they had tried counselling before and saw no point in trying again, while 12 per cent felt counselling was too expensive.

Sixty-two per cent of the 159 survey respondents who went to counselling indicated that they were satisfied with the service received – indeed, 29 per cent said they were very satisfied – but 14 per cent said they were dissatisfied and 7 per cent were very dissatisfied. The main source of dissatisfaction related to the counsellors or else a feeling that counselling simply had not provided what they had hoped for. Nine people, including those who made the following remarks in their questionnaires, felt the counsellor had not been as directive as they had hoped:

The counsellor didn't offer any ideas, just listened to what we had to say. I went there for answers. (F)

The counsellor in the end was a bit weedy; 'leave it for a year and see how you both feel'. That was enough to make me think hard about the reality, and that was not about 'wait and see'. (F)

I didn't feel that the counsellor aided the reconciliation process, either by suggesting positive action, or by objectively addressing the concerns of both parties. (M)

The counsellor was very difficult to talk to and appeared totally uninterested. No help was offered. (F)

I did not have any empathy with the counsellor and did not find the advice given was relevant to me. I don't think the counsellor listened, or that they could understand, or care about the devastation caused to a rejected mother and wife, as I felt at the time. (F)

Eight people complained about the lack of progress made. Indeed, they tended to think that counselling had made matters worse:

It opened up the dissatisfaction with marriage rather than the good things. (F)

It created more trauma and it did not help, or stop the hurting. (M)

Counselling helped me but did the opposite to my husband, as it opened his eyes to things that he didn't want to see. (F)

One woman felt that the damage had been done before counselling had begun, because of the time it had taken to get an appointment:

When we originally decided to attend counselling we were both quite desperate. However, by the time we were seen, some three months later, the situation had deteriorated to such an extent that my husband was unable to cope; and I was being treated for depression. The counsellors failed to address this, despite our attempts to point this out. We would have been better off talking with family members who knew what we had been through when we needed to talk. In my experience, most people only seek counselling when they really cannot resolve problems together, so to be added to a long waiting list is not helpful. (F)

The evidence suggests that the counselling that follows an information meeting is of limited success in saving marriages. However, half the survey respondents felt that marriage counselling should be compulsory before divorce can take place. As Table 12.4 shows, compulsory counselling was particularly popular as a suggestion among those people who had attended counselling alone, who were perhaps expressing disappointment about the fact that their partner did not attend with them. Nevertheless, it is somewhat surprising to find that 44 per cent of those who had never been to counselling felt it ought to be compulsory.

Table 12.4 Attendees' responses to the statement 'Everyone should have to see a marriage counsellor before they are allowed to divorce'

	Attended counselling alone	Attended counselling with spouse	Attended counselling before information meeting	Never attended counselling	All respondents
	%	%	%	%	%
Strongly agree	37.1	20.2	23.9	13.1	18.9
Agree	34.3	41.6	26.5	31.0	31.7
Neutral	10.0	15.7	16.1	14.2	14.4
Disagree	14.3	21.3	22.6	28.9	25.0
Strongly disagree	4.3	1.1	11.0	12.8	10.0
Total (100%)	70	89	155	374	688

Chi-squared = 45.48; $p < .001$.

There appears to be a general consensus that marriage counselling has a significant role to play in supporting marriage, but survey respondents had mixed feelings as to whether information meetings would be likely to come early enough to give marriage counselling a chance of saving many marriages. For instance, 43 per cent of survey respondents agreed with the suggestion that by the time most people went to an information meeting it would be too late to save their marriage, while 30 per cent disagreed. Nevertheless,

research into the efficacy of counselling suggests that it is more likely to be of help in the saving of marriages if it is taken up before the parties separate.¹⁰ Consequently, if the objective of providing information is to facilitate marriage saving, information is going to be more effective if it is provided while couples are still living together. How to achieve this, however, is a question with which the marriage support agencies have wrestled since their inception.

Model C: Focusing on Marriage

The Model C individual meeting was established with the explicit purpose of focusing on the objective of saving saveable marriages. It dealt specifically with the emotional aspects of relationship breakdown and the possibility of saving marriages, and was available only to people who were not yet involved in divorce proceedings. The meeting was scheduled to last about twenty minutes, after which attendees were given a full information pack. The premise of the meeting was that attendees would be encouraged to ask themselves whether their marriage was really over, and whether there was a possibility of reconciliation. In the context of marriage saving, therefore, the Model C individual meeting represented a particularly apposite case study in that it provided an individual face-to-face meeting which was specifically focused on marriage saving and was provided only to people who were not already involved in divorce proceedings. If any of the models of information meeting could encourage attendees to contemplate marriage-saving activities it would surely be this one.

Exit questionnaire data

The Model C individual meeting was attended by 567 people, who each completed an exit questionnaire immediately afterwards. This elicited data about their opinion of the meeting, and how they felt about the prospect of divorce at the time they attended. The results suggest that attendees fell into three basic groups:

1. Those who wanted a divorce (43%).
2. Those who did not want a divorce (22%).
3. Those who were unsure what they wanted (35%).

It seems likely that each of these three groups required a different type of information meeting. This was accounted for to some extent within the format of the Model C individual meeting, which began with the presenter attempting to discern whether the attendee was certain that their marriage was over. If the attendee indicated uncertainty they were provided with information about counselling and advised about the importance of reflection. Attendees who were certain that their marriage was over were reminded of the magnitude of their decision, and entreated to take stock of the practical implications and to employ available services in the decision-making process. They were also advised to keep their children informed, alerted to the possibility of counselling and, like uncertain attendees, directed to the contents of the information pack. As we have shown

¹⁰ McCarthy, Walker and Kain (1998), *op. cit.*

in our Third Interim Evaluation Report,¹¹ however, some presenters tended to have trouble establishing an attendee's position, since some changed positions during the meeting. Managing the 'fork' was particularly difficult if spouses who might have different positions about wishing to save the marriage attended a meeting together.

We would suggest that there were important differences within the group of people who went to an information meeting feeling certain about what they wanted. It seems likely that those attendees who did not want a divorce would have had different information needs from those who wanted a divorce. Those who were unsure about what they wanted might be said to be at the first level of ignorance,¹² in that they had recognised that they had problems in the marriage but were not sure what to do about them. Those who had made their minds up before they went to the information meeting clearly required a different level of information, and those who wanted a divorce were likely to need different information from that needed by those who did not want their marriage to end. Those who indicated that they did not want a divorce probably required information (or guidance and advice) about how to prevent the divorce happening and/or help in coming to terms with the fact that the marriage was over, despite how they felt about it. On the other hand, those who wanted a divorce required information that would help them to obtain one, although information about how they and their family might be affected by divorce was clearly of relevance.

It also seems likely that each of the three groups of attendees described above wanted something different from support services such as counselling. Those who wanted a divorce, for instance, may have wanted a counsellor to help them to achieve that objective and/or to help them to come to terms with the fact that their marriage had ended. Both of these are common objectives of people who contact counselling services,¹³ although many divorcing people may not be aware that such help is available in counselling. (This was one of the pieces of information that some people obtained at the information meeting.)

Another problem concerning the content of the Model C meeting is that we only know of the attendee's feelings about divorce. We suspect that those who did not want a divorce had gone to the meeting because their spouse had expressed a desire to end the marriage. Consequently, when someone went to the meeting indicating that they wanted a divorce it cannot be assumed that their spouse wanted the same thing. Moreover, the position of the spouses of those who were uncertain is indeterminable. Do they want a divorce? Do they want to save the marriage? Or are they equally uncertain?

Surprisingly, as Table 12.5 shows, the first port-of-callers seemed more sure than the others that divorce was what they wanted. Nevertheless, both groups demonstrated similar degrees of uncertainty.

¹¹ Lowerson, R., 'Individual information meetings observed', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

¹² See Ch. 4.

¹³ McCarthy, Walker and Kain (1998), *op. cit.*

Table 12.5 Attendees' feelings about divorce before attending a Model C meeting

	First-port-of-callers %	Others %	All attendees %
It was what I wanted	46.7	38.9	43.2
It was not what I wanted	17.4	26.6	21.5
I was unsure	35.9	34.4	35.2
Total (100%)	304	304	548

Chi-squared = 7.29; p = .026.

When asked immediately after the meeting what impact it had had on the likelihood of divorce most Model C attendees (73%) said it had made no difference, while 20 per cent suggested that divorce was now more likely. Only 7 per cent of attendees suggested that their going to the meeting meant divorce was now less likely, and there was little difference between first-port-of-callers and others.

As regards those who were unsure about their feelings pertaining to divorce, as Table 12.6 shows 75 per cent of Model C attendees felt the information meeting had made no difference to their probability of divorcing. Where it had made a difference it tended to be in the direction of making divorce more, rather than less, likely. One suspects that there is a certain inevitability about this finding. Although some people have suggested that going to an information meeting did make them 'stop and think', this thinking might lead them to conclude that divorce is not really in their interests, as the following comment, written by a member of the research team after the follow-up interview, attests:

Following the information meeting this couple is no longer thinking about separation or divorce. She stated that they had talked and decided to stay together. This attendee said that the finance leaflets were helpful, as they had an impact on her decision. She decided against divorce as she found out she wouldn't be better off.

Few people, however, made such a dramatic change in direction as a result of the information meeting, and divorce was more likely for around three times as many people as felt it was less likely.

Table 12.6 Attendees' feelings about divorce by whether the meeting meant divorce would be more or less likely (Model C individual meeting)

	More likely %	Less likely %	No difference %	Total (100%)
It was what I wanted	29.7	2.5	67.8	236
It was not what I wanted	7.9	11.4	80.7	114
I was unsure	15.8	9.2	75.0	138
All respondents	20.2	6.7	73.0	534

Chi-squared = 34.26; p < .001.

The rethinking of positions may, of course, be influenced by events other than the information meeting. For instance, one woman who wanted to divorce indicated that she had not taken any action because of her husband's (mental) health. (We return to this particular issue in Chapter 29.) Nevertheless, she felt that the information meeting had armed her with the knowledge she would need when she was ready. She told us:

The information was good, but I haven't made any decisions. It is not from lack of information, just that his medical condition takes priority. I can't really walk out on a sinking ship. (F)

Another woman said that she had wanted a divorce when she went to the meeting but had changed her mind since. She indicated, however, that her change of mind was not affected by the information meeting but that she had decided to stay as, in her words, 'I still love him. But, above all, for the kids.' Comments such as this illustrate the complexities within people's lives at the time they are contemplating divorce. For many people there is so much going on that it is virtually impossible to isolate specific events, such as going to an information meeting, as determining subsequent actions. Moreover, it can be difficult to identify what these subsequent actions might be. As we will show in later chapters of this section, many people neither save nor end their marriage after counselling but simply drift along in a state of uncertainty about how they feel and/or what they should do.

Initial telephone interviews

Although the Model C individual information meeting was designed to encourage people to think again about whether to divorce, the initial reactions of attendees suggest that for many people the meeting did not lead to a significant rethink. Initial reactions, however, may be misleading. Directly after the meeting, the attendee had had little time to consider whether it had had an impact. Examination of data drawn from telephone interviews which took place some weeks after the meeting, when attendees had had more chance to reflect on what they had got out of the meeting and to read the appropriate leaflets, might have been more helpful.

A total of 309 Model C individual meeting attendees were interviewed approximately six weeks after their attendance at an information meeting.¹⁴ The majority of them told us that they knew of the existence of marriage support services before attending the information meeting, but those who were using the meeting as a first port of call (N = 164) were less likely than those who had first used related services (N = 145) to have known about them: 74 per cent as against 90 per cent. Significantly, 26 per cent of the first port of call sample indicated that they had used marriage support services previously (over a year before they had attended an information meeting). Approximately half of all those we interviewed (N = 309) indicated that they had not learned more about marriage support services as a result of having attended the meeting, and first-port-of-callers were no different in this respect.

¹⁴ As is inevitable in an action-research programme, interview schedules were developed and refined during the study, and some of the questions about marriage saving were not directed to all interviewees.

Attendees' views about the usefulness of the information provided were inevitably influenced by their feelings about divorce at the time they attended the meeting. Table 12.7 suggests that those who were uncertain about divorce were the most likely to find the information about marriage support useful: 71 per cent of such people found it useful.

Table 12.7 Attendees' views about whether information about marriage support is useful by feelings about divorce before the meeting (Model C individual meeting)

Feelings about divorce	Was information about marriage support useful?			
	<i>yes</i> %	<i>no</i> %	<i>don't know</i> %	<i>total</i> (100%)
It was what I wanted	54.3	41.1	4.7	129
It was not what I wanted	62.5	32.8	4.7	64
I was unsure	71.4	27.5	1.1	91
All interviewees	61.6	34.9	3.5	284

Chi-squared = 7.3; p = .102.

Sixty-two per cent of the 309 people interviewed after attending a Model C individual meeting said that they had found the information on marriage support useful, but 35 per cent did not find it useful. Nevertheless, 29 per cent indicated that they were more likely to use marriage support services because they had gone to the meeting, while only one person indicated that they were less likely to do so. As Table 12.8 shows, those who were unsure about whether they wanted a divorce were the most likely to feel encouraged to use marriage support services: 42 per cent of them indicated that they were more likely to do so.

Table 12.8 Likelihood of attendees using marriage support by feelings about divorce beforehand (Model C individual meeting)

Before the meeting	After the meeting				<i>total</i> (100%)
	<i>more likely</i> %	<i>less likely</i> %	<i>no difference</i> %	<i>don't know</i> %	
It was what I wanted	19.6	0.0	78.5	1.9	107
It was not what I wanted	32.7	0.0	65.3	2.0	49
I was unsure	41.9	1.6	51.6	4.8	62
All interviewees	28.9	0.5	67.9	2.8	218

Chi-squared = 15.2; p = .019.

Fifteen per cent of Model C interviewees indicated that they had been to counselling since the information meeting, while a further 25 per cent indicated that although they had not been to counselling they had given it serious consideration. As Table 12.9 suggests, those who did not want to divorce or were unsure about divorce were more

likely to give consideration to and/or go to counselling than those who had already decided they wanted a divorce. Nevertheless, 25 per cent of those who wanted a divorce had either been to counselling or given it serious consideration, suggesting that the information about counselling was not completely irrelevant to them. We do not know what motivated such people to go to counselling, but we do know that the information provided made it clear that marriage counselling is not simply for saving marriage. It may be used for other purposes, such as gaining help with the process of separation and coming to terms with the ending of a relationship. This was new information for many of those who already knew of the existence of marriage support services.

Table 12.9 Attendees' use of counselling at time of initial interview by feelings about divorce (Model C individual meeting)

Use of counselling	Feelings about divorce		
	<i>wanted divorce</i> %	<i>Did not want divorce</i> %	<i>unsure</i> %
Attendee had been to counselling	14.3	14.9	16.7
Attendee had thought about going	10.5	46.8	33.3
Attendee had neither been nor thought about it	75.2	38.3	50.0
Total (100%)	105	47	60

Chi-squared = 28.31; $p < .001$.

Follow-up interviews

A total of 172 people who had attended a Model C individual meeting were interviewed for a second time 5–7 months after having attended an information meeting. Of these, 7 had already divorced while 41 (24 per cent) were still living with their spouse. Moreover, 13 of those living with a spouse indicated that they intended to separate. We do not know whether the 16 per cent who were still living with their spouse and intending to continue to do so were influenced to stay together by their attendance at an information meeting. It seems likely, however, that at least some of these couples who were still together at the time of the follow-up interview would still have been together without one of the parties going to an information meeting. Moreover, can we assume that a marriage is saved simply because the parties are still living together?

Fourteen per cent of those who participated in follow-up interviews had been to counselling since attending the information meeting, and 56 per cent of these indicated that the information meeting had influenced their decision to go. Of the 25 people who had been to counselling, however, one was already divorced at the time of the follow-up interview and 7 were planning to divorce. Six were still living with their spouse, and three told us that they intended to separate. It seems, therefore, that 12 per cent of those who had been to counselling were planning to remain married. A further indication that counselling does not, on the whole, lead to significant rethinking about divorce is that sixteen people who had been to counselling had gone on to consult a solicitor about divorce, and a further six were apparently considering doing so. Such findings suggest that counselling had only modest success in terms of saving marriage, and that the 5 per

cent suggested in Parliament when the provisions of the Family Law Bill were being debated and modified would seem to be a realistic target.

Of those who had gone to counselling, however, only 5 suggested they had gone in order to achieve a reconciliation, although 7 had gone in the hope of improving communication with their spouse. Nine people indicated that they had gone to counselling to obtain help in coming to terms with the ending of their relationship. One of them told us:

When I say marriage counselling it is really more depression counselling. It is the same counsellor I had for marriage but I now have depression counselling with that counsellor, although marriage does come into it. (M)

One woman who had attended counselling indicated that she had gone for her husband's benefit rather than her own, since she was determined that the marriage should end:

I went to counselling to help my husband come to terms with my decision to leave. (F)

Sixteen per cent of the 172 people who were interviewed for a second time indicated that although they had not been to counselling they had given it some consideration. Some had tried to go but their efforts had been thwarted. This was usually because their spouse would not attend, but a few ran into problems regarding arranging appointments:

The services Relate offer within the same town varies. The Relate counsellor I spoke to said they couldn't see me because I was separated and alone. However, a friend of mine was given an appointment on her own. The other marriage counselling services available are religiously based. (F)

Just over two-thirds of Model C attendees indicated that they had not been to counselling since the information meeting and did not intend to do so. The main reasons they gave for this were that they were too far down the path towards divorce (38%), had tried counselling before (24%), or their partner was unwilling to try counselling (23%). Some of those who had tried counselling before had had negative experiences, which apparently had discouraged them from going back:

She [the attendee] had been to marriage counselling before the information meeting. She had gone on her own but felt she could go no further without her husband being present. They then went together and she felt he was being clever and making her look stupid. This experience caused her to reject the idea of returning. (interviewer's note)

I had to cancel a session because I was ill, and I phoned up and left a proper message. He said that the person I needed to see was away for a week, and could I come the week after. The day before I was due to go I got a letter saying they had written two letters to me asking why I had not been, and I had not answered the letters. The thing is, my husband used to come to my house in the mornings and take all the mail, but they knew that, that I didn't receive any mail. So I got a bit of a shock when they said they didn't want me to come back, because I hadn't notified them, which I had done. I was very angry and phoned for hours but couldn't get through. So that's an end to it. (F)

We had marriage counselling beforehand and gave up because it wasn't working. By the time I went to the information meeting, I was trying to initiate

divorce, not salvage the marriage. So circumstances didn't allow me to consider counselling. (M)

I went on my own before the information meeting but was told not to bother unless my husband could come. (F)

I tried it once before but just didn't like the idea of it. (F)

[The attendee had] been to marriage counselling in the past and came away disillusioned by it. [She] did not like the counsellor she got. [She] was shocked by the counsellor's response – advised her to have an affair. (interviewer's note)

We tried Relate before we separated. It opened up lots of wounds that couldn't be healed. Talking about things brings [other] things up. That just made it all worse. (M)

It seems that some people were reluctant to try counselling if they had had difficulty gaining access to it in the past. For instance, one woman told us:

From past experience, there is a three-month waiting list. Help should be available immediately. (F)

Although the Model C individual meeting focused specifically on supporting marriage, most of those who attended did not view counselling as practicable, because of past experiences, the recalcitrance of partners, or the feeling that there was no point since the marriage was clearly over. One female interviewee told us that the presenter 'provided good reasons to use a counsellor', and that she wanted to save her marriage but felt there was no point in going to counselling because

if he wasn't able to speak to me about why he left, then how could he speak in front of a marriage counsellor? It is highly unlikely that he would speak in front of a perfect stranger. (F)

Others felt that the marriage was simply beyond repair, and were committed therefore to getting a divorce:

... marriage break up had been going on for a long time. I had an affair, and that was the final breaking point, but I don't think I would have had the affair if I [had] thought there was anything there that was going to hold us together. I couldn't see anyone or anything putting us back together. We are settled in our ways. (M)

She [the attendee] had been married for 13 years. He then left for another woman. She discussed the situation with her children, and they were happier with parents living apart. So she saw no point in trying to get back together. Also, she wants to get on with her life. (interviewer's note)

Although counselling can be attended by one party, it is likely to be more effective as a marriage-saving intervention if the spouses attend together. A significant number of those who thought counselling might help did not use it because their partner would not go with them. Some of those who went to counselling emphasised the importance of both partners participating, so long as both are committed to making it work:

There was a waiting list for appointments, but [I] was able to have weekly sessions after that. [I] went three times after the information meeting. On the time husband came he just screamed and shouted. She [the counsellor] feels he was doing it deliberately, to make a point ... that, although he was attending, he was doing his damndest to make sure it didn't work. (F)

I had two or three sessions with Relate, but they couldn't help me in my circumstances. I would have loved someone to help me to talk to my wife. I was just desperate to get help, but my wife wasn't willing to talk. (M)

[The attendee] went on his own. He had hoped his wife would go with him, but she didn't. [He] has had no further contact since his initial appointment. (interviewer's note)

Nevertheless, some of those who went to counselling alone described it as a useful experience:

It was very helpful. The counsellor helped me to make my own decision. Didn't advise but helped me to think about things from a different angle. (M)

[The counsellor] gave me some good advice – [she did] not tell me what to do. Just sat there and listened to me. Told me that I shouldn't think I am not worthy. That I am a person, and should think of myself. She was very good. (F)

As we have noted already in this chapter, despite the fact that they had not started divorce proceedings more than half (56%) of the 567 people who attended a Model C meeting were already separated from their spouse at the time. One man stated that counselling was inappropriate for him because he had been separated for eight years and had gone to the information meeting simply to find out what getting divorced would involve. This is clearly a problem, since all the evidence suggests that counselling is more effective as a marriage-saving interaction if it is used at an early stage, and especially before a couple have made the decisive act of separating. One might also suggest that a different type of information meeting from one which focused on whether his marriage was really over might have served this particular attendee better, and also the many others who were well past the stage at which marriage support was a viable option. Such cases serve to remind us that separation and divorce are not necessarily coterminous activities, that one does not necessarily follow the other. Some people may be separated for a significant amount of time before feeling the need to divorce, if they feel it at all, while others may divorce while still sharing a home with their ex-spouse. Others may experience periods of separation interspersed with periods of reconciliation before a final decision is taken about the marriage.

Saving Marriages

Our analysis of the information meeting suggests that it has limited impact in terms of saving marriages, even when the meeting focuses specifically on that objective, as was the case with the Model C individual meeting. This may be because many of those who attended an information meeting during the pilot programme were well down the road to ending their marriage at the time, while many of those who were persuaded to attend marriage counselling saw it as a way of coming to terms with ending their marriage rather than as a means of saving it.

Those who attended a pilot information meeting, however, were doing so at a time when an information meeting was not a natural first port of call for people whose marriages are at risk. It may be that implementation of Part II of the FLA, with the requirement to attend an information meeting before one can make an application for divorce, could result in people being more inclined to attend the meeting before using other services such as counselling or solicitors. Moreover, it may be that information about marriage support is not enough to encourage people to use it. There may be a need for an intervention that gives people more opportunity to reflect on their marriage, and to consider whether marriage counselling is appropriate for them. As part of the pilot programme, a new initiative in marriage support that attempts to bridge the gap between the information meeting and counselling was tested. We discuss its impact in the next three chapters.

Chapter 13

Meeting with a Marriage Counsellor

Peter McCarthy and Susan Mitchell

... by its very nature Marriage Guidance has to deal with imponderables. There is no yard-stick of success or failure, no valid frame of reference for an accurate assessment (or definition) of its effectiveness.¹

It was recognised during the parliamentary debates on the Family Law Bill that the law is limited in terms of what it can require of people at the point of marriage breakdown. Anything resembling compulsory marriage counselling was ruled out as a contradiction in terms. Instead, the Act employs the idea of *encouraging* the use of counselling through the provision of information, a period for reflection and consideration, the offer of a meeting with a marriage counsellor (free for those eligible for non-contributory legal aid) and the extension of legal aid for those entitled to it to cover the cost of marriage counselling. These are all novel provisions.

The offer of a meeting with a marriage counsellor (MWMC) is enshrined in the legislation (Section 8(6)(b)) although more detailed work on the format of the meeting was left to the Lord Chancellor's Department, in discussion with the main marriage support agencies. Concerns were expressed in parliamentary debates about how such services would be monitored, the need for appropriately qualified counsellors, and the emphasis which should be placed on saving marriages.

Designing the MWMC

In February 1998, agreement was reached that Section 8(6)(b) of the Family Law Act should be piloted, and the marriage organisations funded through grant-in-aid by the Lord Chancellor's Department were invited to participate in the development of the provision. These agencies – Relate, Marriage Care, Tavistock Marital Studies Institute, Jewish Marriage Council and One-Plus-One – form the UK Marriage Organisations Group (UKMOG). Professor Douglas Hooper joined the group as a participant observer in order to facilitate the process of developing plans for the MWMC. The Lord Chancellor's Department, recognising that the necessary expertise for the MWMC lay with the marriage agencies, compiled guidelines for the programme. These were as follows:

1. The package for the MWMC was to have a practice and training component.
2. The meeting should have two sections, one of which would be a standard introduction to marriage counselling and the other idiosyncratic to the specific counselling agency offering the MWMC.

¹ Wallis, J.H., *Marriage Guidance: A New Introduction*, Routledge & Kegan Paul (1968), p. ix.

3. The meeting should accommodate individuals and couples at any stage in the divorce/separation process.
4. The meeting should enable the enquirer or client to reach a decision about the next step for them.
5. The marriage agencies were invited to host the MWMC in pilot areas of the country, but were asked to designate one agency to act as the lead agency for planning purposes.
6. Account was to be taken of issues relating to domestic violence, and also of the eligibility of the client(s) for legal aid support.
7. The quality benchmark would be that an appointment for a MWMC would be offered within one working day of contact with the booking centre, and the MWMC would take place within seven days of contact being made (unless the attendee expressed a wish to delay the MWMC).

The proposed period of operation of the MWMC pilot was from mid-June to December 1998, and therefore the time available for the detailed planning and execution of the training and organisational arrangements was short. An executive group of three agencies (Relate, Marriage Care and Jewish Marriage Council) was formed and Relate was proposed as the lead agency. The chief executives of these three agencies were joined by representatives of London Marriage Guidance Council, the Asian Family Counselling Service and the African Caribbean Family Mediation Service. Detailed proposals for the selection, training and delivery of the MWMC in the eight prescribed pilot areas, and for the number of agencies and the number of counsellors to be trained, were developed by the appointed project officer. Operationally, the MWMC was to be routed through the Leicester and East Midlands information meetings pilot acting as a centralised call centre, and the pilot manager was invited to join the executive group and share in the planning. The pilot sites to be included in the study were London, Greater Manchester, South West, East Anglia, Leicester and East Midlands, Solent and the Isle of Wight, Merseyside and North Wales, and the North East.

The executive group set up by the agencies was instrumental in bringing about a change in the culture in which local marriage counselling agencies operate, as the MWMC required specific procedures to be followed which could not be incorporated into existing frameworks. Some careful negotiation had to take place as local agencies (particularly Relate Centres and, to a lesser extent, Marriage Care) have their own autonomy, although control of professional training and service standards rests with their national organisations. A detailed document was prepared by the Lord Chancellor's Department in order that local marital agency managers could be briefed about the roles, tasks, financial arrangements and management responsibilities relating to the offering of the meeting. The MWMC was introduced into the information meeting pilots in July 1998. Attendees (who could go alone or with their spouse) were encouraged to examine their options and decide whether counselling might be appropriate, and were given information about how to arrange counselling appointments. Although there was a focus on problem solving, the meeting itself did not go into counselling. The Department's guidelines required counsellors to be trained to deliver the meeting using a script, in order that one of three outcomes would be achieved:

1. The attendee would leave the meeting feeling that they had received enough information to work on their marriage.
2. The attendee would agree to go to marriage counselling with a view to saving the marriage.
3. An attendee who had been uncertain of whether to divorce would be enabled to make a firm decision.

The MWMC was characterised as solution-focused.² Solution-focused brief therapy is based on the belief that talking about the future is often more effective in providing rapid change than talking about the past. Solution-focused approaches:

- are client-led
- look to the future
- do not ignore the past
- focus on health rather than on pathology
- seek to identify, address and plan desired changes

Training Counsellors To Deliver the MWMC

The counsellors selected for the pilots attended a two-day training course at Herbert Gray College, Relate's national headquarters in Rugby. All the training, including that for supervisors, was convened by Relate, and involved experienced trainers from Relate and Marriage Care. Thirty-five counsellors took part (30 of whom were female and 5 male), representing six marriage agencies, as follows: Relate (14), Marriage Care (13), Jewish Marriage Council (2), London Marriage Guidance (2), The Asian Family Counselling Service (2) and the African-Caribbean Family Mediation Service (2). Following our usual research methodology, we undertook non-participant observation of the training, and received completed evaluation forms issued to counsellors by Relate. The process by which we collected data from counsellors and supervisors is shown in Figure 13.1.³

² See de Shazer, S., *Keys to Solution in Brief Therapy*, Norton (1986).

³ The training programme for the MWMC was discussed in detail in Mitchell, S., Laing, K. and Hooper, D., 'Meeting with a marriage counsellor', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

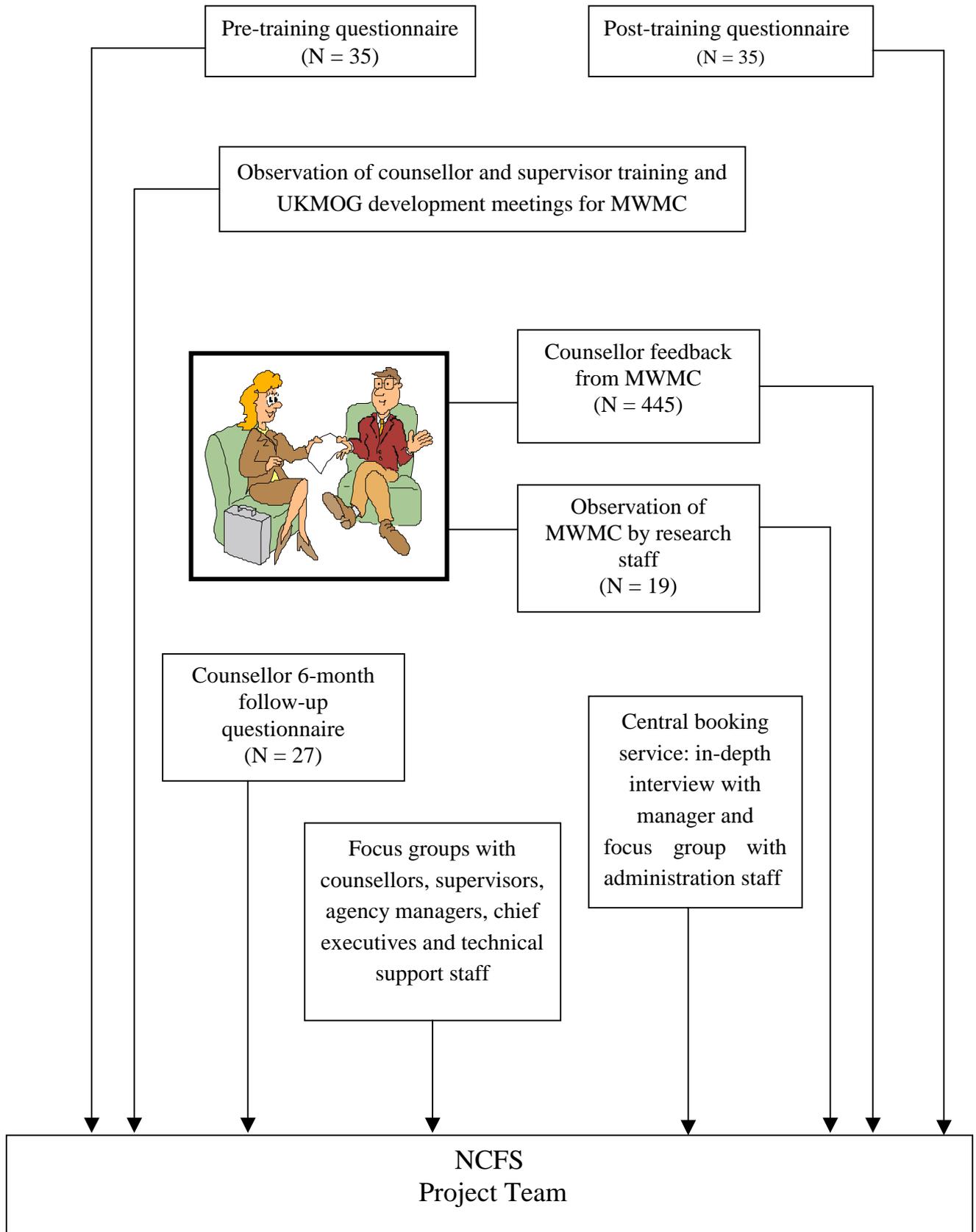


Figure 13.1 Data from counsellors and supervisors in respect of the meeting with a marriage counsellor

Using a script

Although all the counsellors were enthusiastic about the new meeting they expressed anxieties surrounding the use of a script, as this was something they were not used to. The script included a welcome and introduction, and an explanation of the meeting. The meeting then moved into an exploration phase which was designed to enable attendees to look at their options and identify whether counselling might be an appropriate step. To close the meeting, the attendee was given scripted information about the marriage counselling service provided by the agency and asked to indicate their current thinking about how they might wish to proceed.

Counsellors felt that using a script could provide attendees with security, reassurance, familiarity and a framework to enable them to remain solution-focused. On the negative side, they felt that using a script could also be restrictive, insulting and too directive. They did not want to appear to be reciting sentences in parrot fashion. Although many of the counsellors found the novelty of working with a script uncomfortable at first, with practice during the training anxieties were alleviated and they grew to consider the script to be a useful tool for enabling them to work within the boundaries imposed.

General reflections

Overall, the training for the MWMC was very well-received, and the counsellors seemed to value the opportunity to work with colleagues from a mix of agencies. Counsellors harboured some concerns about the apparent speed with which the pilot MWMC was set up and the lack of pre-training preparation, particularly since a very new approach to working with individuals or couples was being tried out. The MWMC was scheduled to last an hour if a couple attended, or forty minutes if a party attended alone. The counsellors had to keep to a script and to pre-determined time boundaries.

Putting the MWMC into Practice

After the introduction of the MWMC, all those who were attending a Model C or F individual meeting, or a Model D group meeting or a Model E CD-ROM meeting, or who had applied for a postal pack, were given a written invitation to attend a MWMC. (The data collection process is shown in Figure 13.2.) A total of 3,465 invitations were given out at information meetings. Those who wanted to take up the offer made arrangements to go to a MWMC by telephoning a central number that got them through to the booking agency located at the Leicestershire pilot. A total of 462 information meeting attendees made appointments to attend a meeting. Some of these opted out and either cancelled their appointment (38) or failed to turn up (19). Consequently, 404 MWMCs took place following attendance at an information meeting, while another 41 followed receipt of a postal pack (see below). This means that 12 per cent of those who received an invitation at an information meeting went on to attend a MWMC.

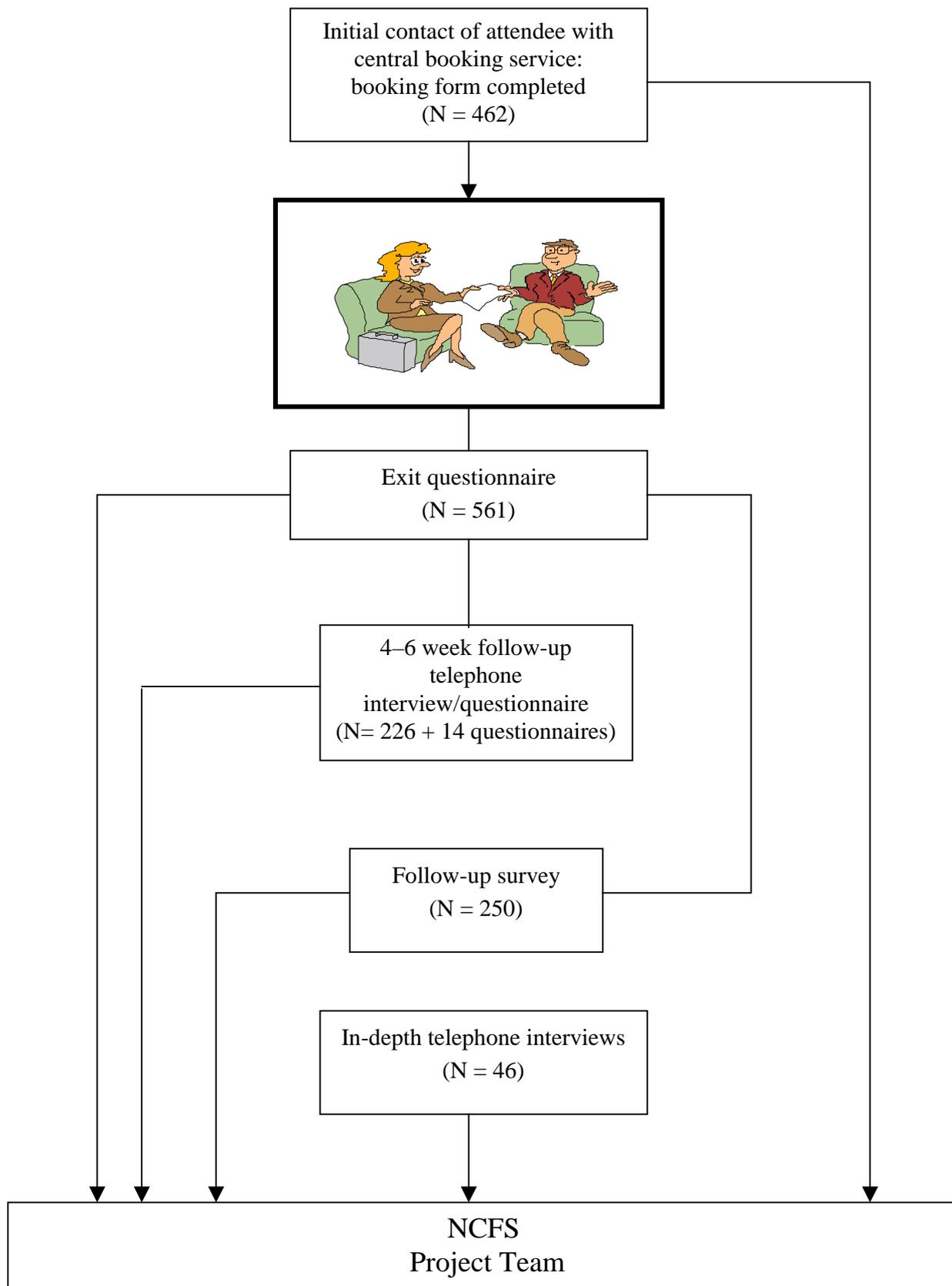


Figure 13.2 Data from those who attended a meeting with a marriage counsellor

There was, however, some variation in take-up between models. Those information meetings that focused specifically on marriage achieved the highest take-up. Seventeen per cent of those who received an invitation at a Model C (N = 268) or Model F (N = 826) meeting took up the offer, whereas take-up rates for the 1,246 Model D attendees and the 1,125 Model E attendees who received invitations were 9 per cent and 11 per cent respectively. Such results need to be interpreted carefully, although the results of logistic regression analysis⁴ indicate that the two marriage-focused models were significantly more effective than either Model D or Model E in promoting the MWMC. We note, however, findings reported in the previous chapter which suggest that people who attend the shorter information meetings may go to marriage counselling in the hope of getting more information. It is also evident that the MWMC was more attractive to people who were still living with their spouse than it was to people who were separated, as Table 13.1 shows.

Table 13.1 Take-up of MWMC by residential circumstances of attendees and model

	Living with spouse				Living apart from spouse			
	C %	D %	F %	E %	C %	D %	F %	E %
Attended MWMC	20.6	11.3	17.2	14.3	11.8	7.8	14.9	7.9
Did not attend MWMC	79.4	88.7	82.8	85.7	88.2	92.2	85.1	92.1
Total (100%)	136	503	464	462	127	717	343	620

Chi-squared = 10.72; p = .013. Chi-squared = 16.71; p = .001.

Some invitations to a MWMC were given out at information meetings that were restricted to people who had not petitioned for divorce. However, of those who received an invitation after attending an information meeting, 524 (16%) had already started divorce proceedings, 1,078 (33%) had already consulted a solicitor about divorce and 657 (20%) had already been to counselling. Approximately half of those who received an invitation to a MWMC had been using the information meeting as a first port of call. They had not been to counselling or mediation, nor had they consulted a solicitor or filed for divorce.

When the postal pack study was launched in October 1998, invitations to an MWMC were included in the packs if applicants were not already involved in divorce proceedings. Of the 1,346 people who were sent an invitation through the post, 41 took up the offer of a MWMC. This meant that the invitation was taken up by only 3 per cent of those who had received it through the post, a take-up rate significantly lower than that for people who attended any of the information meetings. In this sense, therefore, it is evident that attending a meeting does make a difference to the take-up of the MWMC.

In total, 4,811 people, of whom 4,281 had not started divorce proceedings, received an invitation to attend a MWMC – either in the post or through their attending an

⁴ See Annexe 5, Table A5.26.

Table 13.2 Number of meetings with a marriage counsellor attended in all pilot areas

	London Marriage Guidance*	Jewish Marriage Council*	Asian Family Counselling Service*	African Caribbean Family Mediation*	Relate**	Marriage Care**	Total
London	20	3	–	1	–	–	24
London (postal pack)	13	1	1	2	–	–	17
Solent	–	–	–	–	55	16	71
Leicester and East Midlands	–	–	–	–	47	35	82
East Anglia	–	–	–	–	42	27	69
North East	–	–	–	–	36	10	46
South West	–	–	–	–	34	9	43
Greater Manchester	–	–	–	–	13	7	20
Greater Manchester (postal pack)	–	–	–	–	20	4	24
Merseyside and North Wales	–	–	–	–	36	13	49
Total	33	4	1	3	283	121	445

* Meetings offered in London pilot area only.

** Meetings offered in all pilot areas except London.

information meeting – and 445 people attended a MWMC. In 116 meetings applicants were accompanied by their spouse, and consequently the number of people who attended a meeting was 561. Women were more than twice as likely as men to attend alone: 216 women and 99 men attended alone.

The counselling agencies used and the areas in which the information meetings were located are shown in Table 13.2. Of the 445 meetings provided, 283 were provided by Relate, 121 by Marriage Care, 33 by London Marriage Guidance Council, 4 by the Jewish Marriage Council, 3 by the Afro-Caribbean Family Mediation Service and one by the Asian Family Counselling Service.

The Decision To Attend a MWMC

It might be imagined that the decision to attend an MWMC reflected a desire on the part of the attendee to try to save the marriage. Our evaluation shows, however, that such a hypothesis would be far too simplistic. In reality, as Figure 13.3 shows, less than half (48%) of those who went to the MWMC went with the intention of getting help in saving their marriage. Fifteen per cent wanted help in ending the marriage, and almost one in three (32%) were hoping to be helped to come to terms with the fact that their marriage was over.

Only 5 per cent of the 4,281 people who attended an information meeting before they had had started divorce proceedings said they had attended a MWMC in order to save their marriage. The percentages for each of the models were 8 per cent for Model F (N = 826), 6 per cent for Model C (N = 268), 4 per cent for Model E (N = 848) and 3 per cent for Model D (N = 1,000).

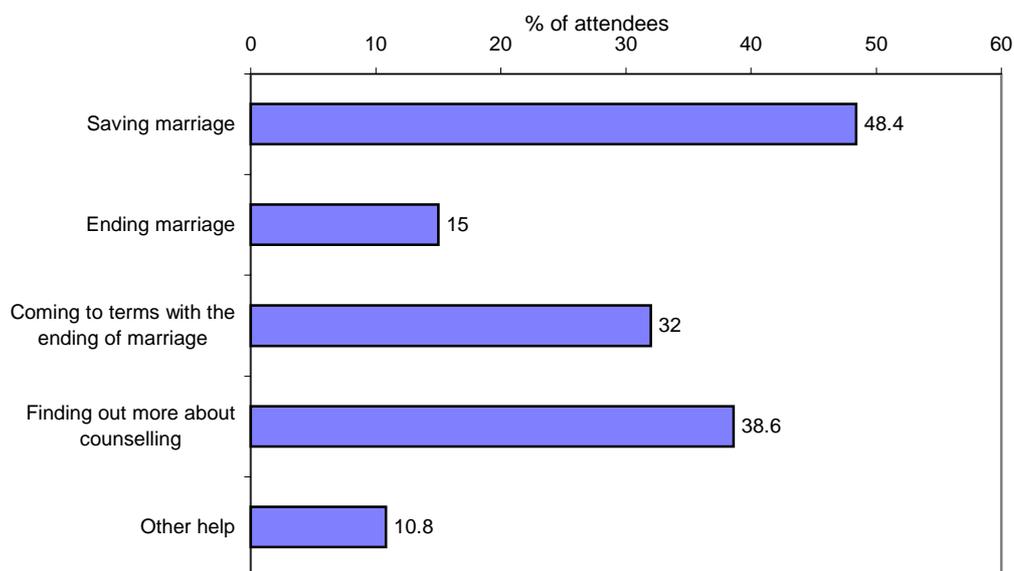


Figure 13.3 Reasons attendees gave for going to a meeting with a marriage counsellor (N = 546)

If we look at the reasons for attendance given by those who went with their spouse, and the reasons given by men and by women who attended alone, we find that people who went to the MWMC with their spouse were more intent on saving their marriages than were those who attended alone. There was also a gender difference. Men were more likely than women to want to save their marriage, whether attending alone or with their spouse. Around a third of women attending alone were seeking marriage-saving help, while 18 per cent were seeking help with regard to ending the marriage and 43 per cent were seeking personal counselling to assist them in the process of coming to terms with the fact that their marriage was over (Figure 13.4).

We received completed exit questionnaires from both partners in respect of 108 meetings. In respect of 42 of these meetings, both spouses indicated that they wanted to be helped to save their marriage. Following 22 meetings neither party wanted to be helped in that way, and at 44 meetings one party wanted to be helped to save the marriage but the other did not. Thus, there were few meetings (42) in which both parties attending were intent on saving their marriage, and the indications are that couple participation does not necessarily mean that marriage saving is on the agenda.

Other reasons for seeking counselling, not cited in Figure 13.4, seem to be distributed evenly according to gender and whether a couple or an individual attended. The reasons given included: getting help with decisions on how to proceed; getting help in talking to children; to 'gain peace'; to obtain legal advice; and to avoid future marriages ending in divorce.

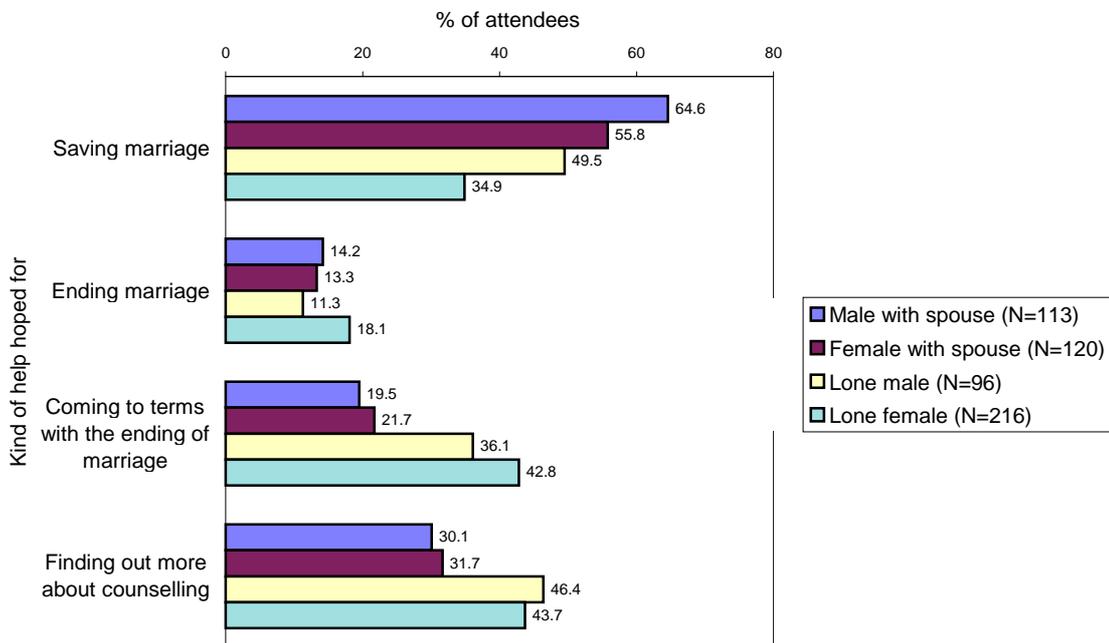


Figure 13.4 Reasons for going to meeting with a marriage counsellor by gender and type of attendee

Perceived Benefits of Attendance

People who went to a MWMC had expressed a range of emotions beforehand. Some indicated that they felt anxious since they did not know what to expect; others were hopeful that the meeting would provide the magic ingredient which would solve their problems:

I was unsure and anxious. Looking for someone to wave a magic wand and take my problems away. (F)

I thought it would come up with a wonderful answer for me – a miracle cure. (F)

It was like going to the dentist. Pain before cure – not going to be easy. (M)

For some, the ‘magic’ seemed to work:

It has really helped us to communicate. I give my marriage a fifty–fifty chance of surviving now – instead of no chance before. (F)

I feel so glad that I went along. We are getting on so well together. I am so pleased with the way things have turned out. (F)

When the waving of the wand works, however, this does not necessarily mean a marriage is saved. One attendee told us:

It was absolutely 100 per cent perfect. I made an appointment with a solicitor two days later so we can start legal separation. (F)

On the other hand, some people who went to a MWMC were dissatisfied with the meeting because they felt under pressure to save their marriage when that was not what they wanted:

We were at cross-purposes. She was there to help put marriages back together again. I wanted to know how to get a divorce. The woman was very discreet and down to earth, but we were on different wavelengths. I wanted to split – she was trying to put people together again. (M)

I found it frustrating, and upsetting, that the counsellor kept saying the marriage could be saved. (F)

The meeting was not what I wanted. I wanted information about the legal aspects of separation. (F)

Despite some dissatisfaction, the majority (62%) of the 561 people who went to a MWMC indicated afterwards that they would like to have further counselling, albeit for a range of different reasons. Only 6 per cent were sure that they did not want to proceed further, while 32 per cent were uncertain what they wanted to do. As Table 13.3 shows, the meeting apparently had no impact on the likelihood of divorce for 62 per cent of those who attended. It did, however, appear to offer some hope to those who did not want a divorce, and 39 per cent of these people felt divorce was less likely because they had attended the meeting. Furthermore, 25 per cent of those who were unsure what they wanted felt divorce had become less likely, but 14 per cent felt it had become more

likely. Although some of those who were clear that they wanted a divorce had reconsidered their position as a result of the meeting, those who felt divorce was now more likely outnumbered those who felt it was less likely by around four to one.

Table 13.3 Impact of the meeting on attendees' likelihood of divorcing

Feelings about divorce before the meeting	Feelings about divorce after the meeting			total (100%)
	<i>more likely</i> %	<i>less likely</i> %	<i>no change</i> %	
Wanted a divorce	22.6	5.7	71.7	106
Did not want a divorce	5.6	38.5	55.9	179
Uncertain	13.6	25.0	61.4	236
All attendees	12.7	25.7	61.6	521

Chi-squared = 46.4; $p < .001$.

Although 42 per cent of MWMC attendees indicated that they did not know before they went how counselling was conducted within the agency that provided the MWMC, most (98%) understood what was on offer after the meeting. In this sense, the MWMC seems to have been successful. Moreover, attendees were generally positive about the experience. For instance, 58 per cent found the meeting very useful and 40 per cent felt it had been fairly useful. Two-thirds indicated that they would definitely recommend it to other people, while 31 per cent indicated that they might recommend it. The positive views expressed at the time of the meeting continued to be reflected in some of the comments included in questionnaires completed at least six months later:

Both the information meeting and the marriage counsellor meeting were very beneficial in helping me to address my feelings at the time when I had not long left my husband. Although I do not see my marriage being saved, the support these services provided was invaluable in keeping me afloat emotionally. (F)

The marriage counselling session [MWMC] was useful. It enabled me to say things to my ex-husband in a safe environment where he had to listen – which he would not have done on our own. We would not have gone for any counselling without this session. (F)

Although most attendees were positive about the MWMC we did receive some negative comments. There was a feeling, for instance, that the meeting was over-structured, and insufficiently responsive to attendees' circumstances:

I didn't find the experience helpful. The ground rules were false and artificial. It needed more flexibility. (F)

The marriage guidance session had an emphasis on the impact of separation/divorce on children. I was keenly aware of this, and said so in the session; indeed I wished to briefly look at my feelings and how angry I felt that the father of my child did not want a relationship with his son (when I passionately wanted this to be the case). Emphasising the impact to me was not helpful because the blurb the counsellor came out with talked about 'had I

looked at the consequences, etc.?’ Of course, I had! ... I felt the counsellor was reading from a prescribed script which bore no relation to what I wanted to discuss. I came out of the session even more angry and very upset. It quite put me off further marriage counselling. (F)

One attendee felt the counsellor was more concerned with the research process than with helping her:

I did not get anything out of the meeting with the marriage counsellor. They seemed a hundred per cent concerned about gathering data for the research project, and not with helping in any meaningful way. I felt conned and very despondent. I desperately need a third party to deal with my situation but do not seem able to get it. (M)

The following comment illustrates the problems that can arise when meetings are structured to suit the needs of the ‘standard’ couple:

Some of the questions did not fit our situation. My spouse is my wife-in-law because I am now a post-operative transsexual woman. The counsellor we saw was completely unable to cope with our situation, and her unprofessional behaviour left my partner and our relationship damaged ... Marriage support for people in our situation is desperately needed both for the non-transsexual spouse and the children. There seems to be no support available for my children, and I feel that they are damaged by our painful experience as a family.

The Immediate Impact of the MWMC

We attempted to conduct telephone interviews with everyone who had attended a MWMC and who had agreed to participate in the research, within a few weeks of their attending. The number of people who consented to further contact totalled 371. Of these, 67 indicated willingness to complete postal questionnaires, but not to be interviewed over the telephone. We were able to telephone 226 people, and we received completed postal questionnaires from a further 14. Hence, we collected data from 43 per cent of those who had attended a meeting.

At the time they were contacted, 53 per cent of the 240 attendees were still living with their spouse. In the period between attending the meeting and our contact with them, 26 people who had been living with their spouse had separated. This was counter-balanced to some extent by the fact that 12 of the 86 people who were separated at the time they attended had returned to live at the same address as their spouse. Overall, there had been little change in residence arrangements between the meeting and the research interview, which is not surprising given that this contact usually took place within six weeks of the meeting.

Almost half of the 240 people contacted indicated that they wished they had been able to attend a MWMC earlier than they did, while 30 per cent felt they had gone at just the right time. Nevertheless, three-quarters said that they were glad they had gone to the meeting. A further indication of how well the meeting was received is the fact that a significant number of attendees said they would have been willing to pay for it. During the pilot, the MWMC was provided free of charge, but more than two-thirds (68%) of those we contacted afterwards indicated that they would have gone even if they had to

pay. The amount that they were willing to pay, however, varied from £5 to £25, with a median suggested payment of £12. Of course, these people indicated a willingness to pay after they had experienced the meeting. There is no way of knowing whether they would have attended if they had known beforehand that they would be required to pay.

Thirty-six per cent of those whom we contacted indicated that after the MWMC they felt that their marriage could be saved, while 52 per cent felt the marriage was definitely over and the remainder were uncertain. Those who had not wanted a divorce when they went to the MWMC seemed most likely to be encouraged by it, and 57 per cent of them felt their marriage could be saved. Just over a third (34%), however, felt that going to the meeting had led them to accept that their marriage was definitely over. Of the 30 people who had previously been uncertain about whether they wanted a divorce, 48 per cent now accepted that the marriage was over while 32 per cent felt it could be saved. It seems that the realisation that a marriage can be saved is not necessarily a source of satisfaction. Of the 86 people who felt their marriage could be saved at the time they were interviewed, 12 indicated that saving the marriage was not the outcome they wanted.

One of the objectives of the MWMC is to encourage people to go on to marriage counselling. When we contacted them, half of the 240 attendees indicated that they were in the process of arranging more counselling, while a similar proportion indicated that they did not intend to go further. The reasons they gave for not going further included the following:

- Too long to wait for an appointment. (4)
- Partner refused to go. (14)
- The MWMC helped to alleviate the problem. (17)
- The costs. (16)
- Didn't think it could help. (45)
- Counsellor said it couldn't help. (3)
- Didn't like the counsellor. (3)

Just under half (43%) of those who were contemplating going on to counselling (N = 115) were hoping to be helped to save their marriage, while 24 per cent were seeking personal counselling, 10 per cent wanted help in understanding their feelings, and 9 per cent were hoping for help in understanding what had gone wrong in their marriage. Some people felt that there was too much emphasis on marriage saving at the MWMC, while others were disappointed that marriage saving was not the only agenda. The following remarks illustrate these contrasting positions:

None of the people, or organisations, I have spoken to have been able to help me with solid information. Everything has been focused on resurrecting the marriage. The [research] questionnaire implies that help in ending the marriage is available – it is not! (M)

When I received the initial material leading to my meeting with a marriage counsellor, the information seemed a little biased towards the breaking up of a marriage rather than reconciliation. My main aim was to resolve my marriage

problems, so I was surprised and disappointed with the information's lean towards dealing with breakup. (F)

The counsellors

There were more female than male counsellors. Consequently, male counsellors conducted only 19 per cent of the meetings. This means it is almost inevitable that some male attendees will have had a female counsellor. In fact, there did not appear to be any attempt to match the gender of the counsellor and the attendee. Women were just as likely as men to have a male counsellor. It seems that men were not concerned about the counsellor's gender. However, eight female attendees who had a male counsellor indicated that they would rather have had a female. This may be an important issue for women who have been abused and/or fear for their safety.

The Longer-term Outcome of Attending a MWMC

The comments attendees made shortly after attending a MWMC suggest general satisfaction. The following were typical:

I liked the counsellor very much, and I was glad she asked me to go back for more counselling. (F)

It helped me to focus on our problems, and to vent what I was feeling about my wife's affair. I have been up and down like a yo-yo. I have been to counselling on my own since then. (M)

In our view, however, the evaluation of the MWMC needs to go beyond the immediate measurement of satisfaction to consider what attendees do afterwards. The key policy questions are: what did people do as a result of the MWMC, and how many of them sought additional counselling help? We also need to know why those who did go on to counselling chose to do so, and what the results of their actions were. We examined these issues by way of a postal questionnaire sent in November 1999 to all attendees who had indicated that they would be willing to participate in further research. We sent out 440 questionnaires and received 250 responses, a response rate of 57 per cent. Of those who responded, 43 per cent were already separated from their spouse when they went to the MWMC, while 26 per cent described themselves as living separately in the same house and 31 per cent said that they and their spouse were living together as husband and wife. Approximately one in four of those who described themselves and their partner as living together as husband and wife indicated that they nevertheless expected their marriage to end.

Not surprisingly, those who were living as husband and wife when they attended the MWMC were more likely than those who had already separated to be still married at the time of the survey;⁵ 58 per cent of them were still married, as against 38 per cent of those who were living separately in the same house and 23 per cent of those who were living apart. In all, 97 of the 250 respondents described themselves as still married, while 105 said they were separated, and 48 were divorced. Just 14 per cent of those who were still

⁵ The meetings with a marriage counsellor had taken place during the 12 months beginning July 1998. The survey was held at one point in time (November 1999), and completed questionnaires were returned between November 1999 and February 2000. Thus, the time between the MWMC and the survey varied between 6 and 18 months.

married described themselves as very happy, while 39 per cent were only fairly happy and 47 per cent said they were unhappy. Just 18 per cent of the MWMC attendees told us that they were still married and reasonably happy at the time of the survey. More than a third (39%) of those who were apparently 'still married' said they were intending to divorce.

Seeking help

At times of crisis people tend to seek help from a range of different sources, both from within their personal networks and externally. The majority of survey respondents told us they had had sought external help concerning their marital circumstances since they went to the MWMC. As Table 13.4 shows, solicitors were the most common source of such help, and 61 per cent of respondents had consulted one. Those who had tended to be satisfied with the service provided and 82 per cent said they found the solicitor helpful. Almost half of the respondents (46%) had gone on to discuss their circumstances with a marriage counsellor, and 74 per cent of them found the counsellor helpful. The number of people who had discussed their marital problems with their GP confirms findings from other research about the importance of the medical profession in the process of relationship breakdown;⁶ 38 per cent had sought the help of their GP and 74 per cent of them suggested that the GP had been helpful. Eighteen per cent of attendees had since been to mediation and 59 per cent of them found it helpful, suggesting a lower rate of satisfaction with mediation than with solicitors and marriage counsellors.

Table 13.4 Sources of help and how helpful users found them (N = 250)

	Used and found them helpful	Used and found them unhelpful	Did not use
	%	%	%
Solicitor	49.6	11.2	39.2
Marriage counsellor	34.4	12.0	53.6
GP	28.0	9.6	62.4
Mediator	10.4	7.2	82.4
Member of the clergy	9.2	5.2	85.6
Social worker	1.2	3.6	95.2

Contacting a counselling agency

Forty-two per cent of respondents contacted a counselling agency in order to arrange a counselling appointment after attending a MWMC. The majority of these contacted Relate (68%), while 18 per cent contacted Marriage Care. Other agencies contacted included London Marriage Guidance Council (3%) and the Jewish Marriage Council (3%). Two people said they used 'Christian counselling', one used an agency they referred to as 'Springs Counselling', and another contacted an agency that provided

⁶ McCarthy, P., Walker, J. and Kain, J., *Telling It As It Is: The Client Experience of Relate Counselling*, Newcastle Centre for Family Studies (1998), p. 97.

domestic violence counselling. Sixty per cent of those who arranged further counselling contacted the same agency that had provided the MWMC.

Two of those who had contacted Relate indicated that they were not offered an appointment. One of these claimed that she did get a letter offering an appointment some weeks later, while the other told us that she had declined an offer of appointment because of the distance she would have to travel. Of those who were offered an appointment, 14 per cent got one within a week of making contact, 69 per cent within two weeks and 90 per cent within four weeks. Unfortunately, 10 per cent of those seeking counselling had to wait more than four weeks for a counselling appointment. Four of those who had to wait more than four weeks did not seem to mind, but the other six indicated that they did mind having to wait so long.

Two people did not keep their appointment, and indicated that this was because of the cost involved. However, one of them indicated that she was also unable to arrange childcare, while the other told us that her partner would not go anyway. Most of those who went to counselling (62%) did so alone, and half of them indicated that they would rather have attended with their spouse.

Reasons for going to counselling

We asked the 101 people who attended a counselling appointment why they had decided to go to counselling. As Figure 13.5 shows, just under half (47%) indicated that they had gone in the hope of improving the relationship with their spouse. Twenty-eight per cent were hoping for help in ending their relationship. The most common reason for going to counselling was to get help in understanding the relationship, while more than half of those who went to a counselling appointment were hoping to understand themselves better. Forty-four per cent were hoping to be helped to come to terms with the way their family had changed.

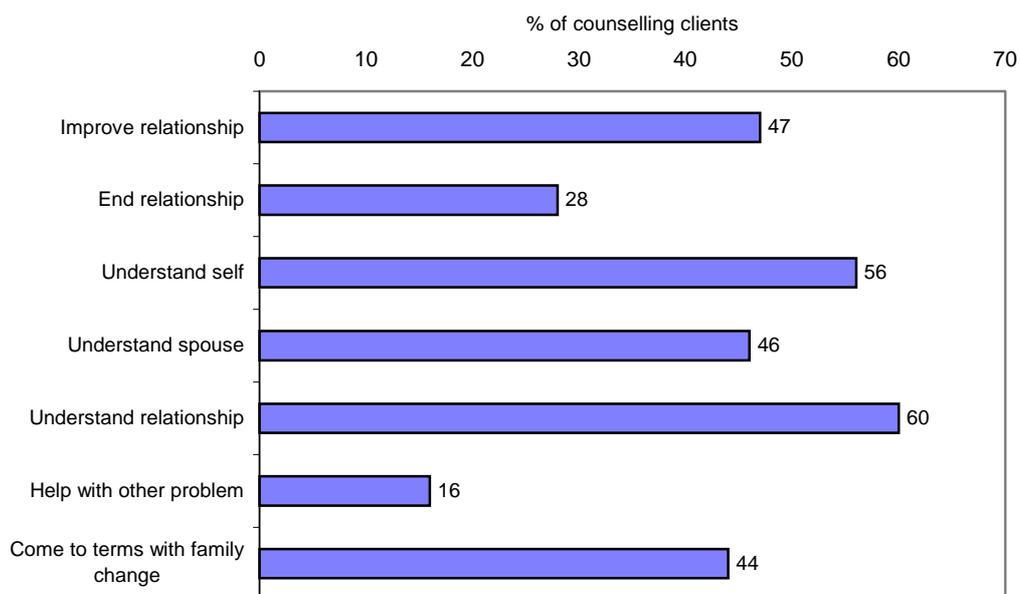


Figure 13.5 Attendees' reasons for going to counselling (N = 101)

The first counselling appointment

Of the 101 people who said they went to a counselling appointment, 36 per cent indicated that they found their first interview very helpful, while 50 per cent found it fairly helpful and 14 per cent said it had not been at all helpful. Almost three-quarters (73%) went to a second appointment. Not surprisingly, those who found the first appointment helpful were more likely to go for a second, but half of those who described the first meeting as being of no help at all still went to a second one. Two of those who did not go to a second appointment indicated that the first meeting had solved their problem. The most common reason given for not going back, referred to by 10 of those who did not have a second interview, was that counselling would not help. Nine people did not go back because their spouse refused to participate, while six people indicated that they were put off by the cost, and two indicated they had to wait too long for a second appointment. The completed questionnaires contained a number of remarks about cost, such as the following:

It would have been nice to have been able to afford proper counselling sessions. I am employed part-time and I am low paid, and couldn't possibly justify the expense for myself when I have other responsibilities. I have found the whole experience of divorcing extremely stressful, and at times have hardly been able to cope with the worry and pressures of everything. I have sought no professional help, apart from employing a solicitor, and I feel like I am living in a nightmare. The information meeting was good, but there should be more things like this available to people. (F)

I would have liked further meetings with a marriage counsellor but, as I am on benefits, I would have found the costs hard to pay. (F)

Marriage counselling should be free to all. I would have attended sessions but for the cost involved. Even a minimum donation of £5 can be expensive. If counselling costs, it adds additional expense to those who are having difficulty making ends meet, and for the person who is left to foot the bill. (M)

I feel very strongly that marriage counselling should be free for everyone. It is such a traumatic time when your marriage is failing, you need as much help and support as possible early on. I couldn't afford £25 per session. I don't work and I am not on benefit, but I do have a small amount of savings. I didn't feel that I wanted to spend my savings so early on when my future was so unstable, but you have to pay and I couldn't afford it. (F)

This last woman did eventually get access to free counselling, telling us:

I have only just discovered Marriage Care, which is free if you don't work, but it has taken me eleven months to find it. (F)

One wonders why she could not have been helped to discover Marriage Care when she went to her MWMC. Although the counsellors are only required to provide information about their own agency, it may be more appropriate for attendees to be informed of the various options available to them and their respective costs should they choose to go down the counselling route.

Completing counselling

The number of appointments attended by the 76 people who went beyond the first appointment ranged between 2 and 25; the median number of appointments attended was six. More than half (53%) went to all the counselling sessions alone, while 35 per cent went to all or most of the sessions with their spouse and 12 per cent were accompanied by their spouse at some of the sessions.

As Figure 13.6 shows, just 19 per cent of those who attended counselling indicated that it had helped them to save their marriage. Indeed, out of the 250 MWMC attendees who responded to our follow-up survey, only 18 (7%) said they had gone on to marriage counselling and saved their marriage as a result. There are, however, several ways in which counselling may facilitate saved marriages. The experience of counselling encouraged one couple to communicate better, and to stay together, primarily because they shared negative views about the counselling process:

Although attending marriage counselling sessions spurred me and my husband into thinking more about saving our marriage, we actually gained more from our discussions out of the session than we did in the sessions. We found our marriage guidance counsellor was looking too deeply into our psychological backgrounds in order to answer his own theories about why our marriage was breaking down. Eventually, due to the above, we stopped going to see the counsellor, and instead used the time together to discuss our problems and feelings, and used the money to go out or have a meal together. (F)

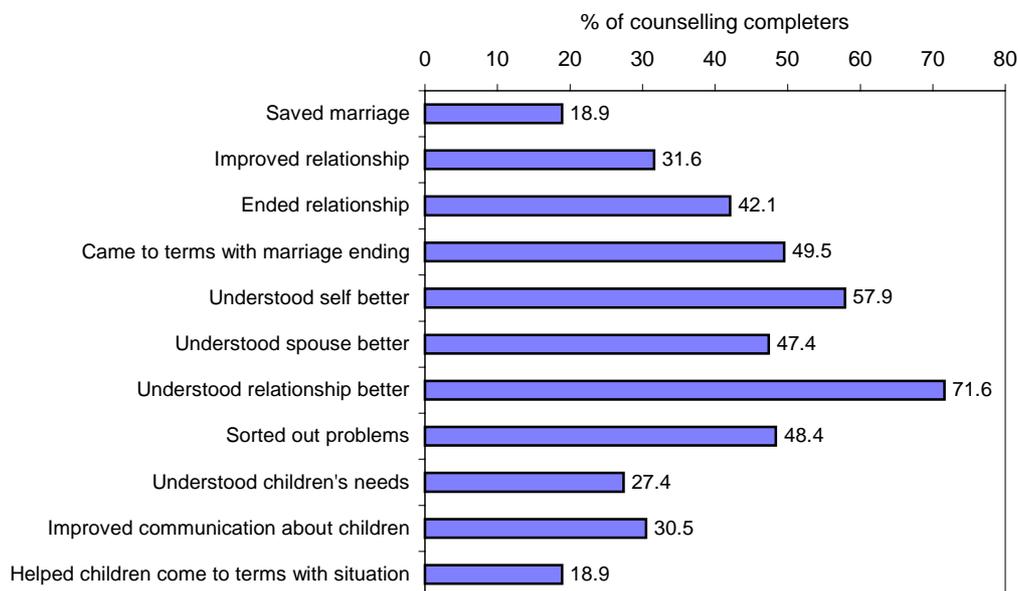


Figure 13.6 Counselling outcomes (N = 95)

The following comment, however, describes the saving of a marriage in which the input of counselling was more positive:

Having been married to the same person for eighteen years you think you know someone, but after counselling it helped me and my husband to see

things from a different angle, which helped me to understand what was going wrong. I would not say everything is back to normal, but I try to understand what is happening if things start to slide, and we are trying to arrange more time together to work things out and to see each other's point of view. Therefore, I feel that our marriage definitely benefited from the help we received as my husband had moved out, and I assumed that we were heading for divorce. I don't believe, however, that if both of us had not gone together ... we would be back together now. (F)

In the following case, counselling offered the prospect of reconciliation, although that seemed extremely unlikely when the wife began counselling alone. This case illustrates the problem of finding the right time for both partners to be able to work together with a shared agenda:

Initially I attended approximately eight sessions alone, as my husband refused to go. At the end of these sessions, I had adjusted to the inevitability of divorce. Then he decided he would see someone, and saw a different person alone a couple of times, after which I went with him. These sessions are still ongoing, and I feel a little more confident that something can be salvaged, but I feel that there is a long way to go before any amount of trust can be regained. I feel for the first time that he is making some effort to put things right. (F)

Two-thirds of those who went to counselling indicated that they were glad they had done so. Sixteen per cent of attendees, however, said they wished they had gone sooner. One of them told us:

Personally, I knew deep down that my marriage had ended and that is why I sought counselling. But it was too late then. How can you make someone fall back in love, or even respect them, after the damage has been done? (F)

In common with those of other research that focuses on relationship counselling,⁷ our findings suggest that the most common benefits were those concerning person-centred issues. For instance, 72 per cent of those who went to counselling were helped to gain a better self-understanding, and it is clear that counselling can help people come to terms with the emotional trauma of divorce. One counselling user told us how she had benefited from the whole package consisting of attending an information meeting, a meeting with a marriage counsellor and counselling, although her marriage was clearly over at the time she began the process:

I found both the information meeting and the introductory meeting with a marriage counsellor extremely helpful. Although my husband and I had already separated, I felt at a loss as to how to deal with the situation I had found myself in, and I needed someone to point me in the right direction. I then went on to have several sessions with an excellent counsellor who really set me on the road to recovery. (F)

Figure 13.6 demonstrates the wide-ranging impact of counselling. It is clear that counselling helps some people to save their marriage and others to end their marriage and/or come to terms with the fact that their marriage is over. It can also help people develop an understanding of themselves, their partner and their relationship, and can help

⁷ McCarthy, Walker and Kain (1998), *op. cit.*

to minimise the impact of divorce on children. The fact that it fulfils all of these functions, however, might mean that it does not do as well as it might if it focused on a specific objective. The multi-purpose approach of relationship counselling also makes it difficult to evaluate effectiveness. In answer to a question about the quantification of preventative work, Relate's senior research officer commented:

How we measure our success depends on what it is we are aiming to achieve. Do we want to reduce the number of people who get divorced? Or do we want to reduce the acrimony and distress of divorce? Are we aiming to help couples stay together, or to grow and develop personally? Are we about maintaining the status quo in relationships or are we about easing the transitions?⁸

This appropriately describes the problems connected with evaluation of services in which all kinds of outcomes might be regarded as positive. Moreover, Relate's senior research officer raises important questions about the function of marriage support services, questions which clearly need to be addressed before implementation of Part II of the FLA.

Evaluating relationships

As Figure 13.6 shows, almost a third of those who went on to counselling after a MWMC managed to achieve an improved relationship with their spouse, although only 19 per cent said they had saved their marriage. Of the 29 people who indicated that they had improved their relationship, three were divorced and seven were separated at the time of the survey. This suggests that counselling can help people to improve the quality of relationships even when they live apart, although the majority of people who were living apart and attended counselling did not claim to have improved their relationship.

In an attempt to extend our understanding of the impact of counselling on the quality of relationships, we asked seven questions with fixed responses located on a five-point Likert scale. The questions were combined to create a single scale of measurement, which we have labelled 'quality of relationship'. We summed scores on the seven individual variables to produce a scale which had a relatively high degree of internal consistency ($\alpha = 0.91$) and a distribution that was approximately normal. Analysis with this variable revealed little, however, about differences between groups of respondents or about the impact of counselling. We found that the most important determinant of the quality of relationship was simply the state of the marriage. Not surprisingly, those who were still married and intending to stay that way had a significantly closer relationship with their spouse than those who were married and intending to divorce and those who were already either divorced or separated. There was no evidence to suggest that those who went to counselling had a better-quality relationship than those who had no counselling contact beyond the MWMC, irrespective of whether they went to counselling alone or with their spouse.

⁸ *Relate News*, no. 61 (February 2000), p. 3.

Chapter 14

Dealing with the Uncertainty

Robert McMullen and Peter McCarthy

There is something imaginatively self-contradicting in a system that offers marriage counselling to those seeking divorce. While seen as a perverse and obstructive move by some, it has the potential for accommodating the ambivalence and contradictory feelings that so often surround the ending of marriage for one if not both partners. It may also help those who are unsure about what they want.¹

In the previous chapter we examined the impact of the meeting with a marriage counsellor, drawing on data from exit questionnaires, follow-up questionnaires and interviews with people shortly after they had attended the meeting. In order to extend our understanding of how this meeting might have influenced those who had experienced it, we conducted a further in-depth interview with 46² of the 226 people whom we had interviewed previously. These people were selected by means of a quota sampling methodology (20% of the whole sample) balanced for gender and for the different marriage agencies which offered the MWMC during the pilots.

At the time they attended the MWMC, 19 of the 46 people in our sample were wanting to save their marriage, 11 were planning to end their marriage, and 16 were uncertain about what they wanted. When we interviewed people in depth (around 7 months after they had attended the MWMC) 25 were still married and intending to remain so, while 21 had separated or intended to do so expecting to end the marriage.

At the time they attended a MWMC the majority of people (36) had not known where to turn. In other words, they were at the first level of ignorance described in Chapter 4. Eleven of the 19 people who had wanted to save their marriage were hopeful of having done so when we conducted the in-depth interviews, and two of the eleven people who had been planning to end their marriage at the time of the MWMC were intending to stay married. Those planning to end their marriage at the time of the MWMC were much clearer about what they wanted to achieve from the meeting than those who were floundering at the first level of ignorance. Most of them had been looking for specific information about the divorce process or about specific issues.

Four of the 16 people who were uncertain whether they wanted to save the marriage when they went to the MWMC were intending to end the marriage when we interviewed them. Twelve, however, were still married and expected to remain in the marriage. It is interesting to note that around half of the 250 MWMC attendees who responded to our follow-up survey³ had gone to the MWMC with the hope of saving their marriage, and about half of them (24% of the sample of 250) were still married and living with their spouse at the time. Quite clearly, some of those who want to save their marriage succeed

¹ Clulow, C., 'Supporting marriage in the theatre of divorce', in the Rt Hon. Lord Justice Thorpe and E. Clarke (eds), *No Fault or Flaw: The Future of the Family Law Act 1996*, Family Law (2000), p. 23.

² Some of those who we interviewed had attended a MWMC with their spouse and had not themselves attended an information meeting, although their spouse had done so.

³ See Ch. 13.

in achieving this, but others do not. Unless both partners wish to stay in the marriage, it is unlikely that any sort of intervention is going to be able to turn people back from divorce. Nevertheless, the MWMC appears to have been very effective in moving people on – enabling them to work on saving the marriage, or to go forward into the divorce process feeling more certain of what they want to do.

In an attempt to understand just how the MWMC can help in saving marriages, we decided to focus our in-depth interviews on two groups of MWMC attendees who were still working on their marriage. The first group consisted of those who were uncertain about their marriage when they went to the MWMC, and the second of those who wanted to save their marriage. In the remainder of this chapter we have used a biographical⁴ approach to examine the impact of the MWMC on the lives of eleven people who were in the first group. In the next chapter we discuss the experiences of eleven people who were in the second group. All of these 22 people were still married when we interviewed them some seven months after they had gone to a MWMC.

Through this approach, we aim to examine the MWMC within what Robson refers to as the ‘real life context’,⁵ placing the MWMC within the context of other events taking place in people’s lives. The individual accounts are not, of course, full biographies since they cover only a limited period of the subject’s lives. They are essentially biographies of crisis, with the MWMC located within the complexity of real lives and the other actions that people may take to resolve the personal crisis associated with the possible demise of their marriage. This essentially involves looking for what Smith has described as ‘turning points’.⁶ It should be noted that neither set of personal stories in this or the next chapter is intended to be representative of all MWMC cases. They are concerned with disentangling the impact of the MWMC from everything else that was going on in people’s lives at the time their marriage was at risk of ending, in circumstances where that risk appears on the surface to have been averted, at least in the short term.

Janet – Talking More⁷

At the time Janet went to the information meeting (Model E) she thought that her marriage was about to end, since she and her husband were arguing a great deal. When she attended the meeting she had no idea what to do or where to go, but knew that she needed help. She initially wanted to know what separation and divorce might mean to her children and herself, but was not sure whether she could save her marriage nor, indeed, whether she wanted to.

Janet viewed both the information meeting and the MWMC as positive experiences. The information meeting informed her about counselling and gave her the opportunity to try it out – which she probably could not have afforded otherwise – via the invitation to attend the MWMC. She considered marriage counselling to be something she would not have been able to access, since she thought it was aimed only *at those who’ve got serious problems – violence and that.*

⁴ We use partial biographies, or mini-life histories, covering only a small part of each subject’s life.

⁵ Robson, C., *Real World Research: A Resource for Social Scientists and Practitioner Researchers*, Blackwell (1993), p. 5.

⁶ Smith, L.M., ‘Biographical method’, in N.K. Denzin and Y.S. Lincoln (eds), *Handbook of Qualitative Research*, Sage (1994), p. 296.

⁷ All the names used in this chapter have been changed to protect confidentiality.

The information meeting clarified her misconceptions about counselling. Although she did not feel that she had been directed towards the MWMC, the information received gave her the impetus to try it out, and she went with her husband. The solution-focused approach practised in the MWMC served her circumstances well. With her husband and the counsellor, she was able to articulate the problems that had given difficulties in the marriage. These were associated with lack of time to give to the relationship – because they were both working – and a lack of money with which to broaden their horizons, which had narrowed since they had had children. There were also problems relating to the dynamics of the relationships between herself, her husband and her mother. She visited her mother often, but her husband thought that her mother was too domineering. Janet often returned from these visits filled with frustration, and *was loading all of my problems on to him*.

After the MWMC, Janet and her husband decided that they ought to spend more time with each other, out of the home and alone so that they could have the space and time to talk things through. Janet also decided to work on her relationship with her mother. She felt that her relationship with her husband had improved considerably, because of the meeting – *we can talk a lot more without bottling it up*. The meeting allowed Janet and her husband to reconsider their marriage and the way in which they had, without realising, allowed their relationship to change. After the MWMC they had thought about counselling but decided that they could not afford to take up an appointment with Relate. *They wanted a contribution and, as money was part of the problem, we thought that it would only add to what we were suffering ... We couldn't arrange childcare very easily and, as we would have to go in work time, it was out of the question*.

When we last spoke to Janet the family was still together, and both Janet and her husband were working hard on their relationship. When we asked what her hopes and expectations were for the future she said she expected the marriage to be intact, and when asked how she thought this could be maintained she told us: *talk more, and try to cope*. The tone of her conversation with us was upbeat and positive. She felt that, as a result of attending the information meeting and the MWMC, she had learned a lot about herself, her husband and the pressures upon the relationship, and about the strategies that she could use to cope. She had been enabled to reconsider her position, and had moved from ambivalence about the future of her marriage to a more positive view of it, and she had created a focus for the relationship in the future. Janet indicated that she might consider using marriage support in times of stress, but that this would depend upon other circumstances that prevailed at the time.

Angela – Letting Go

Angela suffers from ME, and at the time she went to the information meeting (Model F) had been separated for 16 months from her husband of 31 years. She wanted to work out whether to divorce or not, and to work out the best way forward. *In my heart, I wanted to keep married, but all the circumstances pointed to divorce. I felt that I had to make a decision – yes or no – for myself. Not to take action, but to know in my heart what I needed to work at*.

When we last spoke to Angela, she was still unsure about the future of her marriage. She was still living apart from her husband, but was feeling more in control of her decisions. She seemed to be far more focused than she had been previously and no longer saw divorce as an option. Both the information meeting (Model CD-ROM) and the MWMC had helped her in this regard. Although she considered the CD-ROM an impersonal way

of presenting the information, it was an approach about which she felt quite positive because of the lack of interpersonal involvement, which she felt might have influenced her outlook. The information meeting clearly had an effect upon her relationship. *I saw clearly that there was hope when I saw the [CD-ROM]. As murky as the waters could be, I saw that if both partners were prepared to work hard then there was hope. It gave me a confidence in my own understanding of the situation, and therefore gave me confidence to speak with my husband when times have been difficult. It improved our communication.*

Although she was still unsure about her relationship when she went to the MWMC, she greatly appreciated the intervention. She thought the solution-focused approach of the MWMC very helpful and appreciated the structure of the meeting. *It made me see the positive side of how far we had both worked, and it gave me an understanding of my husband's situation. I walked out on my husband. It confirmed that there was a problem in our marriage. It confirmed that there was somebody out there that was prepared to help two people work at it in a structured way. I believe I heard that the Lord Chancellor's office was funding the pilot project, and it sort of gave me hope that the powers that be also knew there was a need for this in the land.* Nevertheless, she still maintained a pragmatic frame of reference when thinking about any future involvement in marriage counselling. If the reconciliation were to be successful in her eyes, it needed to be sufficiently strong for her to feel able to reaffirm her marriage vows. As a practising Christian, this was important to her. *I know that as much as I can do the work, if my husband doesn't work at it there is no point in reaffirming our vows.* She had, however, worked out some interim actions to improve the relationship, to give her husband the time and space to decide upon the future of the marriage, and to allow him to instigate the movement to reconcile or not. As a result of having attended the MWMC Angela had *more confidence and far more clarity in what threads I have to untangle. Because there is a ball of tangle, and I was undoing all the wrong threads. Years ago when my marriage was in a state, I was going in all the wrong angles to make it work, including walking out and saying 'I'll never come back again', and then walking back, which this time I haven't done.*

Throughout their marriage, Angela had been the main instigator of any approach to marriage counselling agencies. In a way, she felt that this might have added to her husband's feeling of being pressured to conform to her form of problem solving: *I have been on my husband's back for years.* Since the MWMC, she had been able to let go and leave the decision-making to her husband. As the following exchange demonstrates, she felt that this has helped her husband:

Angela. I feel that he has benefited from it.

Interviewer. Do you mean ... taken the pressure off a bit?

Angela. Yes! Yes! And it's taken the pressure off in the right way – not so he'll think, 'Oh, I'm off the hook', but 'She means business'. There's got to come a time when he makes the move.

When we asked what stage she thought her marriage was at, she told us that they were about halfway towards reconciliation, *but with the knowledge that at the end of the day my husband might say he doesn't want me, and I have to accept that.* When we asked her about her hopes for the future she said that she hoped for, and was working towards, reconciliation. However, she would not be prepared to reconcile without change: *There has to be some drastic changes in the mind-set on both our parts before we can do that ...*

I would want to be able to reconsider what I'm saying to him – not as a 21-year-old young child but as a full-grown, mature woman saying 'Yes I do actually want to do these things' – and maybe reword [the marriage vows]. That's fine, because respect for me is a very big word and trust is a very big word and both of these have been abused on both our parts.

Angela had moved from a position of not knowing how to change the situation in her marriage, and uncertainty about whether to divorce or not, to making a definite decision to change the perspective that she had built around her relationship. She had let go of the past and given an impetus to her husband to allow him to decide whether to reconcile or not. At the last interview, she sounded positive and assertive, not at all indecisive. She was comfortable with the decisions she had made and was looking positively, yet pragmatically, to the future. She was aware that things might not work out as she hoped, but aware too that she would be supported whatever might occur. *In hindsight, I can see that the meetings enabled me to come to a conclusion that I'm still coming to, that divorce is not on the cards. Divorce is really not the option.*

Barry – Taking Stock

Barry and his wife went to the information meeting (Model D) and the MWMC together. When they attended the MWMC they had been separated for a few months. We spoke to Barry six months after his MWMC, at which point he told us that he and his wife were once more living together and that things were *working out fine*.

When he went to the information meeting Barry had felt confused and scared, with no idea of how to save or to end his 14-year marriage. Although he expressed some ambivalence about the decisions he felt he would soon have to take, he was considering using counselling to discover what he truly felt about the marriage: *We wanted to go and do that [counselling] anyway, but it [the MWMC] did speed it up. So, it did help in that way. [The invitation] speeded things up. We had tried to make an appointment before, but there were a few weeks to wait. So, it got us in quicker.*

At the time he went to the MWMC he felt confused about the relationship with his wife. He felt, however, that the meeting had made a positive contribution to the way in which he approached his marriage. He appreciated the structure and discipline that the counsellor provided. *There are certain issues that we talked about that were easier to talk about with a third party present, as a mediator if you like ... It kept things on track, rather than going off on a tangent and developing into an argument. It kept things more on the lines of a discussion. Having a third party there did help, but it was really up to me and my wife. After the meeting Barry told us that he felt more able to discuss the issues: It's progressing well now. We've resolved a few things and taken stock of what had happened, and yes, it's better than what it was before.*

He and his wife subsequently decided to go on for further counselling together. They attended eight sessions with the same counselling agency that had provided the MWMC, but Barry felt some frustration that he was not able to continue with the counsellor that they had met at the MWMC. *We went through the bones of it with the initial person and the background, and then we had to see someone completely different who had no idea what the situation was. We were told that the original person wouldn't release that information to her. So she went into the meeting cold again, and we had to go through the whole thing again, which was getting repetitive, really.*

Although Barry had been introduced to counselling via the MWMC, he was still apprehensive when he started counselling. Despite having explored the option of counselling in the MWMC he did not know what to expect. The counselling focused on specific issues that had created difficulties in the relationship. (He did not feel it appropriate to discuss these with us.) When we asked him what he had wanted to achieve by going to counselling, he said that he had wanted to reconcile with his wife and that he had definitely achieved this objective. He had learned a great deal from the information meeting and the MWMC, and felt that they had changed the way in which he viewed the relationship. He had started to view the marriage, and the difficulties he and his wife had expressed as a couple, as if he were a counsellor, an outsider or a third party:

Barry. I just sort of view it from an outsider's point of view. In that they take it on board, give us their point of view, not that they give their opinions ... We're now aware of the dangers.

Interviewer. Can I ask you what you feel those dangers might have been?

Barry. Just basically complacency, circumstances of work, shifts, jobs, money and stuff like that really.

Interviewer. So are you now more able to solve these matters together?

Barry. Yes.

Barry's hopes and expectations for the future were *to continue to develop our relationship, really. To have a happy marriage by staying in communication with each other.*

Maureen – Seeing a Way Forward

Maureen went to the information meeting (Model F) and then to the MWMC because she felt that her marriage of 32 years was virtually over. She told us that her husband was an alcoholic, and that he was sometimes violent towards her. However, when she made contact with the central booking centre for the MWMC pilot scheme he overheard the conversation. *I think he thought, 'Crikey! She is going to do something about it. She's not going to tolerate it any longer.' And he's turned himself around. He's just the marvellous man that I initially fell in love with.*

Maureen felt that the communication between them had improved, and it confirmed for her exactly what she wanted to do. *He did realise I was determined not to tolerate the problems any longer and get out of it if I could, but I didn't know really where to turn and this is really why I went to the meeting, just to see what options were available to me, if any.*

When we asked Maureen how she felt about her relationship at the point at which she went to the MWMC she said: *To be quite honest, I was coping with an alcoholic and there was no relationship. I didn't communicate because he was so puddled with the alcohol.*

Her adult children, who no longer lived at home, were supportive towards her, yet there seemed little chance that the marriage could be saved. She told us that she was seriously contemplating leaving if her husband continued to drink excessively. We asked her whether her opinion of her husband had changed. *Oh yes, and he's changed. I don't think*

alcoholics realise what they are like. If they did realise, they would shape themselves up far more quickly. They don't realise the hurt they create.

Both the information meeting and the MWMC had been helpful to Maureen. *It gave me, not strength, but I sort of felt I could see some way forward one way or another.* Maureen had initially decided to go to the information meeting and then to the MWMC to explore the options that were open to her. She wanted, more specifically, to know whether court orders were available that would prevent her husband from harming her further. Not only was she able to receive sufficient information to clarify the position, but she felt that it was extremely helpful: *It's good because in my circumstances – I mean couples with young children, it must be very daunting – just to be able to talk to somebody who's not going to take sides, 'cos families do take sides.*

We asked Maureen what her hopes and expectations were for the future, and what she thought would help her to realise these expectations: *I hope that we go into our dotage together. I would never be as smug as that. He's good at the moment, but it could all turn again. Fingers crossed. It's a long time to be married.*

Jane – Getting at the Truth

When Jane had decided to go to an information meeting (Model D) her husband had been having an affair for some time and she was confused and frightened. Although he had told her that he had ended that relationship, she later discovered that this was untrue. Jane had been married for five years and had two young children. She had discussed the problems in her marriage with her family and friends, but this only increased her sense of confusion. *I didn't know which way to turn at that point. I didn't know what I wanted to do. I thought that I was going down the divorce route, but at the same time it was very much a case of – and this sounds really weak and pathetic – I felt that was what everyone was expecting me to do, and what everybody wanted me to do, and that's what I should be doing, and I did feel pressured and I really didn't know what I wanted. And I felt that I needed the support of friends and family, and I felt that I was only going to get that support if that's the way I went.*

Jane went to the information meeting alone because she wanted to find a way through the turmoil. Going to the meeting did have an effect upon her relationship with her husband when Jane told her husband after the event: *I think it probably may have made things worse in a way, because I came out with all this information which he hadn't been part of. At the time I went to the meeting, I didn't know which way I was going to turn. He told me he wasn't seeing her any more but I found out a couple of weeks after that he was still seeing her ... I thought all along that he was still seeing her, but he told me that there was nothing going on, and I suppose within the first few days of having been to the meeting things were very difficult between us, because he was trying to get out of me all this information, but I just felt I wanted to keep it to myself and digest it all and try and think about everything that had been said. And he wanted to know what did they say about this and what did they say about that, and I suppose I was shutting him out. I didn't want to share any of that at that time.*

At the point at which she attended the MWMC Jane was still very angry, hurt and confused. She had been for counselling, which had been arranged by her family doctor. The counsellor had apparently told her that *she was basically suffering a double dose of anger. Because I didn't have any anger first time round I was just really hurt and upset ...*

He was a complete and utter pig. He did it while I was pregnant and then he carried on doing it when I had a young baby and a toddler.

The information she received during the information meeting had influenced her decision to attend the MWMC. *Very often it's better to talk to a third party who isn't in any way involved, who's completely objective, and I also felt that they were going to get more answers out of my husband, basically.* Jane decided to go to the MWMC for two reasons. The first was to distance herself from the well-meaning, but unhelpful and judgmental, influence of friends and family. Secondly, she thought she would have the opportunity to confront her husband about the extramarital affair. It seemed as if she was using the meeting to get her husband to confess to his unfaithfulness, as well as trying to discover whether they had the chance to work things out. At the time she went to the meeting Jane described herself as 'hating' her husband. *I despised him and I had an awful lot of anger there, and I just wanted answers out of him and I felt that I wasn't getting answers. While he was talking to just me he knew that I was gullible or had been gullible in the past. And I think he felt that he could still pull the wool over my eyes, and I felt I was going to get answers out of him with somebody else there, and I did.*

The MWMC enabled Jane to confront her husband in what she thought was a safe environment. She was able to hear her husband tell her about the affair that she suspected was still going on. It provided her with some sense of agency and knowledge, which she felt she needed in order to move on. *I got what I needed to know and I needed to know whether he was still seeing her. That was the main thing. I felt if we'd gone and he had actually finished with her and he'd shown me in that session that he really was sorry. I think we could have arranged some more sessions, and it could have been sorted out a lot earlier. But when we went it was all with my husband at that time 'me, me, me, I, I, I'. The reasons he did it, what he wasn't getting – nothing about me at all. And it basically came out that he was still seeing her. And I just thought, 'You are still lying to me. After all these weeks you've been telling me "Divorce isn't the answer for us. We can be strong again. We can make it work. It is you I want – I'm not with her any more."' And it was all just lies.' And he still felt that he could lie to me. That, to me, was just the break point when I thought 'That's it, you ain't going to mess with me any more'. And that was when I decided I was 100 per cent certain that divorce was what I wanted.*

Jane left the meeting feeling furious with her husband, and convinced that the marriage would end. She wanted nothing further to do with her husband, and things went from bad to worse. Nevertheless when we interviewed her about her experiences, some six months after the MWMC, she and her husband were still married, saw each other at weekends and were spending that time alone together with their children: *We are talking more now – a few Saturday nights he has come up and we've basically switched the television off and we've sat there for about three hours talking.*

Looking back, Jane thought that the MWMC had helped: *Looking back now, at the time I didn't look at it from that angle. I'd got the information that I wanted, it was like my ammunition to say 'Right, that's it. I'm divorcing you' and I didn't think about anything else – about what was said, about talking and trying to sort everything out. But looking back, things she [the counsellor] said about sitting down and trying not to get angry all the time with each other [were helpful].* So although Jane had used the MWMC to get the truth out of her husband, and had been determined to divorce her husband, her contact with the counsellor seems to have had a positive effect on her marriage. Indeed, when we interviewed her she told us that she and her husband were just about to start counselling with Relate. She felt, however, that she was no longer as 'gullible' as she once was, and

viewed the future of her marriage with a sense of realism: ... *at the information meeting, they talked about Relate and going and talking things through, but as I say, I felt the emphasis there was about giving you the facts about divorce and separation ... I didn't feel that the information meeting was so much about saving your marriage. The meeting with Relate [the MWMC] I suppose was. I mean, she was trying to get us to talk and see if there was a way of saving things, but I probably went into it with the wrong frame of mind really. Because I went into it not looking to save my marriage – I went into it thinking I know he's still lying to me and I just need him to say it, and if that's the case I've had enough and he's out. With hindsight I know this was wrong but it was how I felt at the time.*

We asked Jane how she saw the future of her marriage, and what her hopes and aspirations were: *My hopes are that I can have as happy a life as possible with me and my two children – do the best I can for my children whether it's with my husband or without. At the moment I don't know. We are talking and seem to be getting on all right, but when we sit down and talk on our own he still says things that make me think 'No'. Underneath it he's still the same and I don't know if this is going to work at all ... A saved marriage to me is knowing that the foundation is still there and that you can build up on it. It's obviously not going to be the marriage as it was before but in some ways you don't want that. You want it better because obviously it wouldn't have gone wrong if it were all hunky-dory before. So you want to be able to build something up which is better than what was there in the first place and as long as the foundations are still there you can do that.*

Jane was still working on her marriage, but from a position of strength and realism. She wanted to be sure that her husband was being sincere before allowing full reconciliation. She was greatly concerned about the effect inconsistencies within the relationship had had on her eldest son, who *had reacted badly* to the changes that were going on around him. Although she and her husband were still living apart, Jane felt that there was some hope for reconciliation. *While we are spending time together as a family it's nice, I enjoy it, and I think 'Yes, this could possibly work again'. But then when we sit down and talk I just don't think I can get my head around all the things that have happened and I don't trust him and I don't know if everything he's telling me is the truth. I think it is, because I don't think even my husband would put the eldest through any of this again. That's what makes me think he is being serious this time. I have arranged another meeting with Relate.*

Vanessa: Looking Marriage in the Eye

Vanessa went to the information meeting (Model F) alone because she felt that she had to *do something*. She and her husband shared a family business, and she feared that this might create problems when it came to settling their affairs, should they decide to divorce. She was not sure about the future, but did feel certain that *things couldn't go on the way they were going*. She was seeking a way forward, and she wanted to find out what might be available to her. She found the Model CD-ROM meeting *disappointing*, and not what she had expected. She had wanted to leave home for some time and was hoping that the information meeting would provide her with sufficient knowledge to do so. It provided her with little help: *If I were a domestic violence victim, it would have been all right. We share a business, so it's difficult for me to leave. I couldn't get any help because I had money. I just wanted a bit of time out, to clear my head. But this seemed to be impossible and frustrating.*

Vanessa went on to take up the invitation to attend the MWMC because she felt the information she had been given during the information meeting had been deficient. She thought that she had no other option: *I thought this meeting might have provided something else. I thought he [her husband] might listen to me. We both went to the meeting with a marriage counsellor. I thought that by talking it through it would help. We did listen to each other.*

It seems that Vanessa and her husband each had different views about the factors that might have caused the difficulties in their marriage. After the MWMC they talked about their problems in great detail, and thought that counselling might help them. Vanessa thought that the counsellor had been able to see that the problems were not merely associated with what she described as her health problems. She felt that this understanding had ... *helped me as an individual. Someone else recognised me.*

She and her husband decided to go on to further counselling, but were disappointed at having to go through the whole procedure once again with another counsellor. They would both have preferred to continue with the counsellor they had met during the MWMC. *I didn't immediately gel with the second one, but it was OK. We nearly gave up when we realised that it would be someone else. Getting it off your chest then realising you had to do it again wasn't good.*

According to Vanessa, her husband persisted with a different impression of the problems that lay before them. He thought that their relationship difficulties were *just a passing phase*, but Vanessa felt that she had *moved on*. She had mixed feelings about going for counselling with her husband. *It was a two-way thing. It was a relief to know what was happening and for him to listen, as he was fixed to the spot but, at the same time, you felt a failure 'cos you couldn't sort it out yourself.*

Vanessa found both the MWMC and the subsequent counselling helpful. She felt listened to, and that her grievances were not being trivialised. Nevertheless, although she and her husband were still together she did not really consider her marriage to have been saved; the dynamics and the difficulties between them had not changed although the anger and the shouting had abated. Vanessa described how over the years they had been married a certain complacency had grown up between them, and she felt that the marriage had ended *years ago: we've accepted each other too much over the years. We've brushed problems under the carpet. Because your days are busy, you don't have time to deal with it. I'll look at it again when the kids leave home. They've cemented the marriage over the years.*

Vanessa had no particular hopes and expectations for the future: *I suppose I'll take it as it comes. Counselling made me look at my marriage in the eye and ask, 'Do I want this or not?' I'm bearing with it. I've got no expectations of it getting better. I feel responsible for many things. I realise that I have choices, and that I have the power to change things if I want to, but I'm just accepting the way it is. I know I can't change it by myself. Two people have to want to change.*

Peter – Looking for Validation

Peter and his wife had been married for 40 years when he went to the information meeting. The problems within their marriage (Model C) were of long standing, and his frustrations with the relationship were evident when we spoke to him seven months after

the MWMC. *It's quiet at the moment. She's been going to see someone. I don't know who – she just gives me ear-ache. She suffers bad with her nerves and she takes anti-depressants. She can flare over anything – over a big or little thing. I've been giving her her own road. It seems to happen a lot with women, doesn't it? They're given their own road and they're quite content. She's been threatening this, that and the other – but it's died away again. I've been nowhere else, I've done nothing about it – I've just told her to get on with it, to get it sorted, 'cos I don't want to listen to it.*

He told us that he had had no clear idea about the future of his marriage when he went to the information meeting, and felt unable to predict what the future might hold. He thought he was too old to go through the changes that a divorce or separation would mean: *I'm 67 this October, and I'm not wanting to start again. I can't see any future. I don't have any ideas about what could be.*

He was hoping that the information meeting would be able to provide him with sufficient information to combat any future divorce action brought by his wife. *How deep am I going to be in the cart with it, what it entails? I'm on a work's pension and I look after the bills. She's haphazard with money. I run the show with money.* Above all, he was looking for information about finances. *It doesn't bother me sleeping alone. I'm comfortable in the house, apart from problems.*

Peter did not think that the information meeting had made any difference to his relationship, although it had influenced him to take up the invitation to attend the MWMC. He had initially felt rather negative about marriage counselling, until he reflected upon what he had been told in the information meeting. He had been sceptical and somewhat worried about talking to someone else about the problems in his marriage. He was concerned people would think him immature and unable to work things out for himself. He felt differently after the information meeting. His acceptance of the role of marriage counselling within his relationship was qualified, however: *I feel that there should be no need for it. I mean, nobody comes better with trouble, nobody ever fetches anything good. I've seen enough trouble in my life. You're no better for it really.*

Part of Peter's intention in attending the MWMC was that someone else might see what his wife was like. *I felt that if she went in front of someone, and told them in front of me, and she got really going, they would see what she's like. It wouldn't be coming from me, like I'm telling you about her now, you would meet her and you'd think that I was telling lies. But you wouldn't if she lost it – then you would see it.*

Peter wanted to have his feelings about his wife's volatile behaviour recognised or validated by a third party. This, however, did not happen in the MWMC: *They just sat back and listened and there was no 'Don't you think that's a bit over the top?' There was nothing said like that. 'Don't you think that you're being unreasonable?' – nothing like that. I was left with the thought that the other person thought I hadn't got a clue. They could have been thinking 'They're a right pair of idiots, them'. I didn't get any signals at all. She [Peter's wife] came out with the idea that everything had gone her way. 'Did you see the way she looked when you said this, that and the other?'*

The experience of the MWMC did not meet Peter's expectations. He had had no concept of what counselling would be like, and the MWMC was a new type of encounter for him. He had been brought up to believe that marriages should be private affairs, and that bringing difficulties to a stranger was embarrassing and should have been unnecessary. When we asked him what his hopes and expectations were regarding the future of his

marriage, he laughed. *What future? I just take every day as it comes. What happens happens – you know. It's like illness – you don't know what's round the corner, especially as you get older. You was all right yesterday, then you get up with a bad leg and you wonder 'What's happened there?' You know – aches and pains all over the place. Like I said, I just lie back and let it happen.* Peter was, however, still in the marriage and expecting to remain so.

Michael – Doing It Gently

Michael told us that his wife had discovered that he had had what he described as a *brief affair*, and that she had asked him to leave home, something that he was loath to do. He went to the information meeting (Model C) because he felt that his wife would persist, and that her attitude would lead to divorce. He had no clear idea of the future of his marriage when he went to the information meeting. *It was very helpful getting information about how to avoid what a lot of people do when they divorce, which is to fight and squabble over custody and contact and how to do it. In the event I haven't done it, but if I did I would know how to do it gently and properly.*

The couple had had counselling some six years previously, but the information meeting spurred them to attend the MWMC. Michael said that the information he received about marriage saving during the information meeting had allowed him the opportunity to see *the pitfalls of what would happen if I didn't [go to the MWMC], and it being important to talk things through. To decide what you are going to do before you do it, to do it clearly and well. I suppose that I was worried about my marriage ending without talking it through ...*

At the point at which he went to the MWMC Michael was pessimistic about the marriage. Nevertheless, he was able to begin to work through things with his wife and to decide to embark on a course of counselling with her. He believed that marriage counselling would allow them to *understand what they are not providing, that the other person thinks they need. They'll be doing something together, and I would guess there's a chance of them being less hostile to each other, which is fairly crucial.*

It was apparent that Michael's uncertainty about his marriage changed between the time he attended the MWMC with his wife and the time they started counselling, by which point it was clear that he wanted to improve his relationship with her. The fact that he had been involved in an extramarital sexual relationship became the focus for some of the counselling sessions, but he intimated that they managed to *get to the underlying problem* behind this. They continued counselling for six months, during which they had 'about twenty' sessions.

Michael felt that there were sexual difficulties in the marriage. He wanted to have a physical relationship but his wife did not feel that she was able to reciprocate, leaving him with a rather a pessimistic view about the future of their marriage: *I started off [counselling] thinking in terms of divorce and ways to make that easier. And I think as it went on it got rid of a lot of anger and we – at least I – understood her [his wife] a lot better.*

Since the counselling had ended Michael had felt that the relationship between him and his wife had improved, and that they were able to reach compromises with each other. It was clear, however, that he continued to be ambivalent about the relationship. *It's quite a live issue. Since the counselling ended I've been trying very hard to get some sort of*

physical relationship back together, and [my wife] said that I've been very loving and attentive, but she just feels she can't, and I have to accept that. I have to try to work out what to do. Either to be dishonest and have an affair in another town, which I don't want to do, or to get divorced, but I don't want to do that. Or put up with being celibate, and I don't particularly want to do that ... I'd like things to stay as they are [for them to remain married] but for things to improve.

When we interviewed Michael he was still unsure about the future of his marriage; in fact, he thought it might end. He had gone to the information meeting hoping to get information to make things as easy as possible for himself, his wife and his children. He had been encouraged to go to the MWMC and on to counselling, during which some of the underlying problems that he felt were affecting the marriage were addressed. He felt that these problems had not been sufficiently resolved during counselling, however, despite his having attended approximately twenty sessions.

Joanna – Feeling Vulnerable

Joanna felt confused about her relationship when she applied for an information pack. The radio advertisement chimed with what she was experiencing: *When I heard it advertised on the radio, it was like listening to myself. I just thought 'I don't know what to do. I know that things aren't good ... There's no clear-cut answer for me.' Then I thought 'If I send away for this, it might be like a beginning, I might be able to do something from here.' I'm still at that stage really.*

Joanna and her husband had been married for about eight years and had two children. Both she and her husband led extremely busy lives. When we interviewed Joanna, ten months after the MWMC, her confusion and uncertainty were tangible, and she seemed very depressed. She intimated during the course of the interview that she had suffered from post-natal depression but that she was receiving help and support as a member of a self-help group. She was vulnerable and appeared to be quite isolated. *My two children are coming up to seven and eight. So they were born very close together, and that opened up a whole can of worms really. That was quite a tough time. Again, because I had two babies, and I don't drive, it's always been very hard for me. I became very isolated. I've sort of got out of that a little bit now because the kids are older. I'm not so isolated as I was a few years back.*

The insecurity she felt within her marriage was symbolised by the way in which she used the information pack. *It started making me feel – even now I turn to it, look at it, and know it's like a positive move. Although I haven't done much about it, it's like I've got it there – it's something to fall back on if I'm in need of seeking help ... It's a trigger maybe, something where I can say, 'Well there is help there.' It's just a matter of sitting down and saying 'Yes, I've got to do something, and maybe these people can help me'. It's just that I need pointing in the right direction.*

Joanna's powerlessness and her inability to find the direction in which to move did not change as a result of her attending the MWMC, and she did not go on to further counselling afterwards. When asked how she had felt about her relationship with her husband since the MWMC she told us: *It still hasn't ... – things haven't improved. When I went that evening to speak to one of the counsellors I was, well I was quite pleased to be able to talk to someone. Things haven't improved, not really. Things are pretty much as they were then ... Funnily enough, I looked through all the information leaflets last night*

and I was so tempted to ring [a counselling agency] last night, but it said Mondays and Thursdays. So I've got all the papers, but sometimes it is just time, trying to find time for myself. That's one of my major problems, that I don't get time.

Anne – Caught in the Middle

Anne, who had been married for less than five years when she went to the information meeting (Model C), described her relationship with her husband as *abusive*. She described her husband as an alcoholic who was occasionally violent. She felt that she was carrying the marriage upon her shoulders, taking the day-to-day decisions about finance and other things herself. She felt weak and powerless. When she had attended the information meeting she had no clear idea about the future of her marriage but had gone in the hope of receiving advice about how to deal with her husband's drinking. This became apparent when we asked her whether she had known how to proceed with the marriage at the time she had attended the information meeting. *At that moment, I didn't think about it. I was in the middle. I cannot decide to divorce. I do not know what to do. I am in a very difficult situation.*

Anne felt that she had gained nothing from the information meeting, other than the invitation to attend the MWMC, primarily because her needs were very specific. She had not wanted advice about the divorce or separation process: she had wanted advice about coping with and improving upon her situation with her alcoholic abusive husband. She hoped that she might have been able to get this help during the MWMC: *I thought, the counsellors, they're experts. They'll give me some good advice.*

Although, when she went to the MWMC, her husband had left the marital home, Anne remained uncertain about her marriage. The meeting did not alter how she felt, although she found the counsellor helpful: *She was really nice and she gave me some good advice. She told me to wait for a while and just see how things go. And hopefully I will make some decisions after a while, whether to go ahead with divorce or stay in the marriage ... She said if I try hard and cannot make it work then I could come back and she will help me to work out why I'm so frightened to break the marriage.*

We interviewed Anne about her experiences of the information meeting and the MWMC some ten months after she had been to the MWMC. By this time she had allowed her husband to return home, although she felt their relationship had not changed. *Actually to go for divorce is a very difficult situation for me – you know, drinking. Now I've got back to my husband, I'm still not happy. I just feel I've got no idea how I can try in any way to change him. I think I can't do that. I'm still thinking about whether to go ahead with divorce ... I cannot make him change. I've tried every way and I've tried really hard. But that's his nature and I can't change it.*

The counsellor gave Anne some information about alcoholism during the course of the MWMC, although this was not a topic that was in the prepared script: *Because my husband drinks a lot and is also violent, she told me something about alcoholism, and how hard it is to change all that – some things I didn't know before. Also I agreed to try again, to try once more, and if I cannot make it work I will go back to counselling.*

She continued to feel trapped by circumstances, still powerless despite receiving some information that she found helpful. *I think, just because these decisions are so hard – I'm*

in the middle – I just can't decide. I know that's bad. People all tell me, if you think you can carry on, OK, but if you can't wait, you shouldn't.

Nevertheless, Anne felt content to wait for a while to see how things progressed. Although she felt happy with the information that she had been given she had no desire for counselling, feeling that her life was too busy with work and study. It seems, however, that the overriding reason for her waiting was that she had not felt sufficiently empowered to decide upon the future of her marriage. She was still, as she said, stuck there *in the middle*, with an alcoholic husband who refused to go for treatment and whom she believed would refuse to attend marriage counselling. She claimed that he would not listen to her, and accused her of nagging.

The behaviour of Anne's husband had apparently led to the estrangement of their extended families. Consequently, she felt that she had nobody in whom to confide, which increased her sense of hopelessness and isolation: *I just feel that I have nobody to talk to, and nobody gets the information across to him. If I say something, that is just useless now. He'll say I'm nagging. He just won't listen.* Anne was still married and living with her husband, but she was clearly not happy. The MWMC persuaded her to be more patient, more understanding, to give him time. *Anything I say he just says, Oh well, I'm nagging, and he will carry on in his own way. He still drinks quite heavily and for me, I have to talk to him then in a nicer way, and I have to keep away from him sometimes and just bear with the situation and don't say anything. He's also not working regularly, so he cannot pay his part of the mortgage. But I can't make him work, I can't.*

Bob – Learning a Hard Lesson

Bob and his wife had been married for over 27 years when he attended an information meeting (Model F). At the time, he could not see a future for the marriage, and did not know where to turn, where to go or what to do about it, but was wondering whether the marriage was salvageable. His wife had apparently found somebody else and wanted a divorce, and he felt he had no power to prevent it. He acknowledged that the marriage had been unhappy for over five years, and that he and his wife had been leading separate lives in the same house for over four years, during which time they had not slept together. Nevertheless, when his wife told him that she intended to divorce him he was surprised, as if the decision had been made out of the blue. Although he was searching for a way to convince himself and his wife that there was some hope, he knew that the marriage was bound to end. *I was still wondering if the marriage was salvageable. But even then, and now, I have to accept that it is over.*

We interviewed Bob six months after he had attended the MWMC, and when we asked him how things were in the marriage, he told us: *I'm still at home, otherwise you wouldn't have been able to get in touch with me. We're still going down the same route. We have good days and bad days, good weeks and bad weeks. I don't know what to talk to her about. She will only speak to me in one-word syllables. It's only when she wants to know something not to do with the relationship that she speaks to me. The court lost the last set of papers, so up to now I haven't been served anything.*

It appeared that this marriage was virtually over, apart from the legal process. Bob, however, wanted to achieve something other than reconciliation by attending the MWMC. He told us that many people had given him advice about his relationship, and most had told him that he ought to divorce. He went to the MWMC because he thought it might speed up the process of counselling, and because it was free. Nevertheless he was

confused about the relationship at the time he went to the MWMC, and not able to understand how or why these things were happening to him. He wanted to come to terms with his marriage ending. During the MWMC the counsellor helped him to identify some interim actions that might improve things at home, but these proved to be futile: *I attempted to put them into practice, but she [his wife] rebuked them all. I went back to sort out the business finances, to raise some capital, and I offered my wife some money, but she refused it. It was to show that I was making a commitment to the marriage. She said, plainly, that if I put money into the home management account, she would write me a cheque and return it. When I tried to be affectionate, she just said, 'What are you trying to do?' On one occasion, when she had been to the doctor's, I asked, just out of concern, how she was. She told me that it was no business of mine.*

The MWMC and the counselling session that he had with the same counsellor afterwards helped Bob to look at the future more positively, but he still held on to the notion that his marriage might be saved at the eleventh hour. In terms of the future, he was expecting *the worst scenario. I think we'll separate. But even if we do come together, I don't know whether I could trust her. I would still like to meet someone, to give them love and affection. If anything has come of this, I hope I've learned a hard lesson. And I hope that this would not happen again – it's like being wise after the event.*

Continuing Uncertainty

These eleven personal stories⁸ demonstrate the complexity of people's lives at the time they fear their marriage may end, and the amount of time they spend deliberating on whether to divorce. All the people whose stories are given above were uncertain about their marriage at the time they attended an information meeting, and although they were all still married, many continued to harbour uncertainty about the marriage when we interviewed them some months afterwards. Some – Janet, Barry and Maureen, for instance – had become more confident about the continuation of their marriage and the MWMC seems to have had a positive impact on their relationship. Barry had followed the MWMC with a course of counselling, but in the case of Janet and Maureen attendance at the MWMC was sufficient to persuade them and their spouses that it was worth trying to save the marriage. All three of them were extremely positive about the future when we last spoke with them.

By contrast, the marriages of Angela, Peter, Michael, Joanna, Vanessa, Jane, Anne and Bob seem destined to end, or to drift along without any decisive action being taken. All these MWMC attendees seemed uncertain about what to do, and their cases emphasise the extent to which ending a marriage can be a drawn-out process. In research terms, they point to the problems of determining the point at which a marriage can be deemed to have ended.

For Angela, it seems that the important issue was not so much ending her marriage, but more whether to divorce. She had been separated from her husband for over a year when she first went to the information meeting but, because of her religious convictions, was hesitant about whether to divorce. When we last spoke with her it seemed that she had opted to leave decisions about the marriage to her husband; she had become reconciled to her situation of living apart, although willing to get back together if that was what he wanted.

⁸ A number of other personal stories are included in Ch. 9 of our Third Interim Evaluation Report.

We have suggested that the MWMC is likely to work best when both parties attend, and in six of the above cases both partners did attend. Their motivations in doing so varied, however, and were not necessarily connected with an intention of saving the marriage. Jane, for instance, seemed to be using the meeting as a means of getting her husband to make a public admission that he was still embroiled in an extramarital relationship. Peter went to the MWMC in the hope of obtaining recognition that his wife's behaviour was not acceptable. Michael, not hopeful that his marriage could be saved, attended the meeting in the hope of being helped to end the marriage in a civilised way. He was, however, hopeful afterwards that the marriage would continue, although he had failed to solve the sexual problems that he felt were the source of the marital difficulties.

It seems that Janet, Barry, Vanessa and Michael all went to the MWMC with their spouse in a genuine attempt to resolve their difficulties and to agree an appropriate way forward. For Janet the meeting appears to have been instrumental in convincing her and her husband that it was worth trying to save the marriage. The same could be said about Barry and his wife, and the last time we spoke with him Barry was optimistic about achieving a 'happy marriage'. For Vanessa, however, the MWMC, although followed by counselling, had changed little, and she remained dissatisfied with her marriage although she was 'bearing with it'. Although Michael indicated that his relationship had improved, he had not addressed the source of the problem, and the future of the marriage remained uncertain.

In five of the cases people went to the MWMC alone. The meeting seemed to have had a minimal impact on Joanna and Bob. For Maureen, however, attendance at the MWMC seems to have been a catalyst for change. This was more because it had alerted her husband to the need to change than because of anything that actually happened at the meeting. Anne had gone to the meeting hoping for advice about living with an alcoholic, and had received this help even though giving such advice was outside the counsellor's remit. The meeting seemed to have helped Angela to let go and leave decisions about the marriage to her husband.

When couples are on the brink of divorce it is perhaps unrealistic to expect the provision of information or a single MWMC to turn them back. Nevertheless, at least three of the people who were undecided about what to do when they went to the MWMC were optimistic several months later that their marriage could survive. Moreover, others felt attendance at the MWMC had been worthwhile in other ways. Angela felt it had helped her to 'see the positive side' of the difficulties she faced, while Maureen said it had helped her see a way forward. Jane was helped to confront her husband in what she felt was a safe environment; Vanessa felt listened to and was pleased that her problems had not been trivialised. Michael was helped to understand his wife's position.

The people discussed here were in marriages of varying duration: from five to forty years. It seems that people who have been married a long time are the most uncertain about what to do when things go wrong in the relationship. In many ways, however, the information meeting did not really cater for people who were older and in long-term marriages (e.g. Peter). We have found that people without dependent children found the information meetings less relevant than those with children. This clearly relates to a problem with content, and suggests the need for more flexibility as regards what information is provided, in order to meet varying needs.

Chapter 15

Working Towards Reconciliation

Susan Mitchell

... we can encourage parties whose marriage is experiencing difficulties to take advantage of marriage guidance and counselling ... not all of them will benefit, but many will and there might be marriages saved.¹

When people attended a meeting with a marriage counsellor (MWMC) feeling certain that they either wanted to save their marriage, or that they did not want their marriage to end, the solution-focused approach could be particularly helpful. It could encourage them to find a positive way forward, perhaps with the help of further counselling sessions (although for some, this one-off meeting seems in itself to have effected some change in their relationship). We explored the impact of this intervention through in-depth interviews with 46 attendees.² All of them were married and living together at the time of their MWMC, and had remained married when we interviewed them a minimum of nine months later.

We cannot know whether these people would still be married if they had not attended a MWMC. Nevertheless, by the following eleven personal stories we can determine the impacts attending an information meeting and the MWMC had at a time when the attendees recognised problems in their marriages which they considered serious enough to require some sort of intervention, and when ending the marriage was not an option they wanted to pursue.

Jenny – Stepfamily Complexities³

At the time Jenny and her husband went to the information meeting together, they knew they needed help in order to save their marriage, but were less certain about where to go to get it. Jenny felt that they *needed somebody in the middle who was unbiased, to be a sounding board to each other, to give the best advice that they could to us.*

This was the second marriage for both of them, and they had children from their previous relationships as well as a young baby from this current marriage. Difficulties had arisen when Jenny discovered she was pregnant, since her husband did not want the baby. Bringing two families together is often problematic: ... *one of the problems was the stepchildren. With the best will in the world they didn't want us to get married. With so many children in the house, Jenny spoke of the difficulty in making time for each other. We don't get five minutes' peace ... if we went out of the house into a different environment, where there was no children – then you can talk and say what is on your mind without being interrupted. If you keep getting interrupted you lose track of what you are saying.*

¹ Lord Archer of Sandwell, Official Report (H.L.), 30 November 1995 at col. 782.

² The methodology in respect of these interviews has been described in Ch. 14.

³ All the names used in this chapter have been changed to protect confidentiality.

Jenny and her husband went to a Model F CD-ROM meeting, but it was not what Jenny had expected, as she felt that it was not geared to people in her situation who wanted help saving their marriage. This is an interesting observation given that the CD-ROM was designed to replicate the Model C individual meeting, which focused on marriage. Nevertheless, Jenny felt that the information meeting had had quite an effect on her husband since, *when they mentioned divorce, it quite shocked him. He admitted that we did need help then and before he just said, 'No, I'm not going for counselling.'* It brought us on to a more even keel. The information Jenny received at the information meeting did not influence her decision to attend the MWMC. She had made the decision, before attending the information meeting, that she wanted to go for counselling. She was, however, reluctant to contact a counselling agency through the usual channels (Relate because of the perceived cost, and Marriage Care because it is a Catholic organisation). The MWMC was in fact arranged through Marriage Care, and when the interviewer mentioned this to Jenny she replied, *Yes, I thought it was. I would have gone to anyone, to tell the truth. I also thought that they would respond quicker to the invitation.*

Although her husband agreed to go to the MWMC with her, he was very reluctant to go and face having to make changes. Jenny and her husband were living apart at this stage (they had not lived together on a permanent basis since they married owing to pressure from the children and the extended family), although her husband had spent time at Jenny's home. She felt he was quite happy with this situation, being able to visit her and live as a family for a few days and then return to his own place whenever he needed some peace. They both appeared to want the marriage to work, but on a practical level they did not want the same things from it. During the MWMC, the counsellor suggested that they try to make time for each other, go out at weekends and arrange for ongoing counselling, which they did. *We started to go out one evening a week, and also tried to get out at the weekend, sometimes as a family.* Jenny felt that *this was quite good. It had a positive effect on our relationship. Alan's daughter has started to come out with us as well. She kept herself separate from us for quite a while.*

It is difficult to say whether the MWMC contributed towards an improvement in their marriage. However, it did seem to bring some sort of focus into their relationship in that they were able to set a target date for living together in the future (when the older children had left home). Jenny and her husband went for further counselling, having one session each on their own and a further four sessions together. She felt optimistic embarking on counselling because *we were doing something constructive. Actions rather than words.* She wanted to achieve *a happy marriage* but acknowledged that this would only happen through *a lot of hard work.* The main focus of their counselling was the lack of support Jenny felt she received from her husband when she realised that she was pregnant. They did not begin to address the problems of a reconstituted family until they were in their third session of counselling together.

At the time of our follow-up interview, Jenny and her husband had finished their course of counselling having reached a planned ending with the counsellor. She confirmed that they had left the door open to return should the circumstances arise, but that *things are much better. I think that we'll have a good, long-lasting marriage. I think it's what we both want. I don't think we've been married really, not as yet. We're just getting to know each other within it really.*

Jenny was very positive about the MWMC and about the subsequent counselling sessions that she and her husband had attended. She acknowledged that saving a marriage takes a good deal of hard work and felt that the Government could do much to save and support

marriages when divorce is being considered by offering free counselling sessions. In her view, *people give up on marriages too easily*. She had three clear hopes for the future relating to her relationship, her family and herself. These were, first, that she wanted the marriage to work, secondly that she wanted the children to be happy, and thirdly that she wanted to get a degree.

Patrick – Desperately Trying To Understand his Wife

Both Patrick and his wife were motivated to save their marriage, and wanted help to *get things sorted out*. Both had attended a Model F CD-ROM meeting, which he understood as being *some internet-type thing which didn't help at all*. Patrick suggested that they had wanted to see a marriage counsellor for quite some time, but they had not done so. It would seem that his wife's attendance at the CD-ROM meeting had given her the impetus to go ahead and make the appointment for a MWMC. Speaking about the influence that the CD-ROM meeting had on their decision to attend a MWMC, Patrick suggested that he *didn't think it had much effect one way or another, other than to reassure us that it would be a good idea to see someone*.

When asked about the relationship between himself and his wife at the point at which they attended the MWMC Patrick replied: *I was all right, but it was the wife. We went to see the counsellor and we did identify a lot of skeletons that were in her cupboard that influenced the way she was feeling. The information meeting did not help at all in that process, but the MWMC helped a great deal because we were able to discuss things. The counsellor helped you to talk out your problems*. After attending the MWMC they embarked on a course of counselling together, which Patrick said that he went to because of his wife. He was not keen on the idea since he thought *they were taking a hell of a gamble – it could have gone either one way or another. I think most people would feel like that*. When they went to counselling his wife appeared to have some kind of breakdown, which became a focus for the sessions. Patrick described her as being confused as to what she wanted from their relationship, if anything, while Patrick remained adamant throughout that he wanted to save the marriage.

Patrick felt all the problems in their marriage stemmed from the fact that his wife was going through the menopause, something that he was finding very difficult to understand, and something that he realised might take some time to overcome. He described their lives as follows: *...we were at that funny age – the wife is going through the menopause and is pretty ill – the kids are growing up – she was pretty depressed. I think it will take another two to three years to get through. I'm not being chauvinist about menopausal symptoms – I've got friends whose wives are going through the same thing. On my part I've got to be a lot more understanding – take it when it's there, and not when it's not, which is difficult for fellas*.

After the MWMC, Patrick and his wife attended approximately fourteen counselling sessions together. Although Patrick felt that they were highly beneficial for the relationship overall, he also felt that they were of particular benefit to his wife. *She managed to open up with a lot of things that had happened in the past with her parents – the wife was a very deep person and still is – but it did help her to open out with a lot of these problems that were festering away inside her*. He acknowledged the part that counselling played in helping to rebuild their relationship by saying that counselling had *helped a great deal*.

On reflection, after having finished counselling, Patrick did question whether they could have worked things out themselves – *I would like to think we could have done, but at the end of the day it did help*. He did comment, however, that perhaps *the marriage could have been saved by going to the doctor's*. He added, *What the counsellor said was the wife needed someone to talk to. It could have been doc, friend, brother, sister, but I don't think she'd have opened up as much as she did to the counsellor to the others. Someone who is independent, who is not going to take sides – she was talking to friends who were saying 'I wouldn't put up with that, etc.'*. *That's the worst thing you can do – it's wrecked more marriages than enough! – going to a counsellor is a much better option*. Although Patrick and his wife had finished counselling (having reached a planned ending with the counsellor) at the time we interviewed Patrick, he confirmed that they could return to counselling if they felt the need. He added: *... the counsellor left things open: 'I'm always at the end of the phone if things go wrong.'* *We don't feel as if they kicked us out of the door and said 'Everything's hunky-dory so just get on with it'*.

Patrick was quite animated in his views about coping with the menopause, stating that he believed *a lot has got to be looked at when people get to a certain age – this mid-life-crisis thing*. He felt that many marriages may go through difficult periods around this time. Some might be saved, but he felt that many might end in divorce. He added: *I know so many people whose marriages have broken up round our age through menopause. I've had friends who've suddenly tried to hang on to their youth and think they're Mr Medallion men, and lasses who've got themselves done up and gone off to a nightclub, etc. I think a lot of people need a lot of help to get through this stage between 45 and 55. The menopause is a taboo subject that doesn't come to light and I think it causes a lot of breakups. I bet if someone was to write a book about it, every fella in the country would buy one*.

Patrick admitted that he did not know how to handle this period in their lives and felt that perhaps the Government could do more through an education campaign. He admitted *fellas don't understand – I didn't know how to handle it – nobody explains mood swings to you and a lot of fellas make a bull's lug of it and the next thing you know the marriage is down the pan!* Making literature more widely available, not just about the menopause but at other key points in people's lives where their relationships might face a testing time, might help to normalise difficulties and allow people to be better informed in order to cope with changes.

Speaking about his hopes for the future, Patrick suggested that although the marriage had benefited from the initial intervention of the MWMC and subsequent counselling sessions, the two of them had *got to keep working at it*. Explaining his part in the relationship, he concluded the interview by saying: *I've got to handle it in a better way – the counsellor said I tend to put my head in the sand and let the problem wash over me and because of this the wife thinks I don't care. I've got to be a lot more aware and handle situations better, which isn't easy, but I feel a lot more confident than what I did a few months ago through counselling. If people would admit this difficulty, help could be given*.

Suzie – Being Prepared

Suzie received the information pack through the post. At the time that she sent for the information she did not want to end her marriage, but felt she needed to obtain some *ideas and information and to see where to go and what to do*. The information she received

apparently had had no effect whatsoever on her relationship, neither did it influence her to attend a MWMC. Nevertheless, she felt that receiving an invitation to attend a MWMC instead of contacting a counselling agency through the usual channels was *brilliant*. At the point at which she went to a MWMC she did not feel very hopeful about the future of her marriage. Her husband refused to go to the meeting, so she felt it was left to her to attend on her own – she had no choice.

Suzie had consulted a solicitor approximately one year previously, since *the problems had got well started by then really*. Her consultation with the solicitor, which she described as very helpful, appeared to act as a catalyst to repairing their relationship. She told us that the solicitor *sent him a letter and told him what I was intending to do. That's what he needed, I think. The general shock of him getting a letter from the solicitor – that made him realise I've either got to do something or it's just not going to be what I want, really.*

Suzie decided not to pursue further counselling after attending the MWMC, for two reasons. First, after attending the MWMC she described the relationship as *fine*, and secondly, although she described counselling as *a brilliant idea*, she felt it should be *a two-sided thing, but I don't suppose a lot of men would go ... but I suppose that's just men being men*. Her husband would not attend counselling sessions with her, but nevertheless, according to Suzie, he did want the marriage to work. She felt that perhaps it would be appropriate for marriage counselling agencies to be proactive in writing to a reluctant spouse to encourage them to attend. She also acknowledged *it's down to them [partners] at the end of the day, isn't it, really? I look at marriage as a partnership – it's a two-sided thing, not a one-sided thing, really.*

Despite having attended only the MWMC and not subsequent counselling sessions, Suzie could see the benefits associated with counselling and felt that perhaps the Government could be putting more money into counselling in order to help save marriages. From attending that meeting she remarked that *it just advises them from an independent source what's going wrong, what it's like. I was told it's not about who's right and who's wrong – it's just to say what you both can do to rectify your problem*. Although she felt that to save a marriage both parties had to be willing to try again, she also felt that reading the information provided in the information pack and taking the advice received at the MWMC could be beneficial in this process. She summed up by saying that in the future she hoped *just to be happy really – hopefully*, and added, *We've been married almost fourteen years and it's a long time of your life with two children ... most women don't want [divorce] anyway.*

Sylvia – Acknowledging an Affair

Sylvia spoke little of the information meeting (Model C) apart from describing it as *pretty useless because she [the presenter] didn't talk to me or help me, or anything. Then she said you have to say the same things to the marriage counsellor so I had to repeat myself three times. I think it was the marriage counsellor who helped me really.*

Sylvia's attitude towards her marriage changed after her MWMC. When she attended the meeting she felt confused, and by her own admission felt that *I really didn't want the marriage to work when I went to her, but when I spoke to her then I did want the marriage to work*. At the time of the meeting she clearly felt that her marriage was on the verge of breaking down. She blamed this on *lack of communication and children growing up and certain other things ...*

By talking things through with the marriage counsellor Sylvia was able to gain more understanding of her situation. *The marriage counsellor told me that she had been in a similar situation at some time in her life and she said many other people go through that when the children grow up. When they've been married for about fifteen to twenty years and they find out that they have got nothing in common with their partner, they start suspecting the partner if he's not coming home and all that. She told me you have to be strong if you want the marriage to work.* It obviously helped Sylvia to hear that, since she added *I thought I was the only one going through this and I can't stand it, and after she'd told me that she sees people all the time like this – it helped me.*

Sylvia felt the benefit of having someone to talk to, and for that reason was very positive about the MWMC. By contrast, she was quite negative about the information meeting, saying that it should be offered after a MWMC. She suggested that *the information meeting was quite a waste of time, really, as the information lady said 'Well, I can't do anything. I just want to know why you've come here.' I just thought that was a waste of my time and her time, and there was no need for that.* She spoke of the counsellor much more favourably, describing her as *very sympathetic* in comparison to the information meeting presenter, with whom she felt she was having an interview. She spoke of the MWMC as *a better way of pouring your heart out to someone.*

During the MWMC the counsellor helped Sylvia to identify new strategies for improving communication between her and her husband. Sylvia felt this had had *a good effect on my relationship – now I can say that I think we are pretty all right.* At the time of the MWMC she did not reach any firm decisions about the future of her marriage. During the following few months, however, *after sorting things out and talking things over,* she did reach a decision that she *wanted to make the marriage work. It wasn't worth my while for the sake of the children to go our separate ways and there was too many other problems around.* Being able to talk issues through with a counsellor can have a positive effect on a person's communication within a relationship. Through improved communication, Sylvia seemed to have more control over her emotions, describing herself as *a lot calmer now.* Before the MWMC, she admits, she used to be *shouting and ranting and raving, because I was basically pretty frustrated I would say.*

Sylvia went on to have two further counselling sessions with the counsellor whom she had seen for the MWMC. This was unusual given that a decision had been taken by the marriage agencies at the beginning of the MWMC pilots that if an attendee opted for further counselling a different counsellor would provide it. This did not happen in Sylvia's case, probably because she was so reluctant to tell her story over again to someone new, and therefore the counsellor might have felt it appropriate to bend the rules on this occasion. Sylvia told us: *I didn't want to see a new person each time and she [the counsellor] said 'Oh no, it will be me only' – I was pretty happy about that.* Sylvia suggested that it would be a good idea to combine the MWMC and the information meeting in future.

Sylvia felt she had benefited from the MWMC, and because of this decided that if she went for further counselling she might feel better still. Although she wanted to attend the MWMC alone she would have liked her husband to accompany her to further counselling, but he was not interested in doing so. She suspected her husband of being unfaithful. She had been able to talk about this in counselling, and regarded this as a positive step for her and said she felt *pretty all right in the end.*

Gary – Becoming a Father and Stepfather

Gary and his wife had been married four years before they went to an information meeting, and they had a two-year-old son. His wife had two teenage sons from a previous marriage. His expected role as an active stepfather (he hoped to become a grandfather in the future) had not materialised, and this was a source of some concern to him and, to a lesser extent, to his wife. He told us: *They don't see me as a stepfather – they see me as 'Gary' and I see them as lodgers. That's sad, and I think it may cause friction in the future. I don't see them as 'my children'. When they get married and have children my wife will have grandchildren, but they're not going to be my grandchildren. I don't think that this will be satisfactorily resolved, but I don't think that there's anything that we can do about it now.*

Neither Gary nor his wife was considering divorce. In fact, both were determined to make the marriage work. They recognised, however, that there were issues that needed dealing with, hence their going to an information meeting, and their being able to *air issues with a third party*. Gary and his wife attended a Model F CD-ROM presentation. *I think she felt a bit uncomfortable about that, because we weren't thinking about getting divorced so a lot of the issues didn't affect us ... it talked about a lot of issues about what you tell the kids, the money matters, but personally, I felt that it's never too early ... I would rather have more information than less.*

Reflecting on the effect the information meeting had on their relationship, Gary viewed it as the gateway to the counselling process. Before he went into counselling he was concerned about embarking on the process and felt that there was an element of stigma attached to going to counselling. *I think there's a feeling that you've failed if you go to counselling.* Having gone through the process he no longer felt this was the case.

Gary appreciated the invitation to attend a MWMC and also being able to ring a central number to arrange it. Prior to this he thought that *you went to Relate when your marriage was on the rocks – you know – you were a long way down that path*. Since attending the MWMC and subsequent counselling sessions he discovered *that it doesn't have to be. The vast majority of referrals are in that situation – its become serious. But as with the management of anything, if you get a problem early you can deal with it a lot better.*

There was never any doubt that Gary and his wife wanted the marriage to work, but they wanted it to work better than it did. The MWMC enabled them to focus on the positive, rather than the negative, aspects of their relationship. Gary felt that neither of them was desperately unhappy and because they had a two-year-old to consider, they were really motivated to make the marriage work. The MWMC enabled them to discuss the benefits of further counselling. They attended five counselling sessions, which enabled them to explore their problems further. According to Gary, *both of us have different value systems. It's about exploring those.*

From a continuity perspective he felt that it would have been beneficial to have amalgamated the information meeting, the MWMC and further counselling, although he could understand the difficulty of doing that. He would definitely have liked a continuity of counsellor from the MWMC into counselling, since *it felt as though [during] the second session that we had with a different person all we did was repeat what we said in the first. That was a disadvantage.* When they embarked on counselling Gary felt apprehensive, as if he was *going into the unknown. I didn't know where it would end up, with things being said that I couldn't accept and that would have meant that I would have*

to review my views on the marriage. So that was the apprehension. Nevertheless, once they started to talk about issues with the counsellor, he felt it was very useful to have a third person there who was arbitrating, guiding, trying to structure things. Counselling helped them to recognise differences in the way they respond in certain situations and to realise that neither way is right, it is just different and that they have to acknowledge the differences. My wife wants me to present an emotional response. When she doesn't get that she gets more agitated and gets more vehement and uses choice language, because she's after an emotional response, and because she deals with things like that she gets it off her chest. But I don't deal with things like that. I keep things in, and if I can't talk about things rationally I just ... don't talk. I go off in a huff, which she doesn't like. What we now recognise is that we are different. That the way she behaves and the way I behave when trying to resolve these disputes are different.

In going to counselling Gary was hoping for a redefinition of his role and a better understanding of his wife's viewpoint, which he felt he achieved. One of his reasons for marrying in the first instance was precisely because his wife had children from a previous relationship. He did not want her to think he was marrying her just because of her. He desperately wanted to be involved with her sons' lives and wanted her to know he saw them all as a complete package, as re-creating a family, not simply as two people coming together and getting married. His wife, however, viewed the boys as a burden, *so we both came into the marriage with a different viewpoint. She had wanted to keep that burden away from me as much as possible.* Gary felt that their marriage was much better after they had completed counselling, although he acknowledged that they should have gone to counselling earlier than they did.

He concluded the interview by saying that the Government could do two things to save and support marriage: first, make the information meeting CD-ROM more widely accessible; and secondly, improve education for schoolchildren in the area of marriage and relationships, to include the whole area of commitment and understanding. He hoped that in the future he would continue to be happily married and could raise his son in the best way possible. He also hoped that he had learned to keep friction to a minimum, to listen to his wife and to communicate his feelings.

Nora – Making the Best of a Situation

Nora had been married for 40 years and it seems that for most of the time she had been fairly unhappy and had felt controlled by her husband. She lived in hope that their relationship would *get better*, but added that *it never does*. Although she had not attended the information meeting her husband had done so (Model C), but he would not let her have access to the information pack. It was Nora who instigated the MWMC and asked her husband to go with her. She thought that seeing a counsellor might *make him think different*. Although she acknowledged that the counsellor was very good, and that she listened and gave some ideas for them to think about, Nora felt that it would not make any difference to her husband as he had *very adamant views*. Nora spoke at length about her husband's domineering attitude and about him being old-fashioned and believing that a woman's place is in the home. Even though she is some way past retirement age she had managed to find herself a part-time job, which helped with the finances and also got her out of the house.

Since her marriage had been *very, very bad for a long time*, Nora had consulted a solicitor. Her husband was apparently fairly disparaging of this. She added: *I've paid*

£100 for advice from solicitors, who have sent him letters, and he turned round and told me that I should be ashamed of myself for going. His idea of solicitors is, all they are there for is to get money out of you – but he's never been to one so he wouldn't realise that you go out of desperation and how it helps. Nora had asked her husband repeatedly for a divorce, but he would not leave the marital home. She was reluctant to leave home since *it's quite a lot of upheaval to do that at my age.* She learned that since she had a part-time job it would cost her £600 to take divorce proceedings. She had to consider whether she thought he was worth that.

At the time of the MWMC Nora had moved into her own room within the marital home and was trying her best to lead a separate life from her husband. The counsellor suggested that she might benefit from going to the Citizen's Advice Bureau to gain advice on how she stood financially. Nora did so, and she described the advice as *all right.* She was told that she would need to complete forms in order for Social Security to assess whether she would be entitled to social security benefit. Once again she seemed to be reluctant to take this forward: *... at the end of the day I think am I daft because he's sitting back. He doesn't have to go anywhere and I'm running about doing it all for myself.*

Nora did not reach any decisions about the future of her marriage during the MWMC, since the counsellor *might as well have spoken to a blank wall, really, with him* [her husband]. She did, however, seem to derive some benefit from talking through their relationship: *I find that to talk to somebody like that puts me at ease a little bit more. In a situation like this you feel as if you are dangling on the end of a string all the time and I do feel a little bit better to know that somebody will listen and try and help.* Nora did not feel there was any point in her going to further counselling alone since she felt that her husband was the one who *could do with speaking to somebody and finding out what's what.*

It was clear from her interview that Nora felt powerless to change her situation. We suspected that she might have experienced domestic violence. Describing the MWMC she said, *when she* [the counsellor] *pointed things out to him she wasn't threatening or anything, but she said about abuse and that – whether it made him think or not I don't know, but I think every little bit helps.* She felt that her husband attended the MWMC under sufferance and was determined not to talk about anything or change anything in their relationship. On the other hand, Nora felt that it did help to talk to someone, and since the meeting and her threats to divorce him he had mellowed somewhat. His control over the household, and in particular over the finances, had not changed, however. Although she had moved into her own bedroom, Nora did not consider her marriage had ended. After 40 years of marriage she seemed resigned to living the rest of her life with her husband, feeling that she had *got to make the best of it no matter what. If I can just keep on as I am ...* Reflecting on marriage in general, Nora commented that *years ago it was a commitment and I don't honestly think it is today. They don't look on the sanctity of marriage today. It's just the times – things have altered ... but you can't change things and go back to the old days. It's a shame really.*

Mick – Making an Impact on his Wife

Mick knew nothing about the information meeting, which his wife had attended alone (Model E CD-ROM). He had wanted them to go to counselling together for at least two years, but his wife was very resistant towards the idea. The invitation to the MWMC in the information pack, coupled with the fact that Mick had left the marital home (which, in

his view, *called her bluff*), was the catalyst for her making the appointment for them both to go to the MWMC.

At the point at which he and his wife attended a MWMC Mick described the relationship as *dead*. He talked about the pressure on the marriage from his wife's family and in particular from his mother-in-law, which had forced him to make the decision that he wanted nothing more to do with them. He claimed that his mother-in-law had made some extremely unpleasant allegations about him in the past, which resulted in him and his wife selling their home and moving to their present home to escape the interference. Mick acknowledged that this was obviously upsetting for his wife, but added *I couldn't help it. I just don't want to see her [his mother-in-law] any more. I don't want to go anywhere near her, because if I do I'll snap*.

Before attending the MWMC Mick had consulted a solicitor about various issues concerning the relationship. Attending, however, seemed to act as a turning-point as regards the marriage. The counsellor made some suggestions for improving the relationship, which Mick and his wife took on board. These related primarily to their spending more time with each other, and to Mick's ability to talk through the issues with the counsellor and focus his mind on the problems within the marriage and how to overcome them. Mick returned to the marital home six days later.

Mick and his wife did not arrange any further counselling sessions since the MWMC seemed to have been enough to point them in the right direction to work on their marriage themselves. Asked if things had settled down in the marriage, Mick replied *Yes, they have, really*. They appeared to be more able to solve problems for themselves now with *a bit of to-ing and fro-ing – a bit of give and take*. Mick hoped that in the future they would *still be together and carry on going forward by pulling together*. He concluded by saying that if they were to go through marriage difficulties again, they would have no hesitation in contacting a counselling agency.

Sasha – Preparing for the Worst

When Sasha went to the information meeting she thought she knew that she wanted the marriage to end. When we interviewed her immediately after her MWMC she told us that she had attended this meeting in the hope of saving her marriage, although she seemed confused about what she really wanted. She had attended an information meeting (Model D) in the hope of gaining information about the legalities and how to proceed with divorce. She found the information meeting impersonal, but added that that was fine, and that it was *just a different sort of thing. The best bit was having all the leaflets and being able to read back on everything you had been told that night*. Stating that this meeting began to help communication between her and her husband, she said she had arranged for them to attend a MWMC together. On reflection she thought it would have been a good idea to have gone straight from the information meeting into a MWMC with the same person conducting both meetings. In her view this would have provided an opportunity to talk through the information gained at the information meeting and *see how it's going to affect you*.

Sasha had already had one counselling session in her local area some time previously, but felt that if she attended a MWMC *perhaps it would be someone different with a different perspective on things*. Although she did not feel stigma attached to contacting a counselling agency, she did feel the process was made much easier by having an

invitation and being able to contact a central number, since *it takes a bit of courage to get round to it*.

When she went to the MWMC Sasha did not really know what to do next, and she hoped that talking it through would help her to make up her mind. *I suppose it just helped that I decided to go back to counselling myself, but it didn't really give me any answers about how to do something different to make the marriage end*. What Sasha was demonstrating is not uncommon in couples who are experiencing difficulties in their marriage. On the one hand she was telling us that she wanted to save the marriage, yet on the other she was saying that she was looking for ways to end it. What she was really looking for at this stage were *magic answers*.

According to Sasha, it was difficult to say whether the MWMC had had any effect on her relationship. She felt she was not able to end her marriage at this point. Nevertheless, with the help of the counsellor, she was able to identify *more things that I could do for myself, because I wasn't able to actually end the marriage. More things to help my self-esteem, I suppose*. Sasha arranged to go for further counselling sessions alone since she felt that there was no future in them going as a couple as they both wanted different things. At that point she felt she was probably entering into counselling in the hope of ending the marriage while her husband would want to save it. When Sasha first went to counselling she seemed quite sceptical about what counselling could do for her. *I suppose I didn't think there was much to discuss, but there has been, and it's been very helpful. It's given me a lot more confidence and belief in myself, I suppose*. Sasha and her husband had reached the point where they could no longer communicate with each other, and this lack of communication became a focus for the counselling sessions. She felt she was trying to find *a way of telling my husband that this was what I wanted, to end the marriage and find a way of doing it*. At the time of our interview, however (with her counselling sessions almost complete), it would seem that she had not achieved that, since *we are still together and it's still very hard to separate, so I don't know. I suppose he must know by now that I mean that, but ... it doesn't seem to have changed the actual situation that we are in*.

Although Sasha's views about the relationship did not change as she went through the counselling process, nevertheless she felt that *counselling has helped me to carry through some of the things I'd thought*. She had hoped that when she embarked on counselling it would help her to end the relationship and separate from her husband. She did, however, question whether that was *realistic or whether it would just help me to be strong in myself and go out and do what I can*.

Describing her relationship, she told us, *it's not much different now, because I suppose in some ways it's worse because I'm getting the counselling on my own*. We asked her again if she would have liked her husband to have attended. She confirmed that she would not have, since attending the MWMC together *didn't really help, except that it made us talk to each other. I suppose in that way it helped but ... we don't seem very able to talk to each other about our problems*.

We asked Sasha what she thought would make it possible for a couple to save their marriage. She said, *I suppose just being able to have a chance to talk things through, and especially having a third person there that makes you stop and think, and perhaps going into counselling. They both have to want the same thing. The information meeting and MWMC could help but it didn't particularly help me. I definitely think that Relate and counselling or whatever ... I think everybody should have them [counselling sessions] as*

part of the divorce settlement ... you can't have it [divorce] until you've done it and I think perhaps the Government should help fund that.

Although Sasha seemed to feel that there was nothing left in the marriage for her, she was still married and living with her husband at the time of our last interview. She still talked about agreeing to separate *and get on with our own separate lives*. Nevertheless she seemed to be waiting for someone else to effect this change and was not able to do this herself, adding, *I don't know what's going to happen at the moment.*

Kathy – Working Hard and Remaining Optimistic

By the time we interviewed Kathy some nine months after her MWMC she felt there had been some improvement in the relationship between her and her husband, although things were still *not what they should be*. At the time of the information meeting (Model F CD-ROM), Kathy felt that perhaps her marriage was over. She went to the information meeting *just to get any help that I could get. I was looking for more financial, that sort of side of it, where I would stand – mainly that, but other things as well.*

She felt that she had not got much help from the information meeting, so decided to go to the MWMC to see if she could *get anything from that*. It seems that receiving an invitation was convenient for Kathy for a number of reasons, but primarily *because it was done for me there and then, and I wasn't in much of a state to do anything else. It was easier*. She also felt that it was definitely helpful to contact a central number rather than having to contact a counselling agency herself through the normal channels. It is probable that if she had had to do this she would not actually have accessed a counselling service.

At the point at which she went to the MWMC Kathy's emotions were strong. *I was just devastated at the time. I knew I wanted to save it – my husband just wanted to end it. The MWMC helped me to understand a lot from my point of view as well as my husband's – it helped me to talk, and he [the counsellor] put over a few suggestions to me which helped me to see both sides.*

Describing the differences between the information meeting and the MWMC, Kathy felt that the information meeting was *too impersonal – it was too broad, it wasn't anything personal to me*. She preferred the interaction that the MWMC provided since it had enabled her to *sit back and look at what was wrong*. She would have preferred to have had the two meetings in reverse order to enable her to *talk first and get the information second*. The counsellor was able to agree with Kathy that perhaps her husband was going through some sort of a mid-life crisis. This confirmation appeared to legitimise her feelings towards her husband and the marriage and enabled her to view things from a different perspective. *He [the counsellor] just brought it all to light ... clearer ... where it was all going wrong.*

From the outset Kathy wanted to save the marriage, and the MWMC confirmed that for her. She described her relationship as *a lot better*, but added, *we are still only half-way there, if that*. She did not arrange to go to further counselling since her husband would not accompany her. *I would have liked to, but not on my own. I didn't see the point in going ahead on my own. I really thought it might help, but I just wanted him to come with me, but he flatly refused*. Nevertheless, she did not think that counselling agencies should intervene and try to encourage a reluctant spouse to attend since *if they want to they will, and if they don't they won't*. Uncertainty about the cost of counselling was also a factor in

her decision not to attend further sessions. *I was never told how much it would cost me. If you are told you then know whether you can afford to carry on with it. Obviously some people get benefits. It's usually the people who work part-time like myself who end up paying for it.*

Kathy had talked about her marriage to a friend and to her mother, but added that this was *not helpful – I felt I was alone, and although they listened I just felt like they didn't really know what was going on.*

Kathy felt that when a marriage goes through a difficult period people need to be offered some support, *with perhaps a phone line or something. At the time, if I could have picked the phone up to somebody and said 'What happens if this? What happens if that?' that would have helped.* She also thought that the MWMC was helpful *because I didn't see certain things, and sometimes it takes a third party to just bring that up. You're so angry and upset at the time that sometimes it takes a third party to say 'Well, this could happen and that could happen'.* When I went to that information meeting I thought *I'd get more information, but it was just like asking me questions.* By 'more information', Kathy meant more information that was personal to her, *like financial or benefits or who would have the right to have what and things like that – it didn't give me anything back.*

Kathy ended the interview by saying, *We are still living together, but at times it's not very good. I'm still wondering why. I still wonder if he's just staying because he's got nowhere else to go. I'd like things to get better. They are better than they were, but I'd like things to get even better. I think it's just down to him and me, though – it's just hard work.*

Norman – A Marriage of Convenience

Norman was *full of confusion* at the time he went to an information meeting. He was looking for general information, *more or less trying to find out a few things.* His wife had managed to get quite severely into debt, which obviously worried Norman, who told us, *It's awful. She keeps going into debt. I can't get out of it.* He attended a CD-ROM presentation, but felt that it had no effect on his relationship since *the sort of questions that were coming up on the computer didn't really apply to me. It would have applied for example to nine out of ten marriages. But none of that on there really applied to me – not directly.*

When Norman went to the MWMC he was hoping to save his marriage. His wife, however, knew nothing about the meeting. Norman went *on my own steam – of my own accord.* He did not feel good about his marriage at the time, but felt *it's improved since then.* In attending the MWMC he was *just hoping for some miracle – something that might be picked up – something that I hadn't thought about.* His marriage had not reached crisis point, more *argument point, really – I was looking for someone to relieve my tensions, I suppose.*

Norman never intended to go ahead with divorce, but he was looking for clarification of his situation. His wife seemed to have some share in his house and he was worried about whether she would be able to sell her share in connection with the debt she seemed to be incurring. It seemed that he was looking for specific information or advice from the information meeting: *I've got to go to someone who knows the law properly ... but if you keep going to solicitors it costs a lot of money.*

Norman did not come to any decisions at the time of the MWMC, preferring to *carry on*

*as normal and let things straighten themselves out. I ain't going to do anything more about it at the moment. If anything does go wrong then I'll go and see them [solicitors] again. After the MWMC Norman just went home and thought about things quietly – how I'd be situated – and of course, being at my age I have to be careful what I do. Norman's wife was only half his age (he was almost 70) and came from a different cultural background. She's not an English girl ... she's got different ways to what girls have here – I don't know. They sort of con you all the time – because there's quite a few people I know who are married to these girls who all say the same – they con you all the time. Norman appeared to have got married to ensure some sort of security in his old age. He got married since he *didn't* want to be on his own. He told us, *At my time of life I can't keep switching around, can I? When you're getting on a bit you need someone if you get ill. Outside of that I wouldn't have got married at all if I could manage alone.* He expected his marriage to continue.*

Vikram – Shame for the Family

At the time Vikram went to the information meeting he and his wife were still living together. When we spoke to him a few months later he was concerned that his marriage might end although he did not want this to happen. Shortly after the MWMC Vikram and his wife separated, and at the time of our last interview they had been separated for eight months although Vikram was desperately hoping that his wife would return.

Vikram was very disappointed with the information meeting, the MWMC and, especially, the route into subsequent counselling. When he first went to the CD-ROM (Model F) information meeting it was *ideally to get some preventative help before the marriage did break down. Ideally what I was looking for was somebody that not only offered a sympathetic ear, but possibly ideas of the kind of things I could try to make the relationship work, depending on the kind of things I said to them.* He reflected on the information meeting in general terms by saying, *for those clients who don't know whether the marriage is really over or not, they need to be asking themselves that question. I think in that initial stage they don't need a computer, they need a person. [For me] the personal contact was not there and at the time I was feeling very lonely and upset. I think that if a person is talking to an individual it's better than being stuck in front of a computer and left there for twenty minutes.*

Around the time of the information meeting, Vikram's marriage was *at a crucial point where he needed urgent assistance.* Desperately wanting to resolve issues within their relationship he suggested to his wife that they went to counselling together, but *she didn't receive that very well.* Vikram wanted to go for further counselling at the agency he used for the MWMC. He specified the times when he would be available for counselling, but four months later was still waiting for an appointment. Obviously annoyed and frustrated at not receiving the help he thought he needed, Vikram told us *I didn't need to go to an urgent information meeting session. I needed help. [All] I was getting was information about 'Is your marriage really over?' – well, I didn't know that at that time. I'm a little bit frustrated with that. I'd already got the information in the pack and started to read through some of those [leaflets], which is OK, but what I needed immediately was someone to start listening to my case – someone to start helping me, not to bombard me with three lots of information before ... I wanted proper counselling straightaway.*

Expressing his dismay about the counselling agencies in his area (he described himself as from an Asian background), he felt that to offer the MWMC and subsequent counselling to people from different ethnic backgrounds the counsellor would need to have *a great understanding of the cultural needs of an Asian client. I know that there is an Asian marriage counselling service which ideally would have been the best option for me. When I contacted them myself the problem was that they had shut down ... I don't know if they've reopened again ... so I'd most probably go to them. I don't think I'd go to Relate counselling – it's not offering that flexibility. If they were advertising or campaigning to the fact that they do take into account these things [different ethnic backgrounds] and that is made very clear from the beginning, I think they would also better serve the needs of ethnic communities as well.* He went on to explain, *at the moment in the Asian culture, the age groups between 25 and 45, there's a lot of marriage breakdown and divorces that are cropping up – it's become a very regular occurrence. It's a trend and I feel that there is not enough done.*

At the point at which Vikram went to the MWMC he knew he needed help. He wanted *to resolve issues in my personal life to help with my marriage breakdown.* He managed to have one session with a counsellor after his MWMC, *mainly because I wanted to ensure that I'd taken all the steps and made all the effort that I could before calling it a day with the marriage.* Once again he was unhappy with this, *since the individual changed three times.* He would have liked to have had continuity throughout. He was apprehensive and nervous when he went for counselling. He also felt that *the counsellor was more worried about her own safety because, me being male ... [so she might think], there ought to be domestic violence in the breakdown. There was more questions relating to that rather than getting on with the counselling, and I felt like I was being interrogated more than I was being assisted.*

Vikram's wife refused to go to counselling with him. Vikram felt that marriage counselling agencies might be able to do more to encourage a reluctant spouse to attend, *especially [to ensure that] if there are children involved they are given ample time to work on the family.* He added, *I don't know whether it's encouraged in the divorce proceedings that one of the options is that they have gone to marriage counselling for a number of weeks either individually or jointly prior to them getting a divorce. If there are children involved ... you see there's a whole therapy process involved in there and I think there's not a co-ordinated effort. Asian individuals are not going to admit that they have a marriage problem, mainly because of the sheer shame and embarrassment, which is what I feel at the moment – I couldn't talk to too many people about it.* At the information meeting, the importance of family support when a couple are having difficulties in their relationship was stressed. Vikram told us that *when they are asking 'Have you talked to your family? – do you have support from your family?' in most cases where there are women involved individually they may not get that support, because as far as they are concerned they have blessed their daughter to be married to an individual and they do not wish to have their daughter back, because it is a very shameful and embarrassing thing for the immediate family community. Other issues are that, in the Asian culture, there are different age groups that you have to take into account. If it is a young person being married from the age of 18 upwards, their relationship will be different to the age 45-plus – their marriage breaking up – which is a whole new ball game altogether. There are whole new issues to consider.*

Vikram had in fact discussed his marriage with his immediate family, and said that *they are supportive, but at the end of the day the culture and background which they are brought up in is 'married life'. What you have to understand is that the advice and*

information coming from that generation in an Asian community is going to be that you don't promote this very much – you get back together. Vikram confirmed that for a couple to be able to save their marriage they needed to be given immediate support, satisfaction, understanding, sympathy, sincerity from the onset. What they'll want ... more or less straightaway is that someone is listening to them and at the same time imparting that information that they need to be taking into account.

Vikram explained in some detail the effects long working hours had on people's home life and how the Government could effect some changes. *Different people have different jobs that sometimes dictate a marriage breakdown – it may not just be work, it may be home as well ... one of the things they are considering is parental leave, which I think is going to improve the situation a little bit. I think that from the Government's point of view organisations that people are employed in, if they encourage more family participation schemes, have outings or involve the family. For example, when a new person starts a new job why not have a session for new employees and their spouses to come in and have a family day at the firm? When an employer is taking on an individual they are not just taking on an individual – they are taking on a family. I think these things are things the Government could look into.*

Looking to the future, Vikram acknowledged that he would *have to make a choice with my wife – I've given her three options. We either work together or move away from the home that we are living in at the moment. The home that we are living in needs to be sold. The other choice is that I can move to a different country – make a fresh start somewhere else. Or we get on for the sake of the children.*

A Way of Saving Marriages

The eleven personal stories recounted in this chapter illustrate the complex decision-making processes that people work through when they recognise that their marriage is in difficulty and want help to repair the relationship. All the attendees were certain either that they wanted to save their marriages or, at the very least, that they did not want their marriages to end. All these people were still married at the point at which we interviewed them (a minimum of nine months after they had attended a MWMC), although the living arrangements of some had changed during this time.

Jenny, Patrick and Gary went on to have further counselling sessions with their spouses after attending the MWMC. All were highly motivated to make their marriages work, although Jenny's husband was none too keen on embarking on counselling. He was reluctant to face changes, but by attending counselling the couple were able to bring some focus to their relationship and work on the practical aspects of bringing two large families together sometime in the future. Patrick was reluctant to go to counselling but agreed to attend to appease his wife. He found that the sessions were very beneficial (particularly for his wife, who had managed to work through issues in her past which were affecting their marriage) and felt that counselling had helped them to rebuild their relationship.

Gary had the impression that going for marriage counselling was an 'admission of failure' in a relationship, but the invitation to attend a MWMC took away the sense of stigma he attached to contacting a counselling agency. He realised, after attending a MWMC, that he had perhaps misunderstood the help which could be offered through the counselling process, and had learned that the sooner people acknowledge their problems and seek help the more chance they have of saving their relationship.

All three attendees had become more aware of the need for good communication within their marriage and all were optimistic about the future of their relationship. They acknowledged the hard work that was needed for the relationship to grow and become more secure in the long term.

Both *Sylvia* and *Sasha* attended further counselling sessions alone. *Sylvia* would have liked her husband to have accompanied her but he was not interested in doing so. Nevertheless, having attended the MWMC alone and begun to feel much better in herself, she went to counselling reasoning that she might feel even better even though she would be attending alone. Although it is generally believed that people are considered to have a better chance of saving their marriage if they attend counselling together, nevertheless lone attendees may still be able to effect some positive change in their relationships. By being able to talk through her fears, uncertainties and behaviour within her marriage, *Sylvia* was able to learn new ways of communicating with her husband which resulted in improvements in their relationship overall. By contrast, *Sasha*, who was extremely confused about her relationship at the time of the MWMC, did not want her husband to attend counselling with her. In fact it was difficult to establish what *Sasha* really wanted. Although she was still speaking in terms of separation she had not been able to make the decision to separate. She acknowledged that the decision to separate was a difficult one. It seemed that it was easier for her to stay in the relationship and try to make the best of it. Counselling did not appear to have had any effect on her relationship. It had, however, served to increase her confidence and belief in herself, which might or might not benefit her marriage in the long term.

None of the others had attended any counselling sessions. *Suzie* welcomed the opportunity of receiving an invitation to attend a MWMC in her information pack since for her this was a very good way of contacting a counselling agency. Perhaps the MWMC provided the confirmation she needed to stay with the marriage. She had been married for quite some time and with two children to consider did not consider divorce to be an option. She decided not to go to counselling as her relationship had improved since her husband had received a letter from her solicitor. For *Suzie* the MWMC highlighted the help that was available through marriage counselling should she need it at any point in the future.

Norman was never likely to attend counselling. It is difficult to see what he hoped to gain from attending the information meeting or the MWMC since he had no intention of changing his marital situation. He did seem to gain some sort of confirmation or clarification of his situation from both the information meeting and the MWMC, but appeared to be looking for someone to offload his problems on to at both of these meetings. Perhaps the MWMC had encouraged him to reflect on his marriage, since he seemed to have come to the understanding that the marriage would continue and that he would make the best of the situation as he did not relish the prospect of a major upheaval at 70 years of age.

For *Mick* and his wife, the MWMC seemed to be instrumental in enabling them to go off and work on their relationship without the need for any further intervention. They put into practice suggestions that the counsellor at the MWMC had made in relation to their marriage and felt confident that they could work through issues by negotiating a way forward together. If they felt the need for help in the future they were now well-informed about how counselling might be of benefit and said that they would contact a counselling agency in the future if they felt it were necessary.

Kathy had resigned herself to the fact that there was no point in arranging further counselling sessions as there was no hope of her husband attending with her. It seemed that she and her husband had a split agenda, she wanting to save the marriage and her husband wanting to end it. The MWMC confirmed to *Kathy* that she did want her marriage to continue, and although her husband seemed to have different ideas they were still together and there had been some improvement in the relationship at the time we interviewed her. The MWMC enabled *Kathy* to reflect and focus on where the relationship was going wrong and on what she could do to improve it.

Nora seemed resigned to living with her husband for the rest of her life. They had been married for a long time and making the break would have been too difficult for her. She had felt controlled for most of her married life. Her husband also controlled their attendance at the information meeting and subsequent MWMC. *Nora* did appear to derive some benefit from attending the MWMC in that she was able to discuss her situation with a counsellor who was able to offer her some practical advice, which *Nora* took on board.

Vikram had tried repeatedly to get some help with his marriage. He remained frustrated that the help he felt he needed was not forthcoming and that he seemed unable to gain help in his area. Coming from an Asian background *Vikram* had particular needs, which he felt were not met either by the information meeting or by the MWMC. He confirmed to us how difficult it is for Asian families to talk about marital difficulties, and emphasised the importance of counsellors at least having cultural awareness, if not coming from the same background as the attendee.

At the time of the interview *Vikram* was still hoping that his wife would return to the marital home, and he was not giving up hope of the marriage being repaired. He did, however, acknowledge that as time went on the likelihood of her returning was slim. At the time he attended the information meeting he knew his marriage desperately needed helpful intervention. It was clear to us that he felt that, had he been given that opportunity when he had first recognised the need for it, he might not have been faced with the difficult situation in which he found himself. He knew what he was looking for at the time he attended the information meeting. The CD-ROM meeting was never going to satisfy this need, since he was looking for help and advice that was specific to him, something that a CD-ROM meeting will never be.

Every one of these attendees, apart from *Vikram*, seemed to gain something positive from attending the MWMC. For some, the one-off intervention of the MWMC was enough to enable them to be proactive in repairing their relationships without the need for further counselling. For others, it offered a gateway to the counselling process, dispelled myths about counselling and helped them to view counselling as a positive intervention that helped them to restore their marriages. Through the MWMC, some attendees were able to reflect on their marital situations, and by improving communication with their spouse were able to work through difficulties without feeling the need to make any hasty decisions. For them the MWMC served to slow down the decision-making process. All of them recognised the help that they could gain for their marriages through counselling. Although some decided not to pursue counselling sessions at that particular moment, they knew that the service is available should they need to go at some point in the future.

Chapter 16

Devising and Delivering a New Service

Janet Walker, Susan Mitchell and Douglas Hooper

... when Part II of the Family Law Act is implemented, many more people will become aware of marriage support through the information meetings ... An increase in demand from this source therefore seems certain ...

In order to meet this demand, I consider it desirable that the voluntary sector should develop strongly, maintaining a lead role in the development of new ideas, and of new practice, training and service provision.¹

In this chapter we examine the meeting with a marriage counsellor from the point of view of the agencies which delivered it, and consider the extent to which it fits into their current practice and programme of services. The data in this chapter were derived from a series of focus group meetings with chief executives of the marriage agencies involved, the agency managers of the participating agencies in the pilot areas, counsellors who delivered the MWMC, and the supervisors appointed to oversee the work of the counsellors. We also interviewed the manager and administrative staff of the Leicester call centre.

The Marriage Support Agencies

Four main agencies currently provide the majority of marriage support and relationship counselling services in England and Wales. These are: Relate; Marriage Care; London Marriage Guidance Council; and the Jewish Marriage Council. For some time, these agencies have been moving away from work aimed solely at preventing marriage breakdown, towards work with a broader focus on enabling individuals and couples to identify their problems and then to make decisions that are right for them. The saving of marriages has become a rather less prominent but no less desirable goal, while offering help and support for adult couple relationships, irrespective of marital status, has become the primary objective.

After the Second World War, three agencies took the lead in helping troubled marriages: Relate (formerly the National Marriage Guidance Council); the Tavistock Marital Studies Institute (formerly the Family Discussion Bureau as part of the Family Welfare Association); and Marriage Care (formerly the Catholic Marriage Guidance Council). These agencies decided that their initial task was to offer help to those couples and families who were coming together again in the period following the end of the war in 1945/6. The agencies believed that couples needed help in adjusting to peace-time circumstances. The services offered were strongly educational with therapeutic ideas – but this was therapy with heavy overtones of medical intervention rather than psychological expertise. In the debate on the Denning Commission (1947)² claims were

¹ Sir Graham Hart, *The Funding of Marriage Support*, The Lord Chancellor's Department (1999), pp. 17, 18, 19.

² Final Report of the Committee on Procedure in Matrimonial Causes (The Denning Report), Cmd. 7024, HMSO (1947).

made that technical expertise was not necessary. All that was required was a good sense of sincere affection. This common-sense philosophy did not survive and it was agreed that some training was necessary, but initially it was fashioned towards the diagnosis of the couple's problem and then onward referral to a professional expert. The word 'guidance' therefore seemed appropriate for this activity, which also had an under-emphasised focus on conciliation or reconciliation – the two were not distinguished.

Quite early on in the development of the marriage support services, the Family Discussion Bureau began to develop an explicitly psychoanalytic approach to marital problems. This approach was seen as being the best way to help most couples, rather than using educational principles. But the emphasis on education and guidance remained strong in other agencies – in particular in the National Marriage Guidance Council.

It soon became clear that despite a temporary drop in divorce figures after the post-war surge, the rate of divorce was rising inexorably. In this context, the other agencies developed their services on the principle of offering counselling to troubled couples. Education remained an important part of the service offered, but was no longer seen as the sole means of trying to save marriages from breaking down. The expertise which the agencies developed was that of helping couples to identify their own problems – often by focusing on their past experiences – and then to explore ways of changing the relationship. Although there was a clear emphasis on the interactional processes, there was an equal emphasis on the inner world of two individuals. Clearly the idea of the counsellor as an educational expert on marital problems able to work improvements by educational means had largely disappeared – even though there was little compelling evidence that the psychoanalytic counselling service which was offered in its place was necessarily more effective.

This new emphasis on therapeutic counselling reflected the broad social shift from institutional marriage towards companionate marriage, for which counselling was deemed to be appropriate. Parallel with this, the marriage organisations were shifting away from representing a movement with a dominant interest in social welfare towards becoming agencies providing professional services for individuals and couples whose relationships were in difficulty. In this context, the perception that when people go to see a counsellor some marriages may be saveable while others are not seems to be an unhelpful dichotomy for the marriage support agencies, primarily because they do not see marriage saving as their primary or exclusive task. There is no apt polar opposite of the notion of saveability, although the concept of irrecoverability might be closest to the meaning required. It may be that the notion of time is more helpful: the marital relationship may reach a point beyond which it cannot usefully continue. In reality, one or both partners is likely to define this end-point in time. The Family Law Act preserves the right of partners to determine the point in time at which they might access information, and seeks to ensure that either or both of them should reflect and consider a decision that the marriage is irrecoverable. While the FLA does not seek to define what may be saveable, there is an implicit assumption that saveable marriages are capable of identification. This assumption was given status through the meeting with a marriage counsellor when the Lord Chancellor's Department drew up the guidelines in order that one of three outcomes would be achieved. Two of these outcomes refer to attendees working on their marriage, or attending marriage counselling with a view to saving the marriage. The MWMC, therefore, provides some opportunity for proactive work in terms of saving marriages, albeit late in the day for many couples.

The Aims and Objectives of the Agencies Involved in the MWMC

Six agencies participated in the delivery of the MWMC. Two of the marriage agencies involved are 'faith' agencies, namely the Jewish Marriage Council and Marriage Care. The others, Relate, the London Marriage Guidance Council, the Asian Family Counselling Service and the Afro-Caribbean Counselling Service, are secular. Each organisation has a statement of aims or objectives, and we summarise them here.

Marriage Care

Marriage Care has a simple mission statement:

Marriage Care embraces and holds true to the Church's vision of marriage as a vocation of love, with the power to transform individual lives and to serve as a bedrock to a stable society.

The agency's purpose is to help people prepare for, achieve and also sustain successful marriages and to support them should their marriages break down. Its commitment is to honour individuals and it is committed to a belief in marriage as the prime relationship through which people can mature and grow. It aims to support marriages at all stages of their development, especially in times of difficulty, through relationship counselling and complementary services. The mission statement is firmly embedded in the Catholic Church's ethic of marriage, although it does not confirm the view that marriage is expected to be a lifelong union. Supporting and sustaining marriage is clearly of dominant importance to the agency, which delivers services through 64 local centres, which are nationally organised.

The Jewish Marriage Council

The Jewish Marriage Council describes its aims as being to:

- provide a confidential counselling service for any personal, family and marital problem
- raise public awareness of the values and benefits of Jewish marriage and family life
- provide appropriate services to support individuals at the end of relationships and beyond
- give advice and, when difficulties occur, negotiate between individuals on the religious divorce (a 'get')

These aims underscore the importance of Jewish marriage and family life, reflect the Jewish values of communal responsibility (*arevoot*) and care and concern for others (*chosed*), and accord with the religious authority of the Chief Rabbi. There is no statement in either the aims or the principles of the agency about preserving marriage, although the Jewish religious ethic would strongly support that position. Although the preservation of marriage is implicit, the agency offers support to those ending

relationships and those negotiating a religious divorce. Jewish Marriage Guidance offers services through three centres in London and Manchester.

The Asian Family Counselling Service

The Asian Family Counselling Service, based and operating in London, is a generic service and offers counselling for 'all members of the Asian community above the age of 14'. Its mission statement indicates that it responds to the needs of people by providing counselling and other forms of support to 'individuals, couples or families' who have problems in their marital or family relationships. It aims 'to enhance the physical and mental well-being of the Asian community [via] confidential counselling in the client's own language'. The agency also addresses issues connected with arranged and forced marriages.

The African Caribbean Family Mediation Service

The African Caribbean Family Mediation Service offered the MWMC as an extension of its mediation and other services, in conjunction with London Marriage Guidance Council. It responds to the needs of the black community in London by 'providing a marital counselling service ... to strengthen family life in the African and Caribbean communities'. This agency has a broad remit in providing support to the black community through a range of other services, including its family mediation service, child contact centre and men's counselling service, and its home/school mediation service.

London Marriage Guidance Council

Until 1994 London Marriage Guidance Council was part of the National Marriage Guidance Council (now Relate). It operates in central and some inner London areas. It offers separate counselling services for relationship difficulties and sexual problems, and for people contemplating separation and divorce. Its mission is to

provide and promote the highest quality counselling to help couples and individuals resolve difficulties in their relationships.

The agency believes that the couple relationship is central to the stability of the family, but recognises that although couples 'reach out for lifelong relationships' many find them difficult to sustain. It also accepts that counselling may enable some relationships to continue, but that it can also minimise hurt and damage when relationships end.

Apart from the title of the agency there is little if anything in its public statements about marriage *per se*. In the light of this it is interesting that it has retained its former title. The core theme is the resolution of couple difficulties, by a number of means, which can lead either to continuity or dissolution. In its leaflet on divorce/separation counselling there is a vigorous assertion that if the couple decide to restore the marriage the counsellor will render 'every support' in helping to do this. In these cases the agency is apparently firm about its role in trying to save a marriage, whereas in other cases it appears to be neutral as to the outcome.

Relate

Relate is by far the largest of the marriage support agencies with around a hundred and twenty centres spread throughout England and Wales. The agency offers a range of services, the core of which is the couple counselling service, but which also include psychosexual therapy and relationship education. Although each centre is organised and managed autonomously, Relate is required to abide by the federal membership agreements which determine service provision and quality standards. In addition each centre also accepts the Statement of Common Purpose of Relate, which describes Relate's role as being 'to help people build better couple relationships'. This is to be achieved by:

- enhancing the quality of relationships
- helping relationships and marriages to withstand pressures leading to breakdown
- limiting the damage accompanying failing relationships and divorce to increase the prospect for further relationships

Relate believes in the importance of commitment, sexual understanding and (for children) freedom from conflict. Counselling is described as being available to help people who are having problems and who want to work them out, or who want to separate or whose relationship has ended. The emphasis is clearly on relationships, which includes marriage. Relate has the least-focused agency statement as regards marriage in particular, and appears to be directed at troublesome relationship experiences generally.

Mixed agendas

The two faith agencies (Marriage Care and Jewish Marriage Council) come closest to the concept of marriage saving in their aims, but do this primarily through appealing to an underlying religious ethic. Nevertheless, these agencies too place an emphasis on providing help with troubled relationships irrespective of the persons' marital status. In other words, they take a broader view of the aims of counselling than might be anticipated in the FLA and the MWMC. Nevertheless, they all embraced the task set during the pilots of developing and testing a new solution-focused approach to helping people make decisions about their marriage.

Charges for Services

There is considerable variation in the policies of the agencies with respect to charging for counselling services. Marriage Care offers a completely free service, although clients are encouraged to make a donation if they wish. The Jewish Marriage Council makes no charge for an initial interview, but clients are asked for a contribution in subsequent interviews, based on a sliding income scale. The contribution requested goes from a £10 minimum to a £40 maximum in London.

London Marriage Guidance asks clients to make a contribution based on a sliding scale ranging from £1.50 per £1,000 gross income to a maximum of £40 per session. Relate leaves each local centre to determine its own charges, but the national guidelines indicate that all clients are expected to pay according to their means (generally between £10 and

£40 per session). The Asian and African Caribbean agencies offer a service which is largely free, although the Asian service charges on a sliding scale for evening and weekend counselling sessions.

Organisational Issues

In the initial stages, chief executives of the participating marriage counselling organisations admitted to being fairly sceptical about the concept of the MWMC. They described the relationship between their organisations and the Lord Chancellor's Department as complicated, and had expected it to be more straightforward than it turned out to be. Describing the new service as 'unplanned, too rushed, and not thought through', they nevertheless saw it as an opportunity to offer something new. Although they recognised the MWMC as a new service, all chief executives agreed that the provision of the service was within the remit of the work already carried out by their agencies. Overall, they expected a low take-up of the meetings.

Agency managers, however, initially expected that their agencies would contact clients directly to make appointments and that they would be responsible for administration, rather than the MWMC being operated through a central booking system. They also predicted that it would be difficult to arrange appointments and that it would be time-consuming, often owing to unfamiliarity with venues. In practice this proved not to be the case. They anticipated also that there would be geographical problems with venues being so widespread, and they expressed concern about whether clients would be prepared to travel in order to take up appointments. Indeed, agency managers offering the service in the more rural areas felt the need for twice the number of counsellors to run an effective and efficient service.

There were some organisational difficulties to be overcome resulting from the speed at which the project was set up. That the service was expected to be up and running within a very short space of time led to a blurring of roles, with agencies unsure of who was supposed to be doing what. This, together with unclear practice guidelines as to the selection process for counsellors and issues connected with counsellor payments when clients did not keep their appointments, were problems that perhaps could have been avoided had there been a longer period for planning the new service.

Flexibility and adaptability, both within and between organisations, appeared to be the key to the smooth running of the new service. At times there appeared to be unclear boundaries between lines of accountability, particularly with reference to quality control and the handling of complaints. In addition, using venues for meetings that were not agency venues and which were therefore unfamiliar posed specific organisational difficulties, as did financial arrangements between the Lord Chancellor's Department and local services. All the agency managers wanted clearer routes for financial accountability. Payment for the MWMC service was routed through the information meeting pilots, with different pilots operating different systems, which sometimes caused difficulty for agency managers. Areas of management accountability for the MWMC varied considerably within and between organisations. For the smaller agencies management accountability was not really an issue. Most agency managers agreed that they made use of their Local Interdisciplinary Forum set up by the local information meeting pilot for discussing any issues arising. All the agency managers recognised the formal lines of accountability between themselves and the Lord Chancellor's Department. Some also suggested feeling accountable to the central booking service, and one or two commented that

there was, at times, a lack of flexibility/understanding from the central booking service regarding operational issues.

Generally, the MWMC was thought by agency managers to complement the services already offered by their organisations. They did, however, feel that the system for clients who wished to proceed into counselling needed to be carefully considered. As some said, 'How many times do clients need to tell their story?' This was an issue raised by many of those who attended the MWMC, as the personal accounts given in Chapters 14 and 15 have shown.

Chief executives acknowledged the bureaucracy 'from outside, with the Lord Chancellor's Department creating the outcome measures'. They suggested that if the MWMC was to become a nationally available service, it should not be linked solely to the Family Law Act 1996 but should be offered in a similar format to that of Relate's consultation with a counsellor.

Service Delivery and Planning

Chief executives of the agencies involved were clearly in favour of operating the new service via a central booking system. In their view, it was important

to have a separate telephone number as it distinguishes the MWMC from other services, is cost efficient and is better than individuals ringing agencies directly.

They did question whether the central booking system should be available for legally-aided attendees only. Overall, agency managers were very positive about operating through a central booking service, making comments such as:

Clients don't have to phone the agency – this removes the stigma attached to contacting a marriage counselling agency.

Managers from Marriage Care had experience of this type of system since they already operate through one central number; one of them described the central booking service as 'an excellent resource which took away the hassle'. Many agency managers felt that using one nationally recognised number gets the service better known. Most of the time, they experienced booking appointments in this way as, in the words of one, a 'slick process, depending on how many venues were on offer and the location of the venues'. Despite the generally positive views, however, agency managers identified some negative aspects of operating through a central booking system. At times, arranging meetings could be a resource-costly process on account of the need for numerous telephone calls to the central booking service, which took time. Counselling agencies did not make appointments directly with the client. As the project was client-led, the central booking service often needed immediate responses to requests for appointments and clients were not necessarily asked for alternatives, all of which could lengthen the booking process quite considerably. There was a suggestion that perhaps the central booking service could have been better equipped, with more resources such as fax machines and e-mail facilities, which could have helped the process to run a little more smoothly. Deadlines for returning material to the central booking service were tight and on occasion agency managers experienced some difficulty managing these.

Chief executives recognised the impact the MWMC might have on existing resources, primarily in terms of time for training and recruitment of counsellors and supervisors. They also raised the issue of implementation and education of the public (including the need to pay particular attention to the specific needs of ethnic minority groups), since they felt there was a danger of losing scarce resources to the MWMC, particularly in smaller agencies. This might have the effect of marginalising those agencies and therefore raising issues about quality control and accountability. Chief executives suggested that a way forward could be to create a separate agency specifically to deliver this meeting. Agency managers did not consider that the MWMC made a significant impact on their resources, however. Occasionally there were increased demands on the agency administrative staff if there was a specific deadline to meet, which could interrupt the normal flow of administrative work. There was no impact on counsellor resources, since provision in most instances had been adequately made. Indeed, the discipline of the tight turn-around as regards offering appointments and completing necessary paperwork was considered to have a positive impact on some counsellors.

Chief executives and agency managers agreed that inter-agency collaboration and co-operation throughout the project had been a positive factor. As regards the MWMC itself, the fact that it was free and time-focused, and met the requirements of the FLA 1996, was something they also considered positive. Nevertheless they did suggest changes to the format and structure of the meeting, and some of them felt that it might be useful to offer the MWMC before, rather than after, an information meeting. Some attendees had expressed the same opinion.

Chief executives could see no problem in attendees accessing separate agencies, one for the MWMC and a different one if they proceeded to counselling. Although different agencies have different policies and charge rates, they did not consider this to be problematic. They suggested a leaflet be incorporated into the information pack clearly stating the options on offer and the policies adopted by the different marriage counselling agencies. There were differences of opinion, however, between agency managers as regards the use of a different agency to continue counselling. Some felt that there would be issues of confidentiality if notes from the MWMC had to be transferred to a different agency for ongoing counselling. Others, however, likened this to obtaining a prescription from a doctor and taking it to any supplier, and could not see this method as being a problem.

Many agency managers were uncomfortable with the issue of 'fast-tracking' MWMC clients into continued counselling. Ethical concerns were raised about 'queue jumping'. Marriage Care, for example, would expect to have a corporate policy on fast-tracking as it operates as a national organisation. Relate Centres, on the other hand, operating as autonomous agencies, expected that policy in this area would be established by each individual centre.

Practice and Policy Issues

Chief executives and agency managers felt there had been some impact on their general agency policies as a result of the MWMC and its solution-focused approach. They recognised a need for all their counsellors to have some understanding of what happens in a MWMC and of the need to raise awareness of the MWMC in counsellor training sessions. The solution-focused approach posed a challenge to normal agency practices and therefore raised the issue of which counsellors should undertake this particular work.

All of them agreed that the MWMC could and should be provided only by trained, experienced and practising marital counsellors who understood marital issues and were used, in the words of one, to ‘dealing with messiness’. They perceived the MWMC as being different from individual counselling since the focus was explicitly on the couple and their marriage.

Everyone believed that there should be common selection criteria, with an accrediting agency (selection board) and an accredited course for those delivering the MWMC. Chief executives felt that if the MWMC is to be implemented, private counsellors could be employed to deliver it providing they met the selection criteria and were supervised by agency supervisors. Supervision for counsellors was considered necessary, although agency managers thought that it did not have to take the form of a one-to-one session as is current counselling practice. Group supervision sessions were suggested, and it was pointed out that in an implemented system when many more MWMCs would be conducted, one supervision session for every ten meetings (as occurred during the pilots) might not be needed. Access to a supervisor might suffice, and this could perhaps be supplemented by three to four one-to-one supervisory sessions a year.

All the chief executives were convinced that the UK Marriage Organisations Group, of which they are members, should continue in order to develop a consortium of agencies (perhaps with a National Executive) to enable the MWMC to employ peripatetic counsellors who could respond to specific needs and requests on an inter-agency basis. In order to execute this, a central booking agency could co-ordinate and map the availability of individual counsellors within a particular area. For the future, chief executives wanted strategic funding to cover the quality-assured delivery of the MWMC across the board. In their view, the service must be properly costed and understood by all concerned. The analysis of costs, which is the subject of a separate report,³ suggests that the unit cost of providing an individual with a MWMC would be between £39 and £70. There is scope for reducing this considerably in a national system with a much higher throughput. These costs would only be incurred by the state, however, with respect to those attendees who are entitled to public funding through the Legal Services Commission. Other attendees would, presumably, have to pay for the meeting themselves. There is no way of knowing how many will attend a MWMC under those circumstances. We suspect additional state funding will be required to render the MWMC viable.

Agency managers expressed some disquiet that counsellors should be paid per hour regardless of whether the meeting was attended by a lone client or a couple. That they should have the same type of pay-scale as information presenters was considered inappropriate. All agreed that there should be uniformity and a rationale across agencies in terms of counsellor payment for these meetings. The Lord Chancellor’s Department agreed standard heads of expenditure and a budget with each local marriage counselling agency responsible for offering the MWMC, which included standard payment to the counsellors of £15 for delivering the MWMC to a single spouse and £22.50 for delivering it to a married couple. Payment for a supervision meeting was agreed at £45. In reality, however, individual agencies took decisions about the rates they paid during the pilots.

Chief executives and agency managers take the view that the MWMC should be available to anyone who wished to take up the offer, since the MWMC is, they believe, investing in the future through saving some marriages and promoting more conciliatory divorce. Agency managers firmly believe that inter-agency co-operation is clearly the preferred

³ Dolton, P. and Horan, N., *An Analysis of the Cost of Information Meetings* (2000).

way forward for this new service and that this could be maintained through a Local Interdisciplinary Forum set up in each pilot area (which could also link in with other agencies within a local area).

A National Booking Service

The Leicester and East Midlands information meeting pilot hosted the central booking service for the MWMC. This experiment enabled us to consider the pros and cons of a national central booking service (or regional booking service) for both the MWMC and information meetings in an implemented system. At the end of the pilots we interviewed administrative staff at Leicester, along with the pilot manager who managed the system.

Administration

The administrative staff who took the calls and arranged the meetings with marriage counsellors in the participating services were very positive about the central booking system. They saw it as helpful for people to be able to telephone a central number and have their appointment for a MWMC taken care of. It was a confidential service and neutrality was maintained. They felt that people phoning for an appointment had appreciated the quick response. On the negative side, the administrators experienced some difficulties in making appointments with the agencies, particularly with one of the agencies which worked a centralised booking system.

If a central booking service were to be used in an implemented system, a call centre with modern technology, including databases and computerisation, would need to be established. None of these facilities was available in the pilots. The call operators would need better training (none was provided in the pilots), including 'First Voice' training to help them respond appropriately to distressed callers. Many more counsellors and more agencies would need to participate on a nation-wide basis, thus minimising the difficulties experienced in the pilots when the only two counsellors trained to offer the MWMC in each area were not available. The administrative staff calculated that each call operator could process eight applications for a MWMC each hour, indicating that each request took on average some seven minutes to process from start to finish. This included collecting personal details from the applicant which were used primarily for research purposes in the pilots, but which would still be important for counsellors (and for ongoing evaluation of the service) in a implemented system. The administrative staff suggested that they should be paid on local government scales to reflect the responsibility of the job. They suggested it would be helpful to redesignate the MWMC as a 'meeting to examine your marriage', so that the expectations of applicants that they would be able to get counselling at the meeting would be dispelled.

Managing a central booking system

The manager of the MWMC central booking service also managed a busy information meeting pilot. She was committed to the concept of a central booking service and believed that under an implemented system a specific agency or organisation should be set up to manage the organisation and delivery of the MWMC. The call operators would, she maintained, need to be the kind of people generally employed as receptionists for the marriage agencies:

People who are approachable, who make people comfortable and at ease, someone who can communicate at a very simple level. It doesn't need a lot of fuss ... capable of meeting many very different sorts of people and being the same with each ... you want people who are respectful of the client ... it needs that personal touch – you are not ringing up NEXT to order an item from a catalogue.

These call operators could, in the view of the manager, be located regionally, although one national agency should be responsible for quality control of the entire information meeting and MWMC service. Those delivering meetings, of whatever kind, would need to be paid as professionals and not treated as volunteers. In this way, the counsellors could be required to take responsibility for dealing with legal aid eligibility as required in the Act.

The MWMC central booking service manager was convinced that people who wished to go on into counselling following the MWMC should be able to fast-track. Time is of the essence, and any delay could dissuade people from going into counselling. This would, of course, require all the marriage support agencies to adopt an agreed set of criteria. During the pilots, the agencies involved had different practices, which included some MWMC attendees having to go through a Relate intake interview before they could access counselling. This was not appreciated by the attendees.

In unison with the agency managers, counsellors and chief executives, the MWMC central booking service manager believed that the MWMC was an excellent intervention and that it should be nationally available. She wanted policymakers to

get on with it and get it done, and the sooner the better!

Conducting the Meeting with a Marriage Counsellor

During our observations of the MWMC and in focus groups at the end of the pilots, we asked the counsellors and their supervisors to tell us about the experience of conducting this new solution-focused meeting. Their responses were overwhelmingly positive, even though the experience had been a new one and they had had some concerns.

Making decisions and acknowledging emotions

Counsellors reported that many attendees expected help with the decision-making process, perhaps because they were unsure of the way forward for their relationship. There was also a sense that they needed to try every available option before making the final decision. If parties attended as a couple, counsellors discerned that there was an increased likelihood of them wanting to explore the option of staying together, rather than the option of separation: in part, this may have been because they were not so far down the road to divorce as were attendees who attended alone.

According to the counsellors, some attendees arrived with more definite ideas about the future of their marriage. Some wanted to make the marriage work, and wanted to see if counselling could help in this process. Others were uncertain about ending the marriage, and wanted to use the meeting to focus on the relationship and reflect on whether the marriage was really over. People often arrived at the meetings displaying a range of

emotions. Many expressed feelings of hurt, vulnerability and distress over their current situation and what their partner was or was not doing. Others admitted to feeling vulnerable and, in many cases, to being at fault and regarding themselves as responsible for the relationship breakdown. Some people, both lone attendees and those who came to the meeting as a couple, also came feeling angry.

Understanding the purpose of the meeting

Counsellors felt that some attendees did not understand the purpose of the MWMC. The invitation to attend and the literature which accompanied the letter confirming arrangements for the meeting did describe the content of the meeting and what one could expect from the meeting, but it should be remembered that many people were at a very emotional point in their lives and may have been focused on their immediate needs rather than on what the meeting could actually offer.

Counsellors told us that most commonly people came to the meeting expecting it to be a counselling session. During the introduction to the meeting, the counsellor made it clear that it was not going to be a counselling session. Some counsellors, however, felt that attendees were not able to differentiate between a MWMC and counselling. Counsellors felt that for many people the MWMC offered the opportunity to be heard and that being able to offload with a counsellor who is trained to listen was a very important part of the process. The meeting also offered the opportunity to apportion blame or to validate feelings towards a partner. This would seem to be an important dimension, particularly under an implemented system, which would adopt a no-fault divorce process. Previous research has shown that while rehearsing a catalogue of misdemeanours and complaints in a divorce petition does little to help parties end their marriages co-operatively and consensually, many people want and need to apportion blame. Unless there is some forum in which the hurts and wrongs of the past can be dealt with, it is likely that contentious pasts will be carried into future relationships and may never be resolved.⁴ Neither the information meeting nor mediation provide this kind of forum, and it seems that the MWMC has the potential to do so.

Some people were clearly looking to the counsellor to answer questions. Attendees commonly requested specific information that was beyond the remit of the MWMC. Much of this information tended to centre on the desire for legal and/or financial information, especially if one partner was perceived to be at a disadvantage in relation to the other in connection with this. Counsellors appeared to be very happy to refer people to appropriate agencies on those occasions. Other attendees, especially those attending meetings at the Jewish Marriage Council and Marriage Care, appeared to seek affirmation for their decision (which was often to divorce), which might be contrary to their religious ethic. There were also those attendees who thought that the MWMC might solve everything. In other words, the meeting would serve the purpose of pointing them in the right direction, offering a quick fix or a plan which told them what they should do. Others hoped that the meeting would influence their partner decisively and were obviously looking for this kind of support. This was especially the case when a couple attended. The

⁴ See Corlyon, J., Walker, J., Simpson, R., McCarthy, P., *The Links between Behaviour in Marriage, the Settlement of Ancillary Disputes, Arrangements for Children and Post-divorce Relationships*, Report to the Nuffield Foundation (1991); Walker, J., McCarthy, P. and Timms, N., *Mediation: The Making and Remaking of Co-operative Relationships: An Evaluation of the Effectiveness of Comprehensive Mediation*, Relate Centre for Family Studies (1994).

person who initiated the meeting on those occasions was often looking for help to convince their spouse that divorce was the right option.

Motivation

Counsellors felt that the fact that the MWMC was offered by personal invitation was sufficient to motivate many to attend the session. Some attendees obviously saw it as the next step after the information meeting and were curious to see if they could benefit from it. The fact that it was free and readily available also added to their motivation to attend. The MWMC was also seen by some as an alternative and perhaps more accessible route into counselling, and in some cases this legitimised their contacting a counselling agency. For those wanting to save their marriage time becomes a critical factor. The fact that an appointment for an MWMC was offered almost immediately was seen as a distinct benefit.

Counsellors agreed that the majority of attendees were emotionally motivated to attend the meeting. The meeting offered a place to release painful emotions surrounding lives which were falling apart. Others arrived at the meeting with feelings of failure, which they were able to talk through and perhaps reduce during the meeting. Many were motivated by the fact that they felt they had exhausted all other possibilities. These people saw the meeting as their 'last chance'. Some were motivated by the desire to be private and saw the MWMC as somewhere safe to go where they could keep their problems away from the family.

Trying to find a way forward was further motivation to attend. Many went in the hope of gaining help and advice on how to end their relationship and for confirmation that they were doing the right thing. A few were encouraged to attend by their solicitors, who advised their client that it would look good for them if they had attempted reconciliation. Counsellors also felt that some people who did not want to divorce were using the meeting to slow down the whole process in the hope of getting their partners to change their mind.

Using a solution-focused approach

Counsellors identified the most positive aspect of using a solution-focused approach as being the opportunity to contain issues within the time given for the meeting. Useful as a 'taster', the MWMC served to move people on reasonably quickly, and this was considered to provide a valuable beginning for further work.

Although most counsellors were enthusiastic about the approach, they did highlight difficulties in using the solution-focused approach. In their view, if attendees are to gain full benefit from the MWMC they ought to be briefed fully about the aim of the meeting before attending. The solution-focused approach is supposed to provide options, but there were times when counsellors felt that this was not achieved, since there simply were no options available. Moreover, the approach does not seem to take account of unresolved issues in someone's past, and such attendees may have left the meeting feeling that the counsellor had not 'heard' them. Some counsellors commented that they were not sure if the solution-focused approach was appropriate for people who were in a very distressed state. Counsellors felt that the script seemed to structure the expectations of the attendees, but that it was unsuitable if the attendee had travelled quite a long way down the road to

divorce. Counsellors also highlighted what they felt were intra-session expectations: for example, the expectations of attendees that any further counselling would be free and the expectations of counsellors that most people would agree to further counselling.

Overall, the counsellors considered the solution-focused approach used in the MWMC to be far more appropriate for use with partners who attended the meeting together. This said, for it to work effectively the couple needed to want to move forward together. It was less useful if the partners had a split agenda, but nevertheless when used with couples it served the purpose of enabling them to focus on issues together. Many felt that some modification of the script is needed, since some of the questions used in the approach were not helpful. Overall, all the counsellors felt that the key questions included in the script were inappropriate for those people who attended alone. Counsellors agreed that there was a greater sense of completion in the work with couples. The couple tend to focus more on their relationship, and this is helpful since, as one counsellor expressed it, 'the couple dynamic is already in place'.

By contrast, individual attendees often had other motivations for attending the meeting:

Individuals want to talk, to unburden, etc. as they tend to engage more quickly with the counsellor and focus on their life experience. Counsellors may feel dumped with individual problems.

They believed, however, that the MWMC could be beneficial if the individual attendee were still in a relationship, but if they were not, the focus of the MWMC would have to change, although it might still be valuable for helping lone attendees in their future relationships.

Counsellors found that the focus of the MWMC also changed if the couple had children. There is an implicit expectation in the FLA that, if there are children, the parents should be encouraged to maintain an ongoing relationship as parents wherever this is possible, irrespective of whether they continue to live together or not. Some counsellors felt there had been occasions when attendees had used their children to legitimise their reasons for attending a MWMC.

When comparing delivering the MWMC with their everyday counselling work, counsellors told us that they had more control of the agenda in the MWMC than they do in counselling sessions. During the MWMC, the counsellors adopted a more active, almost business-like approach, which was less empathic than would normally be the case in counselling. While Relate counsellors felt that delivering the MWMC was akin to conducting an assessment interview for their agency, Marriage Care counsellors suggested that conducting the MWMC was not like anything they had previously done, but added that they had found it a very positive experience. Some counsellors expressed concern regarding the policy that if the attendee progressed into counselling, a different counsellor would be necessary. This left those delivering the MWMC feeling frustrated that they were unable to see a case through. We know that this was a problem for attendees as well.

Working with a script

In delivering the MWMC the counsellors necessarily adopted a structured approach. Some of them felt somewhat restricted because they had to deliver to a script which made the meetings task-orientated rather than enabling them to take the usual psycho-dynamic

approach with which they were more familiar. Since the brief for the meeting was defined, and the meeting time was limited and the meeting designed as a 'one-off' session, there was no scope for exploring deeper issues (nor was there meant to be). Nevertheless, those counsellors who were familiar with the drop-in services offered by some of their agencies described the MWMC as very similar to this, in that time was limited and a need therefore existed to establish a relationship with the attendee very quickly. Relate counsellors likened the MWMC to their 'consultation with a counsellor' meeting and suggested that it required similar skills to those they used in their initial interview. As one counsellor suggested:

If you are doing initial assessments, the transition to this type of work is easier.

Despite their initial doubts about working with a script counsellors acknowledged the advantages of having a script for this type of meeting. It enabled them to maintain a distance between themselves and the attendee:

[The script] stops you straying into inappropriate counselling and keeps the focus on the issue. The script provides distance and makes it less difficult to get sucked into the issues.

[Using the script] prevents the curiosity of the counsellor.

The script not only enabled the counsellor to work within pre-set boundaries: it also helped to maintain the time-scale for the session, with a structured beginning, middle and end. Counsellors also suggested that the script was useful as a tool, a visual aid that the counsellor had in front of them that also served to help focus the attendee.

Although they saw the script as having benefits, however, some counsellors perceived disadvantages to working with a script. On the one hand, the script served as a useful tool to enable counsellors to contain the attendee, but, on the other hand, counsellors highlighted the lack of flexibility in using the script, especially when it seemed totally inappropriate in relation to the attendee's needs.

There were concerns, also, that the script was patronising and suggestions were made for alternative questions that could be incorporated into the script which might not be so dismissive of attendees, and might be more useful in moving them forward. Counsellors sought greater freedom to improvise with the ordering of the script and to add their own explanation of particular points. Agency managers suggested that a number of scripts should be developed to suit different situations. Relate managers felt that the Relate consultation interview could be developed to incorporate the MWMC approach.

The Role of Supervision

At the beginning of the pilots for the MWMC the agencies were adamant that counsellors should be supervised in this work, which they saw as an extension of the delivery of counselling services. The Lord Chancellor's Department was not initially sympathetic to this view, but eventually accepted it, and a number of supervisors were selected and trained. Supervisors were dissatisfied with the training they had received. Although they took part in a one-day training programme they had no direct experience of the MWMC (unlike in agency supervision, where all supervisors have been counsellors at some point). They suggested that supervisors and counsellors should be trained together.

Supervision is normally offered on a one-to-one basis, with counsellor and supervisor discussing particular cases together. Both counsellors and supervisors suggested that this might be inappropriate and a waste of money for the MWMC in the pilots. As this was a one-off meeting and cases are not followed through, supervision was redefined as support for the counsellors. Counsellors felt that the supervision they received during the MWMC pilot was primarily concerned with maintenance of the service and quality assurance. Some felt that this was not enough, especially if they had to deal with clients in particularly difficult circumstances. There was much disparity between the counsellors about the issue of supervision. All acknowledged the need to be able to access some support, although the nature of this support sparked much debate. Some suggested that the option of telephone supervision could be explored. Others, however, were opposed to this notion, suggesting that it would not offer enough support and that the 'comfort zone' would be removed, leaving counsellors to deal with any unresolved issues on their own. In an implemented system the purpose and nature of professional supervision would need to be agreed, and supervisors would need to have a better understanding of the MWMC than they had in the pilots.

Delivering the MWMC in the Future

There was overwhelming agreement on the part of counsellors and supervisors that trained counsellors were needed to deliver the MWMC, and numerous reasons and justifications for this were offered:

Counsellors trained to work with marriage issues and crises are able to 'hold' the split agenda of a couple.

Because of the large counselling element in the meeting, trained counsellors with their background and underpinning knowledge are needed to manage the emotional content, especially to be able to end the session well.

Trained counsellors are able to contain emotions, which understandably arise through couple dynamics, in order to keep the couple focused.

They need to be able to know how to respond to issues even if the issues are not to be explored.

Counsellors highlighted the fact that commitment to this structured model of work is important if the meeting is to be delivered effectively. They also acknowledged that other skills were essential, such as:

Containment, being able to engage quickly with clients, keeping sessions to time.

The ability to focus, stay in control and keep the balance between client expectations and the remit of the meeting.

Basic counselling skills were considered essential. These include reflecting, clarifying and paraphrasing, together with the ability to empathise and listen while being sharp, alert and able to think on one's feet. Experience in couple work was also considered essential. Since there are many other related issues which can cause difficulty in a marriage, counsellors who had skills in working in particular areas, such as gambling, alcohol abuse

and domestic violence, and with people from ethnic minorities, could be important resources.

Although the unanimous opinion of the counsellors was that trained counsellors were the most appropriate people to deliver the MWMC, they acknowledged that this type of work might not be suitable for all counsellors. Concerns were expressed that if counsellors have been trained to use a person-centred approach the transition from this to the solution-focused approach of the MWMC might be problematic. The general feeling was that counsellors did not necessarily have to be currently practising to offer the MWMC and that, in some cases, depending on the suitability of the counsellor they should be able to combine it with other counselling work.

Reflecting on training

Overall, counsellors considered that their training had been good, and that it had prepared them for their role. They felt that multi-agency training was good practice to adopt, since it gave an insight, which they perhaps otherwise would not have had, into how other counselling agencies worked. They felt that they might have benefited from some supervised practice in the early stages.

Some disquiet was expressed about a lack of information and understanding regarding where the MWMC fitted into the context of the information meetings and the FLA. Both counsellors and supervisors felt they had been kept in the dark as regards information meetings, and made comments such as:

It would have helped to see an information meeting – we were told we couldn't see the CD-ROM.

[We would have liked] a demonstration of an information meeting or [to have been able to] observe an information meeting and know what goes on.

[We needed] to be able to ask questions about the Family Law Act and have more knowledge of the information pack and the invitation to attend a MWMC.

All counsellors were highly critical of the training they received from the Legal Aid Board in assessing eligibility for legal aid. The following comments reflect this negative feeling:

The legal aid training was not adequate – eligibility!?!?!????

This separate component of the training did not fit – we needed more training on completing the eligibility forms as there was much confusion over this in initial training.

Unfortunately, few eligibility forms were fully completed during the pilots, perhaps reflecting a lack of adequate training, and a lack of commitment among the counsellors and agency staff to the task of checking the forms and assessing eligibility. Four hundred and thirty-nine MWMC attendees (78%) brought their form to the meeting, but these were in various states of completion. Counsellors completed an eligibility assessment on forms from just 219 attendees. Of these, 83 (38%) were assessed by counsellors as eligible for legal aid, although the basis on which these assessments were made was not always clear.

There was universal agreement that assessing eligibility should not be the responsibility of counsellors. If they were to be required to undertake these assessments they would need more adequate training. A suggestion was made that if the MWMC is to be tied in to an information meeting process, the assessment for eligibility could be dealt with centrally at the point when an information meeting is requested. All the counsellors, agency managers and chief executives agreed with the principle of eligibility testing: people should pay if they are able to, but the process for making the assessments in the pilots was deemed highly unsatisfactory from all points of view.

Comments about improving the training process reflected the extremely short time-scale in which the MWMC service was set up. In common with those who trained to be information presenters, counsellors would have liked more time to familiarise themselves with the script and to have materials sent to them in advance so that they could have been more prepared when arriving for training. They would also have liked

[m]ore role play please – there was not enough time for feedback from these sessions.

More practice in how to manage the time available in meetings.

Both counsellors and supervisors welcomed the opportunity of having time to feed back, share and review the provision of the MWMC during the research focus days, and expressed a wish to see this offered as a regular forum for discussion in the future.

Devising a good meeting

Counsellors were clear about the factors which made the MWMC a good experience for themselves and for attendees. In this respect, the attendance of both partners was considered a distinct advantage. Counsellors described a good meeting with a couple in a variety of ways:

They are both motivated to want to save their marriage.

The MWMC enables them to change their mind set. They come to the meeting convinced that their marriage is over, yet leave realising that perhaps it can be saved.

Those who manage to negotiate a way forward. They arrive at the meeting not knowing where to start but go away knowing how to proceed.

A couple who have a joint agenda when attending the meeting and who still have the same joint agenda when leaving.

By contrast, people who came to the meeting seeking specific advice or help about a particular problem sometimes left the counsellor feeling a sense of frustration, as the counsellor was not able to give the attendee what they wanted within the remit of the MWMC. Central to this, on the part of the counsellor, was the requirement to stick rigidly to the script, which was difficult if the attendee was determined to unburden him- or herself, as many were.

Some counsellors suggested that meetings tended to be unsatisfactory, both from their point of view and from that of the attendees, when the attendee was too far down the road

towards divorce. One or two counsellors also suggested that advice from an ‘unhelpful’ solicitor could also contribute to an unsatisfactory meeting, since it could lead to people engaging in

points scoring, when the solicitor indicates to his/her client that it would ‘look good’ if they attended a MWMC.

Counsellors and supervisors confirmed that there had been occasions when people who were already undergoing the process of relationship counselling attended a MWMC. The reasons for this are not known. It may be that the person misunderstood the purpose of the meeting, believing it to be something completely different from what it was. It may be that as the MWMC was offered free, people attended to see if there was anything to be gained over and above their normal counselling sessions. There was general agreement, however, that if people are currently engaged in marriage or relationship counselling there is little point in their attending a MWMC.

If, however, the client was in the process of personal counselling rather than relationship counselling, the situation was different. Counsellors and supervisors both agreed that it was entirely appropriate for someone in personal counselling to come to the MWMC with their partner:

[It] could be a useful way of bringing the partner in. There may be specific reasons for attending the MWMC and the solution-focused approach could be used to find out why.

The MWMC was set up in such a way that once an attendee had been to that meeting and had indicated their intention of progressing into counselling, they should not be allowed to have counselling with the same counsellor. Nevertheless, we know that this rule was breached on a few occasions, especially in the smaller agencies where resources were stretched. Counsellors felt it entirely appropriate that people should follow through into counselling with the same counsellor as they had for the MWMC, since this

cuts out the client’s need to go through their story again with someone new, a process that may be both upsetting and frustrating at a very difficult time.

They acknowledged that there may be occasions when using the same counsellor would be considered inappropriate. For example, if someone attended a MWMC as an individual, and then wanted to progress into counselling with their partner, the partner might feel somewhat disadvantaged since a relationship might already have been established between attendee and counsellor which could be seen as giving an ‘unfair advantage’ to that partner. Those agencies which require contributions from their clients (and not all do) for each session felt that they might also have difficulty deciding when to introduce the subject of contributions. As the MWMC was set up, progressing into counselling with a new counsellor enabled the subject of contributions to be discussed within the framework of opting in to the agency – thus the distance was deemed useful. We know from previous studies that the issue of contributions is one that causes counsellors a good deal of discomfort,⁵ and going from the MWMC into counselling with the same counsellor might complicate an issue which already requires careful handling. What seems to be needed in the future is greater flexibility for attendees to decide

⁵ McCarthy, P., Walker, J. and Kain, J., *Telling It As It Is: The Client Experience of Relate Counselling*, Newcastle Centre for Family Studies (1998).

whether or not they would prefer to stay with the same counsellor, and for counsellors to use their discretion as to what would be most appropriate in each case.

Maintaining standards

When a service such as a MWMC is developed with the involvement of a number of different agencies, each with its own policies and practices, maintaining standards can be problematic. Both counsellors and supervisors suggested that, for quality standards to be maintained, there need to be agreed guidelines and complete multi-agency co-operation. Counsellors have a responsibility both to their agencies and to their clients to deliver what is required of them. This responsibility includes delivering the meeting within the required format, maintaining boundaries between counsellor and attendee, and containing attendees' emotions while enabling them to achieve clarity about their situation.

Both counsellors and supervisors highlighted the need for an agreed complaints procedure and a register of all counsellors and supervisors offering the service. Counsellors and supervisors suggested that, in order to monitor the content and quality of the service, there should be regular feedback sessions where counsellors, supervisors and the agencies involved might share and learn from each other's experiences. Monitoring should not be restricted to top-down practices. It was suggested that attendees need to be followed up in any future service so as to gain their views on the experience in order to evaluate the service as a whole.

The MWMC offered within the framework of the FLA would provide a new avenue via which people could engage with a counselling agency. A number of questions need to be asked here. Can the MWMC provide a framework for legitimising contact with a counselling agency? Does it widen the net and encompass a different population from those who would access counselling through the conventional route? Does it offer more than marriage saving, and should it do so?

The FLA is committed to saving saveable marriages. There is no doubt that the main focus of the MWMC was on facilitating clients to reflect on whether their marriage was really over, and therefore on encouraging them to enter into counselling with a view to saving it (which a few did). Can such a meeting really be expected to do this when it is tied into divorce legislation, and is offered to people at a time when they have gone some considerable way towards making a final decision? For many it may be an attempt which comes too late. On the other hand, if some people (e.g. 5%) are turned back from the brink of divorce, is this sufficient justification for offering the MWMC, which undoubtedly has benefits beyond marriage saving? We know that many clients progressed into counselling to gain an understanding of themselves, in other words for personal counselling. This might, in turn, enable them to save their marriages. It might also enable them to come to terms with the marriage ending in a more amicable way, or indeed help them to build better relationships in the future, but this was not the prime focus of the MWMC.

If information meeting and MWMC attendees found out anything new about counselling, it was that marriage counselling agencies are not only there for people who want to save their marriage. As we have seen, some people entered into counselling to help them to come to terms with the fact that their marriage had ended, or indeed to help them to split up amicably (thus perhaps helping them in subsequent relationships). Should the MWMC be used for this purpose, especially if it were to continue to be a state-funded service, or

should it be restricted to parties who will attend as a couple with the express intention of saving their marriage? Counsellors have suggested that the meeting, as it was offered during the pilots, was more suited to people who attended with their partner. If this is the case, the argument for restricted access would seem a strong one.

All those involved in delivering the MWMC were positive about its benefits and its potential to do far more than marriage saving. Counsellors, managers and chief executives were unanimous in wanting to send a clear message to government. In the words of one agency manager, 'The service works, so do it!' Certainly, in the pilots, the MWMC was able to move people on, to help them explore areas of certainty and uncertainty in their marriage, and to enable some to work on saving the marriage. Both Marriage Care and Relate have since introduced the solution-focused approach into their counselling training. Both these agencies are moving towards regionalised appointment systems, and have benefited from inter-agency co-operation in respect of training and service provision. In the pilot areas, marriage agencies have been able to develop more extensive inter-professional networks with other agencies working with separating and divorcing people.

The agencies involved viewed the experiment as a considerable success and seem keen to develop plans for the future which build on the work undertaken in the pilots. Irrespective of whether Part II of the FLA is implemented, the MWMC pilots have opened up considerable opportunities for new ways of working with people who might not otherwise approach a marriage counselling agency for help with a troubled relationship.

Chapter 17

The Provision of Information and the Prevention of Marriage Breakdown

Peter McCarthy

... most people would accept that the threshold of divorce is likely to be late in the day for mobilising the resources needed to save a marriage. Couples don't activate divorce processes lightly and, when they do, there is usually a history of stuckness with their problems that gives them little hope that things might be different.¹

Analysis of information meetings as a marriage-saving intervention suggests that they have limited impact. This may be because the meeting does not come early enough to have a real chance of saving marriages. We would argue that, when the information meeting is linked to the divorce process by the requirement to attend a meeting before an application for divorce can be made it is unlikely that many marriages will be saved. The majority of those who attended an information meeting in the pilots had travelled a long way down the road to divorce before they went to a meeting, even if they were not involved in divorce proceedings and/or had not consulted with a solicitor. Moreover, many had already made considerable efforts to save their marriage. By the time most of them attended an information meeting, saving their marriage essentially meant turning them back from the brink of divorce – an extremely difficult task in most cases. If marriage support is to be effective in terms of saving marriages it is essential that people are enabled to access it earlier than when they or their spouse decide they want a divorce.

It is clear that many of those who went to marriage counselling after an information meeting did so not to save their marriage but to obtain help related to the emotional process of ending it. One thing they learned from going to the information meeting was that counselling is not necessarily only about saving marriages, and that individuals can go to counselling without a partner and receive personal support in coping with relationship change. As one attendee said:

In the meeting ... it wasn't just about marriage itself, it is about relationships ... It is like when people decide to give up smoking. (F)

Another attendee indicated that the information meeting had led her to consider counselling for herself, though she felt attending with her husband would have been far too difficult:

I have thought about it but I am not strong enough. There would have been no point in me going to counselling because I would have been too upset. Now I am stronger, maybe I will. Just to see if it would make me a better person in a relationship, because nobody is faultless even in a marriage ... To speak to someone about how to behave within a relationship, I think that would help. (F)

¹ Clulow, C., 'Supporting marriage in the theatre of divorce', in Lord Justice Thorpe and E. Clarke (eds), *No Fault or Flaw: The Future of the Family Law Act 1996*, Jordans (2000), p. 23.

Some people were clearly committed to getting divorced when they attended an information meeting, and no amount of persuasion would have changed their mind. On the other hand, others went to an information meeting in an attempt to prevent a divorce that their spouse was seeking. There were also considerable numbers of individuals, and couples, who did not know what they wanted. Although they recognised their marital relationship was problematic they simply did not know how to deal with these problems. They were at the first level of ignorance in our categorisation,² and simply did not know what to do next.

It will be difficult to establish a standard package of information that will suit the needs of all comers. It might be more appropriate to offer different types of meeting, with people being able to attend whichever one is the most appropriate to their circumstances. This would clearly involve finding out what people feel about divorce *before* they go to a meeting, and that raises the question as to whether the whole range of meetings needs to be provided by a single supplier. It is important to consider whether a point may be reached when it is more appropriate to refer people to another service, possibly allowing them to bypass an information meeting.

We would also suggest that encouraging people with marital problems to use counselling involves more than informing them about its availability. Some of the comments we received indicate that many people need persuading that it is worthwhile. One young person, for instance, felt counselling to be somewhat antiquated, and an approach unlikely to appeal to younger people, which may account for our finding that older people were more likely to take up an invitation to attend a meeting with a marriage counsellor:

It is a bit old-fashioned. Not many people of my generation would use it. My impression is that most people of our age group would not consider it. (F)

One attendee, who described herself as a trained counsellor, also had doubts as to whether counselling was appropriate at the point of relationship breakdown:

I am not sure how useful counselling is, and I say that as a trained counsellor. There is a place for dumping your pain on someone initially, but what you need is to look at what you can do. (F)

Moreover, many of the comments of the people we contacted raise concerns about access to counselling services. The information meeting may raise expectations about what counselling can achieve, but may lead to increased frustration if the services that people are encouraged to use are not readily available. Several people who wanted to use counselling commented about the difficulties they had encountered when trying to make an appointment:

There was a long waiting list before we got an appointment, and by then I felt it was too far-gone. It must have been six weeks before we actually got an appointment, and I said I didn't think it was worth it. If we had got one sooner we might have gone, though I am not sure whether it would have done any good. (M)

Some of those who did get an initial appointment quickly found that they had to wait much longer to get into counselling:

² See Ch. 4.

We contacted Relate and went for our first introductory appointment to see if they could do anything for us, and that was quite a useful appointment ... they said they would be able to help us, and put us on a waiting list. We said we would be available at any time but we didn't hear from them for ten weeks, by which time it was too late. Ten weeks is a long time when you have already hit rock bottom. My husband took the call, because it was him that wanted it initially, and I agreed to go with him. I was at work when he rang me and said they had offered an appointment, and 'Do you want to go?' I said 'What do you think?' and he said 'Well, it's a bit late now', and he was the one that really wanted it initially. So even he thought it was too late. (F)

Such comments suggest that the take-up of marriage counselling among people who attended an information meeting was not as high as it might have been if counselling had been more readily available. Nevertheless, some people were prepared to wait and did eventually go to counselling. Some of them made positive comments about the experience. What they actually got out of it clearly involves saved marriages, but the comments of satisfied customers illustrate how counselling is not restricted to saving marriages. For instance, some people are helped to make decisions, work through their problems and get on with their lives:

The particular lady that we saw was very good. She made it clear from the start that she was there to help, not necessarily to get us back together. She was there to get us through the muddle. It wasn't a sort of cure-all type of thing. She was just there to help, whatever the conclusion was, which took the pressure off my husband. I think he found it helpful as it made him not resent going. (F)

We went together for the first six weeks, then my husband decided not to keep going, but I am still going at the moment. It was really ... going to Relate that helped me to make my mind up that I wanted a divorce. (F)

Others gained the strength required to end the relationship:

I found out he was having an affair, and I had to wait two months before I was seen. When I went to Relate I felt suicidal. I felt very low. Relate, for me, was tremendous. It got so that I needed the weekly meeting, and I'd store everything up for it. I went to see if we could salvage something. Relate made me stronger. What it did for us as two people, it brought out so many things. I had never had the strength to make him leave, to kick him out. It made me so much more confident. I just learnt so much. I look at my husband in a different light now, and the counselling told me what kind of relationship we had got. He is so predictable. So now I play the game and I am one step ahead. I know how to deal with that person. (F)

This woman and her husband were attempting reconciliation at the time we interviewed her six months after she had gone to an information meeting. She saw a period of separation as an essential part of putting the relationship back together. The evidence suggests, however, that reconciliation is difficult to achieve under these circumstances. Those who were not able to effect this appreciated being helped to come to terms with the fact that their marriage had ended:

I thought I would pursue it [counselling] myself, not so much to save my marriage, but to get over the break up of it. Relate has helped me enormously. It makes you realise that you are not alone, and there is somebody there if you need them. Who will be there to support you and help you through? It also helps you to come to terms with things a lot easier. (F)

For some, counselling means attempting to understand why the relationship ended, and it can be reassuring to discover that other people have experienced similar difficulties:

It was absolutely fantastic ... discussed view of myself with the marriage counsellor, where my fault lies, and to understand what he was going through. It was a big help. Apparently my case is very common – ex-army, been in all his life. They get out and this is just standard. They dump their wives and go off. Relate said ‘If we had a pound for every time this happens ...?’. I now know twenty people it has happened to. It helped me to know I am not alone in this thing. (F)

Some see being able to understand why the marriage went wrong as a necessary means of ensuring they do not repeat mistakes within future relationships. Counselling in this sense represents a preparation for the future rather than a means of holding on to existing relationships:

It wasn't a very good experience. My expectations were somewhat different from what I got. I was expecting immediate help. The point at which we got Relate involved was probably too late to put things back together again, but I felt that it was still worth going for both our sakes, so if we do find new partners in the future we would know and understand a little bit of what went wrong. (M)

There is, then, clear evidence that counselling can provide benefits that go beyond marriage saving. These may not be consistent with the intentions of the Family Law Act in terms of saving marriage, but they may help to achieve the Act's objective of enabling parties whose marriage has ‘irretrievably broken down’ to bring it to an end with ‘minimum distress’. Moreover, marriage saving is often an extremely difficult exercise, as the following comments attest:

[We] went together the first time then went along, once each, separately. After that, I decided it was a complete waste of time. We were just paying to argue in front of someone. (F)

The idea is great, and what the couple put into it makes a big difference. Like in my case, when we went my husband actually said he loved me and he wanted the marriage to work, which turned out to be all lies. So obviously, my sessions were useless. (F)

My husband was only there to shut me up, and he tried to storm out of the session saying ‘Come on! This is rubbish!’ It was a waste of time because the counsellor said to him ‘You only get out of it what you put in’ and he wasn't putting anything in. (F)

We went to counselling for quite a while, but my husband used to totally ridicule me as we came out. I got to the stage where I didn't like going, and I didn't like saying anything, so I stopped. (F)

The Meeting with a Marriage Counsellor

The MWMC was introduced in order to provide an approach to marriage counselling that would be more closely integrated with the information meeting. It was thought that if couples were given a direct invitation they might be more inclined to seek marriage

support, and hence more likely to work on their marriage, and possibly save it. Almost four in ten of the 561 people who went to a MWMC indicated that they would have been unlikely to pursue the traditional route into counselling. It may be, however, that some people were more likely to go to a MWMC simply because it was free, whereas people who arranged an appointment themselves with a counselling agency would have been expected to pay something. Moreover, more than half of those who took up the offer of a MWMC were not intending to save their marriage.

In terms of consumer and provider satisfaction, the MWMC can be regarded as a success. For instance, 85 per cent of those whom we contacted after the meeting indicated that they were satisfied with the content of the meeting, and 76 per cent indicated that they were glad they had gone. Such positive views were shared by the counsellors who provided the meeting, as Chapter 16 shows. Moreover, it seems that the meeting may have an impact on the quality of spousal relationships; 45 per cent of those who we contacted after the meeting indicated that their relationship with their spouse had improved, while only 14 per cent said that their relationship had deteriorated. It seems to help in terms of conveying information about how people with marital difficulties might receive appropriate help, but in this respect it may be performing the same function as a more flexible, less rigid information meeting could. The MWMC also seems to help people who are uncertain how they feel about their marriage to make their minds up about whether to work on saving it or to seek a divorce, although our analysis shows that many continued in uncertainty. In our view it would be unreasonable to expect such a brief intervention to lead to dramatic change, but the MWMC has the potential to help people examine their options and decide what kinds of further help they need.

More research is required to establish whether the solution-focused approach of the MWMC provides a more effective alternative to conventional approaches to counselling. The key question, however, is whether the MWMC provides an effective bridge between the 'educational' function of the information meeting and the 'therapeutic' function that is dominant in marriage counselling. Although people who have been to a MWMC are likely to be better informed about what counselling can do for them, they do not appear to go into counselling with different objectives from those of the people who go to counselling directly after an information meeting.

Disentangling Concepts

On the evidence available, clearly doubts need to be harboured as to whether the information meeting comes at an appropriate point for there to be realistic expectations that significant numbers of people might save their marriages following implementation of Part II. We would suggest, however, that there is a need to disentangle concepts such as marriage support, marriage counselling and marriage saving. They are clearly not the same things. The trend towards broadening the remit of marriage counselling from marriage saving to personal problem solving³ has served to cloud the issue of why people who define themselves as having a marital problem should go to counselling. As Richard Collier⁴ has pointed out, the saving marriage agenda requires a focus on the 'we', although 'many spouses are concerned primarily, for a host of complex reasons, with a project of (re)development, (re)assessment and defence of the me'. Such concerns were

³ Lewis, J., Clark, D. and Morgan, D., *Whom God Hath Joined Together: The Work of Marriage Guidance*, Routledge (1992).

⁴ Collier, R., 'The dashing of a "liberal dream"? – the information meeting, the "new family" and the limits of law', *Child and Family Law Quarterly*, vol. 11, no. 3 (1999), pp. 257–70.

evident among people who attended a MWMC. Less than half went to the meeting hoping to save their marriage, while 15 per cent wanted help in ending their marriage and almost a third wanted to be helped to come to terms with the fact that their marriage was over. Such findings are consistent with other studies of marriage counselling. McCarthy, Walker and Kain, for instance, found that almost three-quarters of people who attended a course of counselling at Relate were helped to have a better understanding of themselves or their spouse while fewer than four in ten were helped to save their marriage.⁵

Marriage counselling is marketed and used as a means of ending relationships as well as of saving them. The Lord Chancellor has, however, made it clear that the function of marriage counselling, so far as the FLA is concerned, is specifically related to marriage saving. In supporting an opposition amendment to the Family Law Bill he said:

I welcome in particular Amendment No. 41 which will give a high profile to marriage counselling as a distinct process designed to save marriage. I have no doubt that this group of amendments significantly improves the Bill. It is also particularly welcome that a purpose of the information meeting is to encourage the party or parties who attend to take up the opportunity of marriage counselling with a view to saving the marriage ... I believe that this group of Commons' amendments accords a rightful high priority to marriage counselling as a means of saving marriages, and that it provides a balanced scheme for the provision of such counselling.⁶

One might question, however, whether the notion that some marriages are saveable while others are not serves a useful purpose for the marriage support agencies, who do not see marriage saving as their primary function. The history of marriage support has been characterised by a shift from marriage saving to interpersonal counselling and therapy.⁷ According to Rogers,⁸ the objective has become one of helping people to cope with the difficulties associated with withdrawing from problematic and painful marriages and relationships rather than to mediate and conciliate to keep people together. There is, therefore, a sense in which the law, with its emphasis on saving marriages, is currently out of step with the philosophy of marriage support agencies. This serves to highlight a contradiction between 'policing' and 'treating', or a mismatch between 'intent' and 'agency'.

The term 'marriage saving' is in itself problematic. Is a marriage saved simply because couples decide not to divorce and/or continue living in the same household, or is the quality of the relationship important? One attendee, who had attended an information meeting which focused on marriage, described in the follow-up interview how she was still living with an 'abusive husband' whom she 'could not get out of the house'. In terms of marital status she was still with her husband, but clearly not in circumstances that would be regarded as representing marriage positively. Clearly one would question whether her marriage could be described as saved simply because of continued co-residency. Similar doubts may be raised about the marriages of the people who made the following comments, although they all reported themselves as being still married and co-resident when they completed our follow-up questionnaires:

⁵ McCarthy, P., Walker, J. and Kain, J., *Telling It As It Is: The Client Experience of Relate Counselling*, Newcastle Centre for Family Studies (1998).

⁶ Lord Irvine of Lairg, *Hansard* (27 June 1996) at col. 1061.

⁷ Lewis, Clark and Morgan (1992), *op. cit.*

⁸ Rogers, J.J., *Family Life and Social Control*, Macmillan (1996).

Although we are still married, we live separate lives. He comes and goes whenever he likes, and always stays elsewhere at weekends. (F)

The reality of life after divorce for women who have put family before career is a dramatic change in lifestyle. This can be traumatic, as you feel you must protect your children's lifestyle, and this points to you staying in a relationship that you are unhappy with to ensure financial security. Middle-aged women do not always have lucrative careers that they can regenerate, or their own personal pension scheme. I found there to be little help or advice in this area. These factors influence decisions I make about my marriage. (F)

Although my husband and I still live in the same house, we have separate bedrooms and live our own lives. We stay together, as far as I am concerned, only because of the children, and the effect divorce will have on them at this stage of their education – GCSEs and A levels. (F)

I stayed away from home for approximately five months, then went back. I still wonder now whether I went back for the right reasons, as my marriage still has some problems, and I am still not sure of where my life is at. (F)

My husband and I are still living together as he insists that I leave the family home not him. I will not leave as my children live in a perfect safe environment that I could not replicate for them elsewhere. (F)

Moreover, reconciliation may offer only a temporary respite on the road to divorce. The remarks of a man some weeks after he attended a Model C individual meeting demonstrate the precarious nature of 'saved' marriages:

[The information meeting was] an active step towards deciding whether we had a marriage that was rescuable. A bit of a sobering thought, I suppose. We came away talking a lot more and attempted a reconciliation for two weeks, but are now separated, and I doubt if we will get back together again.

Improving Relationships

There may be a case for changing the objective of information meetings from marriage saving to one that focuses on improving the quality of the spousal relationship, irrespective of whether the parties continue to live together. This seems to be a more achievable objective, and would seem also to be a more appropriate agenda given the current practice orientation of the marriage support agencies. Improving the quality of relationships is particularly important with respect to parents who are contemplating divorce. One of the objectives of the FLA is to encourage people who divorce when they have dependent children to continue to be responsible parents. Responsible parenting demands a considerable degree of parental co-operation. The significance of the parenting relationship was raised by a respondent to our postal survey, who told us:

I have attended [counselling] for over six months, which was of the greatest help, and has given me strength in times of despair and upset. My marriage has ended in divorce which is not of my wanting or decision, but now the most important aspect of this is my children. (M)

If counselling can assist people in the process of ending a marriage and coming to terms with divorce – and the evidence presented here suggests that it can – it clearly can help them to get on with their lives and focus on the important issues, such as parenting. We

note, however, that although such help is available to the adults concerned, some of those who have taken advantage of it have expressed concerns about how their children will be similarly helped:

In connection with the marriage counselling, we both felt very strongly that we wanted our teenage children to attend at least one session with the counsellor – to help them to talk about the problems in our family, and to help them to discuss their feelings and ours. But we were told this was not possible and they were left in a silent trauma. (F)

Counselling was very helpful, but our children were going through as difficult a period as we were. It seemed there was no agency, or form of assistance, available to help them to cope with the emotional trauma. (M)

The evidence suggests that counselling fulfils its broad remit of supporting adults who have relationship problems fairly well. The majority of those who complete a course of counselling seem to be helped to come to terms with their circumstances, whether they remain married or they separate. Moreover, most indicate that they increase their self-understanding and gain a better understanding of their relationship. However, only longer-term follow-up will enable us to say whether increased understanding tends to lead to better post-divorce relationships between couples or to more co-operative parenting.

Although information meetings fall some way short of the ‘gold star’⁹ outcome of reconciliation, there is clearly a case for promoting objectives that focus on broader issues beyond marriage saving. Some of these are consistent with the aims of the FLA to bring marriages to an end with ‘minimum distress’ and to promote ‘as good a continuing relationship between the parties and any children affected as is possible’. If the emphasis is to be on saving marriages, however, one might suggest that the nature of marriage counselling provision that follows on from an information meeting needs to be more narrowly focused on marriage saving than it is at present. For instance, it would be perfectly feasible to restrict the MWMC to people who indicate that they want to save their marriage, or even to parties who are prepared to attend together. This would not mean that those who wanted to engage with personal counselling would not be free to do so through the normal channels. It may suggest that different approaches to counselling will be required. One cannot be sure that inter-personal counselling is the most effective way of supporting marriage.

Although the current broad focus of marriage counselling makes it difficult to assess its effectiveness purely as a mode of marriage support, the evidence suggests that it is more successful in achieving other objectives such as enhancing understanding and enabling people to cope with the psychological strains associated with relationship breakdown, rather than actually saving marriage. Although there appears to be no evidence that any one therapeutic approach is superior to others,¹⁰ there is a need for research that compares inter-personal counselling with other modes of marriage support. For instance, research¹¹ has shown that one of the most important factors in couples staying together is the ability to communicate. It would be helpful in this respect to explore the answers to several key questions. Might it be more effective to provide training in communication skills for

⁹ Clulow (2000), *op. cit.*

¹⁰ Shadish, W.R., Ragsdale, K., Glaser, R.R. and Montgomery, L.M., ‘The efficacy and effectiveness of marital and family therapy: a perspective from meta-analysis’, *Journal of Marital and Family Therapy*, vol. 21, no. 4 (1995), pp. 345–60.

¹¹ Markman, H.J., Stanley, S.M. and Blumberg, S.L., *Fighting for your Marriage: Positive Steps for a Loving and Lasting Relationship*, Jossey-Bass (1994).

people whose marriages encounter difficulties, rather than directing them to counselling? Are cognitive-behavioural approaches generally more effective? Should the mode of treatment relate more to the presenting problems? In this connection, Keily has criticised the therapeutic professions for treating people with relationship problems as a homogeneous group, and for neglecting the impact of structural factors on individual marital problems.¹² Similarly, Brannen and Collard have suggested that provision of more effective help would depend on the development of 'greater understanding of the structural origins of marital difficulties'.¹³ However, despite increased levels of divorce in the two decades following Brannen and Collard's study, we still know little about the factors that cause marital breakdown. In a recent study, Kiernan and Mueller were able to identify only 'a few important and direct factors associated with partnership dissolution'. They commented:

Much of what we know comes from secondary analysis of more general-purpose surveys rather than surveys designed to examine family dynamics, relationships, and processes, and if we are to enhance our understanding of the process of divorce this situation needs to be rectified.¹⁴

The Timing of Interventions

In this research, we have attempted to establish whether the MWMC serves a useful function as a kind of halfway house between an information meeting and counselling. Findings suggest that that it could, in fact, replace an information meeting for some people, especially those who have not made up their mind about whether to divorce. Moreover, the meeting provides information about counselling and, through its solution-focused approach, may offer the kind of 'management' approach to client-centred consultation that Clulow¹⁵ suggests might be more effective than the therapeutic approach in meeting the needs of people with marital problems. There is a risk, however, that the MWMC, as it was practised during the pilots, may simply introduce an additional hurdle into the divorce process. It is questionable whether the meeting with a marriage counsellor is sufficiently flexible, and whether it provides those who desire counselling with sufficient information for them to be able to choose between agencies.

People who decide to pursue counselling after the MWMC are clearly still faced with waiting lists, and one might ask whether they would have got to see a counsellor earlier if they had made direct contact with a counselling agency. It seems to us that there is little point to the MWMC unless it offers options, along with a fast track into counselling or whatever follow-up services are required. This probably means that issues of rationing need to be addressed. For instance, a MWMC could be restricted to those couples who are anxious to save their marriage, rather than being available to those who are seeking help in the process of ending the marriage.

Access to counselling services, moreover, is far from uniform. Counselling, of whatever description, is more likely to be an option if services are available close to where potential

¹² Keily, G.M., 'Social change and marital problems: implications for marriage counselling', *British Journal of Guidance and Counselling*, vol. 12, no. 1 (1984), pp. 92–9.

¹³ Brannen, J. and Collard, J., *Marriages in Trouble: The Process of Seeking Help*, Tavistock (1982), p. 243.

¹⁴ Kiernan, K. and Mueller, G., 'Who divorces?', in S. McRae (ed.), *Changing Britain: Families and Households in the 1990s*, Oxford University Press (1999), p. 403.

¹⁵ Clulow, C., 'Preventing marriage breakdown: towards a new paradigm', *Sexual and Marital Therapy*, vol. 11 (1996), pp. 343–5.

clients live. This appears to be an increasing problem as the demand for counselling declines and centres are forced into closure or merger.¹⁶ One attendee, for instance, indicated that she was unable to take up the option of counselling as ‘there is now no Relate in Sheffield’.¹⁷

The timing of counselling, also, is critical. Most of the people who attended an information meeting were well down the road to divorce, and one would not expect this to change if the meeting were linked to the process of divorce in the way prescribed by the FLA, whereby the meeting may be thought of as the first step to divorce.

When the Family Law Bill was drafted, the concerns were to ensure that marriage support was available at the point of relationship breakdown. In supporting an amendment to Section 22 of the Act (grant funding for marriage support services) the (then) Lord Chancellor stated:

I believe it to be extremely important that, where money is available, it should be applied to provide for services when those services are first needed, otherwise it may well be that matters have gone too far for any real help to be effective. The amendment makes clear that proper emphasis will be given to services aimed at preventing relationship breakdown before a couple reach the point where they are, sadly, considering divorce.¹⁸

The current Lord Chancellor then described the intent of the amendment as being

to ensure that marriage counselling is available at the time when it is ‘first needed’, and – it is to be hoped – before the marriage has broken down.¹⁹

The evidence from the pilots, however, suggests that the information meeting is unlikely to ensure that marriage support is sought at the time it is most needed. More than half of those who attended an information meeting were already living apart from their spouse, and more than a third had already consulted a solicitor about divorce. Of those who attended the Model C meeting, which focused on marriage and was available only to people not yet involved in divorce proceedings, 43 per cent were convinced that they wanted a divorce at the time they attended. Information that is designed to encourage couples to save their marriage needs to be available earlier than the point at which divorce is a serious option. This suggests using other means to disseminate information about the impact of marriage breakdown and the services available to support people whose marriages are in trouble. We would also suggest that the information provided ought to empower and provide attendees with the knowledge that enables them to take control over the destiny of their relationship with their spouse. In the pilot information meetings there was a good deal of emphasis on the variety of services available, and attendees were frequently left with the impression that control is simply about exercising choice between competing ‘technicians of human relationships’.²⁰ One might ask whether real empowerment would result from enabling people to solve their own problems with, so far as is practicable, no professional intervention. It seems that some of those who went to an information meeting for advice on divorce got short shrift from presenters, who tended to advise them to see a solicitor, although others felt that the information they obtained, especially in the information pack, did help them to manage their own divorce.

¹⁶ Straw, E., ‘Mergers are better than closure’, *Relate News* (July 1999).

¹⁷ Relate services in Sheffield were re-established in October 1999.

¹⁸ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 27 June 1996 at col. 1061.

¹⁹ Lord Irvine of Lairg, Official Report (H.L.), 27 June 1996 at col. 1061.

²⁰ Lasch, C., *Haven in a Heartless World*, Basic Books (1977).

We conclude from the evaluation that the reason that attendance at an information meeting in the pilots has not led to large numbers of marriages being ‘saved’ might be because information did not come sufficiently early in the separation process. We are, of course, aware that the marital agencies have long grappled with the problem of how to get people to seek help early. Nevertheless, if the information meeting is seen as the first step in the process of getting a divorce it seems likely that it will do little to effect reconciliation. As Paul Boateng²¹ acknowledged:

It is an illusion to suppose that at the information meeting a magic wand can be waved that will direct people in the ‘right direction’ of mediators, lawyers and people concerned with reconciliation, because it will not happen.

Although there was support in the House for information meetings as a means of preserving the dignity of the institution of marriage, there was also scepticism about how many marriages would be saved. As the Parliamentary Secretary²² put it,

the notion that we can build into the Bill a mechanism that will transform parties seeking divorce into parties seeking reconciliation is unrealistic. We must therefore find ways of identifying the limited number of cases in which that may be a realistic prospect and help them to save their marriage.

During debates about the Family Law Bill, it seems that MPs considered even 5 per cent fewer divorces to be worthwhile in terms of the benefits that would accrue to families, to society and to the public purse. Using the pilots as a basis for estimating what might happen in an implemented system, we have calculated the number of those who might take up the offer of a MWMC and who might be able to save their marriage.

In the case of the models of information meeting which concentrated on marriage support (Model C individual meeting and Model F CD-ROM), which were offered only to attendees who were not involved in divorce proceedings, a best-case scenario suggests that some 16.5 per cent of information meeting attendees might go on to a MWMC. It must be remembered that the MWMC was free for attendees in the pilots. If those who were not eligible for public funding had to pay the take-up rate might well drop. Nevertheless, if the take-up rate remained the same as in the Model C and F pilots some 33,000 MWMCs might be held, catering for almost 42,000 people (since 27 % could be predicted to attend with their spouse) on the basis of 200,000 people accessing an information meeting each year. If the numbers going to the information meeting increased, so would take-up of the MWMC (i.e. if there were 400,000 information meeting attendees, there could be a demand for 66,000 MWMCs per year).

In the pilots, just under half of those going to a MWMC did so with the hope of saving their marriage. Some 15,000 people (N = 42,000) would, after attending a MWMC, be hopeful of saving their marriage and a further 5,000 might be unsure of the future. About 17,600 people might go on to seek counselling. On the basis of the findings from our time-slice survey, just under 11,000 people could be predicted to be married and have no intention of divorcing some 6–18 months after attending a MWMC. This is about 24 per cent of those taking up the offer of a MWMC.

²¹ Mr Paul Boateng MP, Official Report (H.C.), 25 March 1996 at col. 754.

²² Mr Jonathan Evans, Official Report (H.C. Standing Committee E), 7 May 1996 at col. 150.

These approximations must be read with caution, however. Obviously they cannot be definitive predictions. There is little doubt that some people who go to information meetings will be helped to stay in their marriage, and evidence from our evaluation would suggest that 5 per cent is not an unrealistic estimate, but we cannot assume that couples who turn back will be able to sustain the marriage over time, nor that they will be fully reconciled and content with the situation. As previous chapters have argued, staying together does not necessarily put an end to feelings of uncertainty. The comments of those people who claim to have been reconciled reveal the complexities surrounding the notion of saving marriage:

I stayed away from home for approximately 5 months, then went back. But I still wonder now whether I went back for the right reasons as my marriage still has some problems and I'm not sure of where my life's at sometimes. (F)

My husband and I are still married and still trying to save our marriage. [We are] now living together as a family ... I am still not certain whether we will remain together; it is mainly for my daughter's sake, as I feel I am an idiot to put up with his behaviour, but I am very old-fashioned and believe in marriage. (F)

It may be that emphasising the potential impact of divorce on children encourages some parents to keep the marriage going, but this may well be at a price to themselves. Others may not go ahead with divorce following an information meeting or a MWMC, but may decide to stay in the marriage until children have left home. They may, of course, simply separate, indicating that the marriage has not been saved, although divorce may have been prevented. As we indicate throughout this report, however, facilitating access to information and marriage support services early in the process of relationship breakdown is a major policy challenge.

We noted in our preliminary evaluation reports that the extent to which attendees made sense of and used the information provided depended on its perceived degree of relevance. We have concluded that one standard package is unlikely to meet the needs of all comers and that, if Part II is implemented, it will be necessary to tailor the different kinds of information to attendees' individual circumstances. Unless people can be encouraged to access information about marriage support services earlier, when marriages first get into difficulty, the focus on saving marriages will be relevant to relatively few. There is evidence that the information meeting tended to tip those who were uncertain about their marriage into divorce mode. This may, of course, be a positive outcome for those who have grappled with uncertainty and indecision and need the courage to move forward. Stopping to think may well be the necessary prerequisite to taking the next decisive steps, whatever they may be.²³ We would suggest that the key policy imperative is one of ensuring that people can take steps and that relevant services are available to help them.

²³ McCarthy, P., Walker, J. and Hooper, D., 'Saving marriage: a role for divorce law?', *Family Law*, (June 2000).

4

Promoting Conciliatory Divorce

4. Promoting Conciliatory Divorce

Divorce, however well-managed, is almost always painful and disturbing for the couple involved and for any children of the marriage. Even if the decision to divorce has been taken mutually, during the trials and tribulations of marriage breakdown, which is frequently a long- drawn-out process, communication can become strained, feelings of hurt and blame can escalate and conflict can flourish. These are precisely the kinds of conditions which undermine parenting abilities and cause the greatest difficulties for children. Although families spend much of their time resolving disputes which arise in the normal course of daily living, and most couples have some competencies in the practice of dispute resolution, when marriages are breaking down conflict resolution skills are in high demand. Some couples manage to maintain a conciliatory, problem-solving approach, but others find it difficult to do so, and some of these end up in protracted, nasty battles primarily about finances, property and arrangements for their children. These battles can leave many scars on everyone concerned, and can cost a good deal of money.

It is now widely recognised that divorce processes should attempt to minimise the bitterness and hostility between the parties, reduce the trauma for children, and keep to the minimum the financial costs to the parties and to the public purse. Instead of encouraging a process which is both adversarial and dominated by lawyers, emphasis is placed on providing alternative dispute resolution mechanisms such as mediation which promote private ordering and consensual decision-making. What has emerged in many jurisdictions is a changing perspective on the role of lawyers in divorce, away from adversarial partisanship, in favour of providing legal advice in support of more conciliatory approaches to dispute resolution. The European Council of Ministers endorsed a Recommendation in 1998 to promote conciliatory approaches in divorce legislation throughout the States of the Council of Europe.

The Family Law Act has embraced family mediation as a helpful route through the process of divorce, and the information meeting pilots provided an opportunity to deliver information about mediation in a variety of formats. The pilots were not set up specifically to divert people into mediation (and thereby, away from solicitors), but the Government clearly had expectations that the delivery of information would encourage greater numbers of people to use mediation, so that they would use solicitors less. These outcomes have not been realised to the extent that was anticipated and this has clearly caused concern. It is our belief, based on research evidence here and elsewhere, that expectations have been unrealistic. In order to assist deliberations about the extent to which mediation may play a role in the future and about its relationship *vis-à-vis* legal services, we have looked specifically at the steps and decisions people have taken since attending an information meeting.

In Chapters 18–21 we review the development of mediation within the context of changes in the divorce process, consider the use of mediation services following provision of information about them to attendees, examine the role of solicitors in the divorce process, and delineate the many and complex factors which influence how people choose a route through the divorce process.

Chapter 18

The Development of Family Mediation

Janet Walker

It is difficult to resist the conclusion that the way the Law Commission's original proposals have been developed reveals a desire to use the device of providing 'objective' information as a means of influencing behaviour.¹

The relative merits of family mediation, typically contrasted with 'traditional' approaches (involving solicitors and the courts) to the resolution of matrimonial disputes, have been variously exalted, embraced and challenged since family mediation was first developed in England and Wales in the mid-1970s. Over the years, we have witnessed high levels of enthusiasm from the proponents of mediation, and equally high levels of scepticism from those who have been less convinced of its merits and its ability to transform the current approach to the management of divorce. These discordant positions have sharpened considerably since mediation was placed at the heart of the previous government's strategy for reforming the divorce process. The FLA marks a watershed in the development of family mediation in England and Wales. Not only does it envisage a central role for family mediation in the resolution of matrimonial disputes, but it provides a statutory basis for public funding for the provision of family mediation.² Family mediation may be enshrined in statute, however, but it continues to struggle for universal acceptance and professional respect.

It is widely acknowledged that marriage breakdown is rarely easy, and almost always painful and distressing. No matter how well-managed it is, people experience a range of emotions many of which are negative. In some cases, these negative feelings of bitterness, hostility, anger and resentment can last for years, and impact badly on all those involved. Yet the stability of post-divorce arrangements and the maintenance of good relationships between parents and children are key factors in the longer-term adjustment of children whose parents divorce. Promoting continuity in parenting relationships is an important policy objective: it follows, therefore, that conflict during and beyond divorce should be minimised wherever possible. It is family mediation which has been seen to hold the key to reducing conflict and promoting civilised divorce.

The special characteristics of family disputes were cogently detailed at the time when mediation services were blossoming.³ These need to be taken into account when assessing the suitability of any form of dispute resolution. First, family disputes usually involve people (notably parents) who have continuing and interdependent relationships. Secondly, family disputes arise, and have to be settled in the context of a range of distressing and fluctuating emotions and feelings. And thirdly, the disputes which result from marriage breakdown frequently impact on third parties, notably children, who may not be direct

¹ Eekelaar, J., 'Family law: keeping us "on message"', *Child and Family Law Quarterly*, vol. 11, no. 4 (1999).

² The Rt Hon. Lord Justice Potter (Chairman), *Mediating Family Disputes: Education and Conduct Standards for Mediators*, The Lord Chancellor's Advisory Committee on Legal Education and Conduct (1999).

³ Sander, F.E.A., 'Towards a functional analysis of family process', in J. Eekelaar and S.N. Katz (eds), *The Resolution of Family Conflict: Comparative Legal Perspectives*, Butterworths (1994).

participants in any dispute resolution process, but whose interests need to be protected. In Sander's view, these characteristics render a simple modification of other models of mediation, such as those used in industrial or environmental disputes, problematic. As Fuller⁴ observed, interventions in matrimonial matters should be person- rather than act-oriented, suggesting, perhaps, that the more informal mechanisms for resolving disputes, such as mediation, are better suited than the more formal procedures (through lawyers and courts) to addressing the emotional issues which surround family disputes. The advocates of family mediation have argued that the law is a blunt instrument with which to resolve family disputes, whereas family mediation offers a more appropriate level of support which focuses on problem-solving and private ordering.

Family mediation has been defined as a process in which an impartial third party, the mediator, assists a couple considering separation or divorce to make arrangements, to communicate better, to reduce conflict, and to reach their own agreed joint decisions about children, finance and property.⁵ Put simply, 'mediation helps separating and divorcing couples who are in dispute to make their own decisions for the future'.⁶ Specifically, unlike lawyers, the mediator is not identified with any of the competing interests and, unlike courts, has no power to impose a settlement on the participants. Mediation, then, offers an alternative to negotiation at arm's length by solicitors, and to adjudication through the courts. It is not and has never been claimed to be a substitute for legal advice. Its attractions lie in the focus on reducing conflict and improving communication as important factors in reaching settlements. It can be viewed as a relatively new social invention, but one deriving from previous practice in other fields and cultures. It has been seen as a more sensible way of settling family disputes and as a civilised and civilising procedure, a process which returns to, or keeps control in, the couple. As such it cannot be fully appreciated without consideration of such concepts as friendship, trust and the pursuit of mutual interests,⁷ as has been obvious in the accounts of information meeting attendees.

The Origins of Family Mediation

In 1974, shortly after the implementation of the Divorce Reform Act 1969, the Finer Committee on One Parent Families recommended that mediation, referred to then as 'conciliation', should be available to assist families with the consequences of divorce in a more civilised way than that which results from an adversarial process.⁸ The Committee envisaged a new approach to matrimonial proceedings within a unified family court structure. Successive governments did not take up Finer's recommendations, and so it was left to a small group of divorce-associated professionals (counsellors, family court welfare officers and lawyers) to spearhead the development of mediation in the voluntary sector and through the family court welfare arm of the probation service. A deeply-embedded child-saving philosophy encouraged family court welfare officers and certain children-focused voluntary agencies such as NCH–Action For Children to develop skills in family mediation and embrace it as part of their welfare services. However, without mainstream central government funding, or any coherent national strategy, family

⁴ Fuller, L., 'Mediation – its frame and functions', *Southern California Law Review*, vol. 44 (1997), pp. 301–28.

⁵ Walker, J., McCarthy, P. and Timms, N., *The Making and Remaking of Co-operative Relationships*, Relate Centre for Family Studies (1994).

⁶ Taken from the leaflet entitled 'Mediation' which was included in the information pack for the pilots.

⁷ Walker, McCarthy and Timms (1994), *op. cit.*

⁸ Finer, Sir M., *Report to the Committee of One-parent Families*, Cmnd 5629, HMSO (1974).

mediation services developed in a piecemeal, fragmented fashion. Mediation in the voluntary sector has been characterised by a recurring struggle for financial resources, services surviving on a year-by-year basis with little real prospect for longer-term business and strategic planning. In the statutory sector, the role of mediation within the probation service has often been confused, not least because of the statutory duties of welfare officers to prepare reports for the court. Mediation in the private sector has largely been colonised by lawyers (often working in partnership with social welfare professionals). Only in the voluntary sector have discrete mediation *services* been established, while family court welfare officers and solicitors have embraced mediation as part of their existing practice. As a consequence of this somewhat *ad hoc* development across a wide variety of previously existing agencies, family mediation has pursued a somewhat hazardous course with ambiguous and confused terminology, at least in the early years, differing ideologies, a multiplicity of practices, and a distinct tension between legal principles and the theoretical perspectives of social welfare.⁹ Separate bodies such as National Family Mediation (known initially as the National Family Conciliation Council, and then as the National Association of Family Mediation and Conciliation Services) and the Family Mediators' Association were established, and provided a professional reference point for the voluntary and private sectors respectively. Mediators in the voluntary sector have been affiliated to discrete mediation *services* with their own administrative arrangements. Mediators in the private sector have not come together in the same way, although they have been affiliated to a professional body. Family court welfare officers undertaking mediation (or adopting a mediatory approach) practise under the auspices of the probation service. It is only in the last ten years that some of these groups have come together to promote greater consistency in policy and practice (through, for example, the establishment of the UK College of Family Mediators), but tensions remain between the various professional groups involved in providing mediation.

The pioneers of family mediation from the voluntary and statutory sectors traditionally worked with a focus on children in their parent professions, a focus which was transferred into mediation practice. In this respect, mediators struck an implicit deal with solicitors to mediate only children's issues, principally residence (custody) and contact (access) disputes, leaving lawyers to deal with disputes involving finance and property, thus offering little in the way of a direct challenge to the role of the legal profession with its long-established monopoly on managing the divorce process. The support of the legal profession was crucial if mediation was to get off the ground as an alternative approach to dispute resolution in the early years. This support came with conditions attached.

Research indicated, however, that the rather restricted focus on children's issues was not necessarily in the best interests of clients, many of whom could not disentangle disputes about money and property from disputes about children.¹⁰ Those who could not agree about arrangements for children were likely to be in dispute about other matters also. Slowly but surely, over the years, mediation practice has embraced all the issues, although, as we know from this and previous research,¹¹ solicitors have continued to question the use of mediation in financial matters, particularly when the mediator is not legally qualified. The initial development of comprehensive or all-issues mediation took an experimental form, with a variety of models and approaches (reminiscent of the

⁹ See Walker, J., 'Divorce mediation – an overview from Great Britain' and Walker, J., 'Divorce mediation – is it a better way?', both in J. McCrory (ed.), *The Role of Mediation in Divorce Proceedings: a Comparative Perspective*, Vermont Law School (1987).

¹⁰ Conciliation Project Unit, *Report to the Lord Chancellor on the Cost and Effectiveness of Conciliation in England and Wales*, Lord Chancellor's Department (1989).

¹¹ See Ch. 32.

piloting of information meetings). Evaluation of these experiments suggested that mediation seemed to be ‘a permeable form of intervention, subject to the “pushes and pulls” of interests: those of users, of providers and the state’.¹² For example, protracted discussions took place between the Law Society and mediation services (notably, National Family Mediation) on the emerging distinction between legal information and legal advice, an issue which has also permeated consideration of information meetings as they are conceptualised in the Family Law Act. Research suggests¹³ that mediation, however comprehensive in its remit, does not necessarily address the perceived need of mediation clients for advice and guidance, for reflecting on the ending of the marriage relationship, and for attributing blame. The Green Paper seemed to suggest that mediation did or should have such a remit, promulgating a dangerous confusion and potentially unrealistic expectations about the purpose of family mediation.

Dispute Resolution or Assisted Decision Making?

Increasingly, mediation came to be recognised as ‘a means of dispute resolution independent of the legal process and clearly distinguished from social work, counselling and family therapy’.¹⁴ This being the case, the entry requirements have tended to be that couples must be in dispute about some aspect of future arrangements relating to children, finance or property. Yet as mediation has gained a higher policy profile and become enshrined in the FLA, it is not always clear that mediation is being promoted as alternative dispute resolution. At times, it seems to be promoted as a service which can best be described as ‘assisted decision-making’. As was noted in previous research, as it became possible to mediate all issues,

so couples approaching mediation were not always ‘in dispute’, but were seeking to sort things out amicably and co-operatively – to receive skilled help in making decisions about how to manage separate and overlapping futures, to achieve the life that each can best live.¹⁵

Mediation sometimes looks more like an alternative way of talking through issues which arise on the ending of a marriage. To some extent, this subtle shift in the role of mediation from alternative dispute resolution to assisted decision-making was reflected in many of the parliamentary debates during the passage of the Family Law Bill. When he presented the Bill to the House of Lords, the (former) Lord Chancellor said that research had shown the importance of the need to reduce conflict between divorcing parents in order to reduce the damage caused to children. He also pointed to the need to help parties try to communicate better during the divorce process and to encourage them to try to manage conflict so that they would make arrangements for the future which would be better for their children, and on which they could both agree:

In these important respects, namely, the reduction of conflict and improvement of communication, mediation has been shown to be most effective ... I believe that mediation has enormous potential in appropriate cases ...¹⁶

¹² Walker, McCarthy and Timms (1994), *op. cit.*, p. 160.

¹³ *ibid.*, p. 164.

¹⁴ Roberts, M., ‘The essentials of conciliation’, in T. Fisher (ed.), *Family Conciliation within the UK: Policy and Practice*, Jordans (1990).

¹⁵ Walker, McCarthy and Timms (1994), *op. cit.*, p. 164.

¹⁶ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 30 November 1995 at col. 704.

The Lord Chancellor went on to suggest that although the Bill provided for the Legal Aid Act to be amended to allow parties who are eligible to apply for state funding for the use of mediation, this did not deny them (if eligible) access to state-funded legal advice in support of mediation. The primary focus was not on dispute resolution as such, but on the role of mediation in helping parties to communicate better, to reduce conflict between themselves and to make arrangements for the future. This effectively equates with a process of assisted decision-making. In his response to the Lord Chancellor, Lord Irvine of Lairg (the present Lord Chancellor) expressed support for mediation, but raised concerns about the availability of legal advice, commenting that

fair arrangements necessarily depend on skilled legal advice and representation ... Your Lordships are being asked to legislate for a two-tier system – proper legal advice and representation for those who can pay and the lowly prospect of the mediation room for the rest.¹⁷

Lord Irvine went on to express the view that whenever a serious issue in respect of assets arose in mediation, mediation should cease and legal aid for representation should be made available for court proceedings. Earl Russell was also keen to seek reassurances that mediation would be voluntary, and that parties could leave mediation if they did not like it.¹⁸ Similar concerns were expressed when the Family Law Bill was given its Second Reading in the House of Commons, with references made to the risk that couples who go to mediation may be disfranchised, and that mediated settlements are not necessarily just and fair:

In appropriate cases, there is a role for mediation, but it is folly to believe that it is primarily concerned with justice and equity, because it is not. Mediation is about arriving at a settlement with a minimum of conflict, whereas conflict is sometimes necessary to achieve justice and equity ... During our deliberations ... we must ensure that we do not propose a two-tier system which says, in effect, 'If you can afford a lawyer, you will receive justice and equity; if you cannot afford a lawyer, it will be the mediators for you.' That cannot be right ...¹⁹

Having expressed this concern Mr Boateng went on to describe the aim of mediation as being 'to achieve the speediest possible resolution of outstanding conflicts about the disposal of property, the children's future and parental responsibility'.²⁰ This is the nearest approximation during the parliamentary debates to a definition of mediation as a dispute resolution mechanism.

Mediation as an Option

What was evident throughout the debates, however, was widespread agreement that mediation must be a voluntary, optional service; that there should be no inducement for parties to enter into mediation if either or both choose not to; that they should not be disadvantaged if they choose not to mediate; and that legal advice should be available throughout. As the MP for Sheffield, Healey put it:

¹⁷ Lord Irvine of Lairg, Official Report (H.L.), 30 November 1995 at col. 708.

¹⁸ Earl Russell, Official Report (H.L.), 30 November 1995 at col. 714.

¹⁹ Mr Paul Boateng MP (Brent, South), Official Report (H.C.), 25 March 1996 at col. 752.

²⁰ *ibid.*

I should stress that mediation is the facilitating of communication. It is not a forum for giving advice. Negotiations cannot take place without advice ... It would be unfair to those on legal aid if they were disfranchised for seeking a second opinion after or during mediation ...²¹

Mediation was seen as a substitute for litigation, but not as a substitute for legal advice. But it was also seen as being something more, namely a process the primary functions of which were to improve communication, reduce conflict and promote settlements. There were no indications, however, that members of either House had inflated expectations of what mediation might achieve, and its incorporation into statute was repeatedly marked with caution. As Lord Archer of Sandwell stated:

I hope that there is not a danger that, like so many other admirable remedies mediation may become the automatic answer to every problem, even after the proceedings have begun. There is a danger that one has a Pavlovian reaction whenever confronted with the question of what to do next ...

There has been some anxiety expressed in the country that the Government are anxious to make mediation a blanket remedy to the exclusion of such other remedies as legal advice.²²

Lord Archer went on to list a number of situations which would indicate that mediation was unsuitable:

- the parties are not agreed on the facts
- there may be irreversible imbalances of power
- one party may suffer from mental or other impairment
- one or the parties may feel coerced
- there may be criminal child protection issues
- one party may lack commitment to mediate

Neither House was keen to see a presumption in favour of mediation encapsulated in the FLA, nor to promote any diminution in the importance of parties seeking legal advice. While the notion of promoting conciliatory divorce was not questioned, the extent to which mediation should be promoted as the preferred process was met by continued concern. There was general agreement that people should have a choice of processes, and that they should be able to have recourse to law rather than to mediation if they wished. It was felt that mediation should be chosen only when it was the most appropriate course and not because it might be the cheaper route. So, while a degree of emphasis was to be given to mediation,²³ and it was to be considered as more appropriate than taking court proceedings, mediation was to remain a voluntary process, a matter of choice and appropriateness.

²¹ Mr Bill Michie MP (Sheffield, Healey), Official Report (H.C.), 25 March 1996 at col. 773.

²² Lord Archer of Sandwell, Official Report (H.L.), 25 January 1996 at cols 1200, 1201.

²³ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 23 January 1996 at col. 1001.

While the benefits of mediation have been promulgated, particularly by those involved in its delivery, there has been a danger that it has been viewed somewhat too simply. The expectation, particularly among advocates of mediation, has been that if couples could be told about the benefits of and persuaded to try mediation they would be able to engage in it, but research has shown that, for couples and for mediators, achieving the benefits is far from easy.²⁴ Addressing all issues in mediation can be a long and arduous process. Facing ‘facts’ about division or distribution of assets, in addition to making arrangements for children, is demanding of each party and of the mediator. Achieving a Memorandum of Understanding which lays out the agreements reached is a significant feat.

Although research has shown that all-issues mediation is reasonably effective in helping parties to reduce bitterness and tension and to improve communication, it is not something that all divorcing couples can contemplate.²⁵ The entry criteria for mediation involve the existence and delineation of some kind of dispute; even then not all couples need it, and even fewer will manage the process. The evaluation of the information meeting pilots has confirmed previous research findings that mediation does not reduce the perceived need for advice and guidance, and for an opportunity to reflect on the ending of the marriage. Solicitors continue to provide ‘security’, ‘advice’, ‘comfort’, and a ‘safety-check’ on private ordering. There is no evidence from this or any other research that mediation can offer a complete replacement for lawyers in the divorce process. People facing divorce have varying needs and can benefit from a range of services. Equally, voluntariness is the central tenet of mediation, and no amount of government or professional ‘desire’ will render it possible, necessary or desirable for large numbers of divorcing couples to mediate. Access to justice in its traditional sense must remain. In her study of pathways to justice, Hazel Genn²⁶ highlights the central dilemma in the access to justice argument as

whether the objective of legal policy should be to enhance access to legal forums for the resolution of disputes, or whether it should be aimed at preventing problems and disputes from arising, equipping as many members of the public to solve problems when they do arise without recourse to legal action, and diverting cases away from the courts into private resolution forums. It is not an answer to say that they should be twin objectives of policy, because they logically conflict. The more that is done to enhance access to the courts, the less the public will be interested in wasting time in possibly fruitless self-help remedies or alternative dispute resolution processes.

This dilemma is particularly pertinent to any discussion about ‘diverting’ people into mediation. At the beginning of the evaluation and of the piloting process, there was no explicit expectation that the information meetings were to be used as a diversion mechanism from one service to another. Indeed, the emphasis in the development of the script and information materials was on providing a ‘level playing field’ for all the services. Consequently, the information meeting pilots were not set up to divert people into any specific route through the divorce process, but the expressed disappointment with the preliminary research results would indicate that the Government might consider attempts at diversion to be necessary and/or desirable. If this is the case, it is important to determine what such diversion is expected to achieve, particularly if a broader definition of mediation is adopted.

²⁴ Walker, McCarthy and Timms (1994), *op. cit.*

²⁵ *ibid.*

²⁶ Genn, H., *Paths to Justice*, Hart (1999), p. 326.

The creation of harmony between disputants who have continuing responsibilities together (as parents, for example) would seem to be an eminently sensible goal of any dispute resolution process, and one might question whether this is or should be restricted to mediation. True resolution of disputes must involve some level of mutual acceptance, forgiveness and a desire for co-operation, but this is especially difficult to achieve during the divorce process, particularly one based on adversarial principles.²⁷ Within a process which is based on the principles of not attributing fault and of encouraging ongoing responsibilities and co-operation, mediation can maximise the exploration of options, address the varying needs of children and parents, and support parties to reach agreements which they perceive as fair.²⁸ Evaluation of mediation services has found that mediation can assist in the reconstruction of co-operative relations, help couples cope with the severe stresses and strains associated with separation and divorce, reduce resentment between the parties, lessen tension, and improve communication. As many users have put it, mediation helps 'to sort out troubles'.²⁹

The Search for Middle Ground

Mediation has been in the vanguard of new ways of working with separating and divorcing parties to help them come to agreements about matters about which they could not agree on their own. Establishing co-operation in troubled relationships is no easy task, but both mediators and the more enlightened family law solicitors have long searched for the 'middle ground'. Unfortunately, the development of family mediation in England and Wales has been hampered by a persistent level of mistrust between the long-established practice of law and the relatively new profession of mediation. Both lawyers and non-lawyers have engaged in a rhetoric of partnership, but co-operation has had to cope with the fact that while legal practice has a clear identity (and an unchallenged position in the management of divorce), mediation has been more vaguely described in social work terms. As Davis³⁰ has pointed out, not to consult a lawyer during divorce is seen as risky, and this has seemed to create a dependence on their services irrespective of whether people actually want to engage a solicitor to act on their behalf. Lawyers both provide technical competence and act as a safeguard against injustice resulting from the conflicts of interest which are inclined to arise in divorce. As they have embraced mediation training their technical expertise is absorbed into the mediation process, giving it greater legitimacy in the eyes of mediation clients.³¹ Family mediation in England and Wales has sought to offer an alternative way of resolving disputes to that offered by lawyers acting in their traditional professional role, but, in so doing, has hovered at the margins of the legal process. Furthermore, it has become identified with a very specific form of service delivery involving face-to-face meetings with both partners attending together and a mediator (or mediators) acting in a specialist capacity under the auspices of, or with an affiliation to, a specific service or agency. An evaluation of the effectiveness of mediation in achieving its goals becomes a comment on the performance of one or more specialist services, rather than on a specific type of process which can be incorporated into a number of other professional services. Yet, as lawyers embrace mediation training and

²⁷ Walker, J., 'Mediation in divorce: does the process match the rhetoric?', in H. Messmer and H.-U. Otto (eds), *Restorative Justice on Trial*, Kluwer (1992).

²⁸ Folberg, J., 'Mediation and child custody dispute', *Columbia Journal of Law and Social Problems*, vol. 19, no. 4 (1985), pp. 1-36.

²⁹ Genn (1999), *op. cit.*

³⁰ Davis, G., *Partisans and Mediators: The Resolution of Divorce Disputes*, Clarendon Press (1988).

³¹ Walker, McCarthy and Timms (1994), *op. cit.*

practice skills, it is reasonable to hypothesise that they might adopt a conciliatory approach which might meet objectives which are similar to those of a specialist service.

It is significant, therefore, that the Lord Chancellor's Advisory Committee on Legal Education and Conduct has recently concluded that family mediation constitutes a legal service. Family mediators provide legal information relevant to disputes between the parties and require sufficient knowledge of the law to know when to advise clients to seek independent legal advice; they also help to resolve matters which are subject to legal review; and the Access to Justice Act 1999 places mediation firmly in the remit of the Community Legal Service established by the Legal Services Commission (formerly the Legal Aid Board).³² The new Legal Services Commission has the power to fund family mediation and to set and monitor standards. The Committee has recognised the divergence of views about the relationship between family mediation and legal proceedings, and does not accept that mediation could or should be seen as a complete alternative both to lawyer negotiation and to legal proceedings. Mediation, then, is considered by the Committee to be an additional resource within the legal services portfolio, and one which will evolve as an autonomous form of professional practice with a single, unified code of practice. It may be, however, that if the numbers using mediation remain relatively low, mediation skills should be put to use by all those professionals involved in the divorce process so that the potential benefits of family mediation are not lost merely because it is an option chosen only by the minority of divorcing couples. We would suggest that there is room for considerable debate about these issues, and a need to agree how mediation can and should most effectively fit into the legal process of separation and divorce.

Notwithstanding the impetus for the development of autonomous mediation services, we suggest that it may be helpful to regard mediation as a distinct process rather than as an outcome in itself. As we have found, going to mediation does not necessarily result in disputes being settled. The focus, it seems, should be on helping and encouraging couples getting divorced to do so 'with the minimum of distress' and 'with questions dealt with in a manner designed to promote as good a continuing relationship between the parties and any children affected as is possible in the circumstances', as in the principles in Part I of the FLA.³³ There is evidence that the provision of information did contribute to these objectives of the FLA being met, even though it did not deliver a high number of couples to mediation.

Mediation represents a complex process of accommodation in the face of changing views about how matrimonial disputes should be resolved. Mediation is valued by professionals as one of a number of services which, between them, meet a variety of needs. There is no evidence that mediation can or will take over from other professions, nor offer a panacea for the resolution of the difficult and intensely personal private disputes which characterise some divorces. With relatively few people choosing to use mediation services, they remain on the margins of divorce processes despite the focus given to mediation in the Family Law Act. The public policy agenda is firmly focused on the need to reduce the antagonism and conflict inherent in the divorce process for many couples, the desire to promote conjoint responsibilities between parents, and the wish to reduce the financial cost of divorce. Dingwall and Eekelaar³⁴ have pointed to the difficulties of fusing cost-saving, welfare paternalism and self-reliant dispute resolution in the movement for divorce reform.

³² The Rt Hon. Lord Justice Potter (1999), *op. cit.*

³³ Family Law Act 1996 Part I.

³⁴ Dingwall, R. and Eekelaar, J., *Divorce, Mediation and Legal Process*, Clarendon Press (1988).

A key message of the FLA is, of course, that no longer should divorce legislation be merely concerned with the dissolution of a legal contract, but it must take account of the need to protect and preserve, as far as is possible, primary family relationships. The Act represents a radical shift away from adversarial positioning towards a more informal, individualised system of justice. In this respect, however, the rigidity of the information meetings in the pilots was strangely at odds with the new philosophy.

The FLA emphasises co-working, and interdisciplinary co-operation. Mediation has much to offer, but its potential to change behaviour must not be overstated. It is most unfortunate that during its formative years mediation has been seen as a positive, civilised dispute resolution process while negotiation by lawyers has been viewed negatively as antagonistic and confrontational. This polarisation is not justified, particularly since many lawyers would argue that what is applauded in mediation as its strengths constitutes the very essence of what very many family lawyers have been attempting to practise for a number of years. The previous government set an agenda for mediation which involved identifying marriages capable of being saved, helping couples to accept responsibility for the ending of their marriage by acknowledging conflict and hostility, dealing with feelings of hurt and anger, addressing issues which may impede a couple's ability to negotiate settlements amicably, and focusing on the needs of children. This was a tall order and also almost certainly unachievable given current mediation practice. Critics of mediation have accused mediators of applying moral pressure to parents in a quest to reassert traditional models of parenting even after divorce. The belief that with the 'right' legislation and the 'right' processes in place divorcing spouses can be helped to function in an amicable, co-operative fashion is almost certainly flawed. The benefits of mediation were spelt out in the leaflets provided at information meetings. Only in group presentations was a more determined effort made to encourage the use of mediation. That the law should encourage people, especially parents, to mediate any disputes is entirely consistent with the principle of promoting conciliatory divorce. As we have found, however, merely counting the numbers going to mediation services does not give an accurate picture of the extent to which couples are being conciliatory and are managing to mediate issues with or without the help of specialist mediators.

Explaining what mediation is and is not has remained problematic. Nevertheless, the knowledge gained about mediation at an information meeting seems to have been considerable. If the purpose of information meetings was to increase knowledge and empower citizens to take informed decisions, the evidence is that they have succeeded in achieving these objectives. As will be explained in the next three chapters, however, there are many constraints on the choices open to people. Moreover, our research has not found a relationship between knowing more about mediation and actually using it. The FLA endeavours to nudge people into mediation by requiring all parties wishing to apply for legal aid for representation by a lawyer to attend a meeting with a mediator prior to being able to make such an application. Eekelaar has described this as an example of government by persuasion:

Mediation was not simply a method of bringing parties to an agreement; it was a further way of informing people about how they should have behaved, and should behave, and, through informing them about these matters, bringing pressure to bear on them to act in a 'responsible' manner.³⁵

³⁵ Eekelaar (1999), *op. cit.*, pp. 387–96.

As Eekelaar points out, it is hardly novel for the law to try to influence behaviour, but legal attempts to maintain particular forms of family living have not been very successful, as the history of divorce testifies. The unanimous intention of Parliament when shaping the FLA was to encourage people whose marriages were at an end to manage the process of dissolution in an as amicable and conciliatory a manner as possible. The messages about doing things decently have got through to the majority of people who went to an information meeting, as witness the numbers who said they would be willing to use mediation if it seemed appropriate. Mediation offers one route to achieving conciliatory divorce. The fact that most have not used mediation services needs to be attributed not only to inadequacies in the messages, but to a wide range of other factors which we explore in the following three chapters.

The Move towards Private Ordering

There has been a considerable growth in the development of extra-legal dispute resolution processes since the early 1970s, particularly in North America, Australia and, more recently, Europe. In Lord Woolf's³⁶ comprehensive review of civil justice the potential of alternative dispute resolution was emphasised enthusiastically. The new Civil Procedure Rules (April 1999) give courts substantial power to direct parties to attempt to settle disputes outwith the courts. The Government's discussion paper on alternative dispute resolution³⁷ outlines the benefits of alternative mechanisms. Clearly, as Genn's³⁸ study has shown, civil and family disputes incur considerable social and economic costs, and we know that the number of disputes in relation to arrangements for children brought to the attention of the courts has increased in recent years.³⁹ It may be that many of these so-called disputes reflect a breakdown in communication or ongoing hostility which would be addressed in mediation. While courts may impose a solution, the legal process is unlikely to be able to change the behaviour of the parties involved, or, in other words, to effect real resolution of the dispute. Both family lawyers and mediators promote compromise in the face of intractable conflicts: sometimes the parties negotiate solutions acceptable to each of them, while sometimes they cannot do so and require someone to adjudicate the problem. The provision of legal aid for mediation inevitably brings with it an expectation that people will behave in particular ways, in line with Government policy.⁴⁰ Hence the 'disappointment' when people apparently do not behave as expected. The employment of mediation for the purpose of diversion is exemplified by Section 29 of the FLA, which states:

A person shall not be granted representation for the purposes of proceedings relating to family matters, unless he has attended a meeting with a mediator –

(a) to determine –

(i) whether mediation appears suitable to the dispute and the parties and all the circumstances, and

³⁶ Access to Justice, Final Report [Woolf Inquiry], Lord Chancellor's Department (1996).

³⁷ Lord Chancellor's Department, *Alternative Dispute Resolution: A Discussion Paper* (1999).

³⁸ Genn (1999), *op. cit.*

³⁹ Davis, G. and Pearce, J., 'Privatising the family?', *Family Law*, vol. 28 (1998).

⁴⁰ Davis, G. and Genn, H., with Bevan, G. and Walker, J., unpublished paper on alternative dispute resolution prepared for the Lord Chancellor's Department (2000).

- (ii) in particular, whether mediation could take place without either party being influenced by fear of violence or other harm; and
- (b) if mediation does appear suitable, to help the person applying for representation to decide whether instead to apply for mediation

The aim is to encourage people to consider mediation before using partisan lawyers to represent them in order to resolve disputes. It was this measure which caused concern during parliamentary debates lest it should result in a two-tier, two-class system of justice because legal aid for representation could be denied to those unable to pay for a lawyer. The Committee on Legal Education and Conduct also pointed to the danger that implementation of Section 29 would be seen as discriminating against those who seek legal aid for representation. The operation of Section 29 is not within our research brief, and a separate research team led by Professor Davis at Bristol University has monitored Section 29 as it has been rolled out in England and Wales. It is important, however, to draw attention to the fact that Section 29 has not resulted in a massive diversion to mediation either. Even though the pilot areas did not for the most part overlap with the information meeting pilots our research almost certainly throws light on this issue. Any shift in the culture of disputing is going to take a long time – far longer than the period during which information pilots were operational and longer than Section 29 has been in existence.

We doubt estimates that, on a worst-case scenario, 40 per cent of attendees might be expected to use mediation.⁴¹ While both the last government and this one may have harboured hopes that the provision of information would encourage a greater take-up of the service, the evaluations undertaken by Professor Davis and ourselves indicate such aspirations are unrealistic. Governmental concerns about the ‘low take-up’ of mediation require consideration of whether information meetings or information provision in some other form could and should be attempting to divert people along certain pathways, or whether, as in the pilots, it is more appropriate and acceptable to provide objective information which equips people to make better informed choices.⁴² If a diversionary approach is favoured, this would shift the provision of information away from being presented in the form of a ‘technical guide’, as in the pilots, towards it being presented as an unashamedly persuasive ‘consumer manual’ which attempts to ‘sell’ mediation as the preferred route through the divorce process. The ‘level playing field’ approach of the pilots would have to be jettisoned if this latter approach were adopted. But even if these shifts were made, there would still need to be a greater sense of realism about just how many couples could and would use mediation effectively.

⁴¹ As suggested in the Lord Chancellor’s address to the UK Family Law Conference on 25 June 1999.

⁴² Walker, J., ‘Whither the Family Law Act, Part II’, in M. Thorpe and E. Clarke, *No Fault or Flaw: The Future of the Family Law Act 1996*, Family Law (2000).

Chapter 19

Mediation in Divorce

Cathy Stark and Carol Birmingham

What we have sought to do in this Bill is to give a fair wind to mediation as a way of dealing with the disputes that arise between parties ...¹

Encouraging attendees at information meetings to use mediation services has become one of the measures by which the success of the pilots is judged. The numbers of people going to mediation are clearly seen as an important indicator in the promotion of conciliatory divorce, which is one of the fundamental aspirations of the Family Law Act. It is a widely-held belief that if couples are encouraged to remain civil towards each other during and after divorce, ongoing parenting responsibilities might be facilitated and unnecessary legal fees avoided. Although few people would challenge this belief, there are disagreements about whether mediation is necessarily the best or the only means of achieving a civilised divorce. Mediation tends to be regarded as a civilised and civilising procedure, and attendees have told us that they can clearly see the potential benefits of such a process:

[Mediation is] a positive approach to provide dialogue and prevent adversarial communication, to discuss disagreements and keep on good terms. (M)

Mediation provides a kind of neutral ground to actually work out details. (M)

The FLA requires that information about mediation should be given to attendees. Mediation, however, was only one of the topics covered in the information meetings. Attendees were also given information about the role of lawyers in divorce. The fact that 39 per cent of those attending the information meetings described themselves as more likely to go to see a solicitor has been described as another 'disappointing' research finding. This suggests an implicit view that mediation is the preferred route to take to a conciliatory divorce while using solicitors is a less preferred route, perhaps because such a route might indicate that divorces are more acrimonious. From previous research, and from our interviews with attendees, we know that there are a whole range of ways in which people experience divorce, stretching along a continuum from nasty and embittered to civil and equitable. There are likewise a whole host of reasons why attendees choose one route over another.

Data from the 1,838 follow-up telephone interviews which took place with attendees five to seven months after their attendance at an information meeting show that 7 per cent of attendees had used a mediation service since attending an information meeting. Even within this figure of 7 per cent there were attendees who had only one mediation session and did not continue with the process, and there were those for whom mediation 'did not work' and the aim of achieving a conciliatory divorce was not achieved, by this route at least. One in three of those who had not been to mediation indicated that they still might

¹ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 30 November 1995 at col. 787.

use it at some time in the future, but the majority of those who were interviewed indicated that they had no intention of going to mediation. In this chapter we explore the many and varied circumstances which help to explain the take-up of mediation following an information meeting, in the hope of shedding light on the statistics.

Although only 7 per cent of attendees went to mediation in the 5–7 months following an information meeting, it cannot be assumed that the other 93 per cent pursued an acrimonious (and expensive) divorce. Nor can it be assumed that telling someone about a service will result in their wanting or being able to use that service. A couple's having the information about mediation is only one link, albeit an important one, in a long and complex chain of factors which come into play before they can use it. Indeed, although 84 per cent (N = 2,774) of interviewees indicated during the initial telephone interview that they had learned more about mediation, they were no more likely to have attended mediation than those who had not learned more. The information meetings were designed to provide information about the range of options available to people who were considering divorce, and to raise their awareness of issues which would need to be considered. It is important, therefore, to consider in some depth why the majority of attendees did not flow into mediation services.

Promoting Mediation

Looking at the various models which were piloted, it appears that there was no 'hard sell' on mediation. It was presented as one option alongside others, although it was allocated a longer time slot in some of the models. In Model A one-hour meetings, the allocated time spent giving information on the topic of 'mediation and other ways of resolving disputes' was 15 minutes. We cannot be sure of the exact time allocation for each point raised in this section. In this model, the time allocated to mediation and resolving disputes was greater than that given to any of the other topics covered, except children's issues, which was also allocated 15 minutes. In the Model B individual meetings, only 3 minutes were allocated to information about mediation, the intention being that attendees would go on to the group presentation, but in reality only 399 of 1,397 Model B attendees did so. In Model C individual meetings and Model F CD-ROM meetings, only signposting was used to inform people about mediation and the topic itself was not discussed. In the Model E CD-ROM, approximately six to seven minutes were allocated to 'resolving disputes including mediation'. Of course, those using a CD-ROM were free to pause during the program, and to repeat sections if they wished.

In all group presentations, a video which included some simulated mediation sessions was shown to attendees. In Model B group presentations, presenters were asked to allow 15 minutes for the video, and in other group models (C, D and F) a revised video was allocated 18 minutes. A major part of the video dealt with mediation (approximately fifteen minutes in the revised video). The video was preceded by a brief presentation focusing on 'avenues to resolving disputes'. This lasted 6 minutes in Model B groups² and approximately 8 minutes in other group presentations. Under the heading 'avenues to resolving disputes' three sub-topics were covered: negotiated agreements, mediation and the role of the courts. We cannot be sure how much of the allocated time was afforded to each of these three sub-topics.

² The time allocated was increased to 8.5 minutes some three months into the pilots.

The amount of time given to mediation (under the umbrella topic of resolving disputes) varied by model: in Model A it was 15 minutes, in Model E 6–7 minutes, in Model B approximately 23 minutes in total for the presentations in the individual and group meetings and the video, and in Models C, D and F group presentations 23 minutes for the presentation and the video. Mediation was not covered by the presenter in Model C individual meetings, nor in Model F CD-ROM meetings. Not only did the length of time given to the topic vary, but the medium used to impart the information differed considerably between the models.

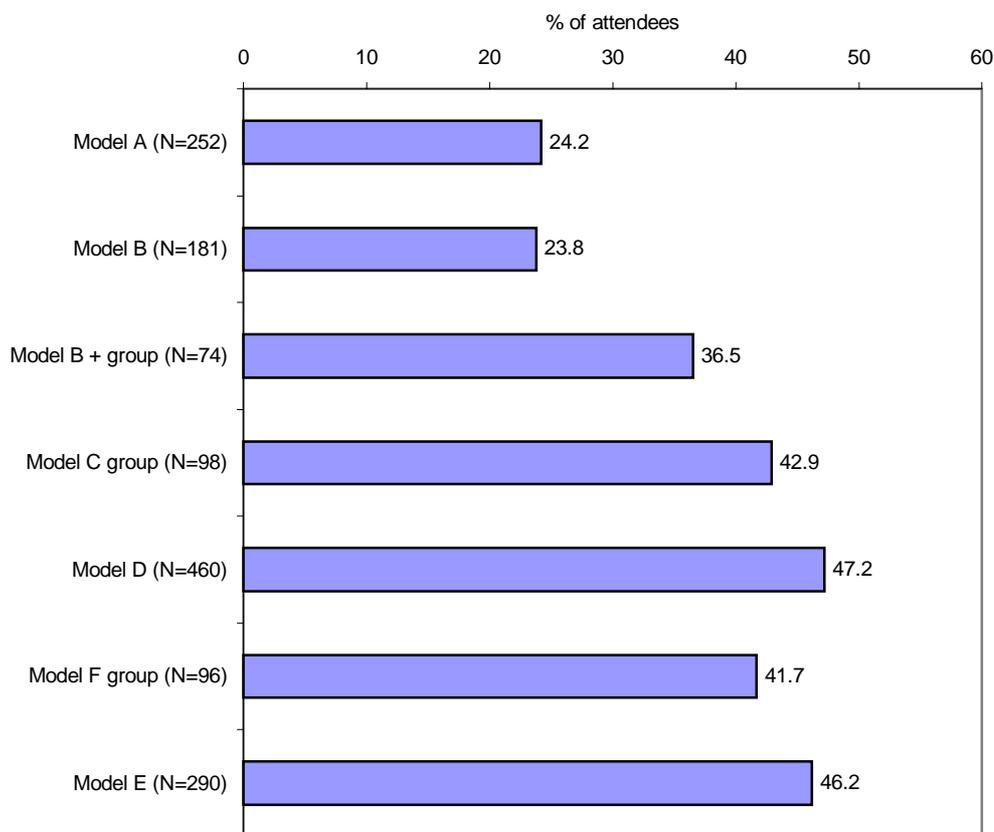
Information about mediation was imparted to attendees in four different ways (Table 19.1). It would be reasonable to hypothesise that those who had the information given to them on more than one occasion, or through two or more mediums, would be better informed about the service (and being informed is an important first stage in using any service). For example, some Model B attendees had two bites at the cherry and were told about mediation at both meetings. By contrast, Model C individual meeting attendees were informed about mediation only through their information pack.

Table 19.1 How information about mediation was provided in each model

	Mediation is discussed in the meeting	Mediation is described in the video	Mediation is described in the CD-ROM	Leaflet about mediation is given in the information pack
Model A (individual)	✓	×	×	✓
Model B (individual)	✓	×	×	✓
Model B (group)	✓	✓	×	✓
Model C (individual)	×	×	×	✓
Model C (group)	✓	✓	×	✓
Model D (group)	✓	✓	×	✓
Model E (CD-ROM)	×	×	✓	✓
Model F (CD-ROM)	×	×	×	✓
Model F (group)	✓	✓	×	✓

As Figure 19.1 shows, individual face-to-face meetings seem to have been the least effective models from the point of view of encouraging use of mediation. Although Model A elicited considerably higher consumer satisfaction than any other model, the evidence suggests that it is not the most effective in encouraging the use of mediation. Of those who attended the Model A meeting only 25 per cent said they were more likely to use mediation. In this sense, Model A compares unfavourably with its CD-ROM equivalent (Model E), and also with group meetings. It seems that the additional emphasis on mediation, which was reinforced in the video that was shown in the group presentations and via the CD-ROM, did have an impact. Nevertheless, a person's saying that they are more likely to use mediation does not necessarily lead to their actually using it, and those who said they were more likely to use mediation were no more likely to have used it than were those who suggested that the information meeting had made no difference. Nevertheless, the indications are that people who attended a face-to-face

meeting are less likely to have attended mediation than are those who went to a group meeting.



Source: initial telephone interview.

Figure 19.1 Impact of various models on the likelihood of attendees using mediation

In individual and group information meetings involving a presenter, the presenters were discouraged from giving advice or making suggestions to people, and meetings were designed to be scripted and not tailored to anyone's particular situation. Attendees hoping for answers to specific questions were disappointed by this, and many felt the need to consult a solicitor following the meeting to obtain the answers they needed. Indeed, presenters sometimes suggested directly that attendees should consult a solicitor to have their questions answered. The research team identified this early on in the pilots as a difficulty with the information meeting.³ Information meetings themselves did little, if anything, to minimise the need for a solicitor during the divorce process. Simply telling someone about mediation in a neutral fashion is an intervention which, on its own, is unlikely to divert people towards a service which is far less recognised and less well understood than are the legal services offered by solicitors.

People have fixed ideas about what is expected or inevitable, and to a large extent solicitors and divorce go hand in hand. Solicitors are the well-recognised route through the process. To promote a relatively new, less recognised route requires much greater

³ Stark, C., 'Meeting expectations', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998).

promotion of the potential advantages of using this service, but even then we doubt that large numbers of the divorcing population would use it. The information meetings were set up and evaluated as forums for getting a whole range of information to people and making them aware of the options. Getting people to act upon the newly-acquired information is a much more complex and lengthy process, requiring cultural shifts in the way people think about divorce. We did not anticipate such shifts occurring during the life of the pilots, nor did we believe that it would be easy to determine direct cause and effect in the delivery of information.

An important factor to note when interpreting our statistics is that a large number of people have no need for mediation. Approximately one third of our follow-up telephone interviewees told us that they had no need for mediation. The reasons they gave were many and varied. Some had not moved on to separate, or had not moved into the divorce process. The decision to separate or divorce can take some time to reach, and if this decision has not been reached the information may be considered untimely. Mediation was, quite simply, not a service that many attendees in the pilots had required by the time we spoke with them. Others simply had no need for it as they had nothing to mediate about and were managing their divorces in other ways. Some attendees who told us they had no need for mediation were attempting a reconciliation, or had been reconciled, with their partner.

When we asked people whether mediation was something they might consider in the future, most were not averse to it as an option, but gave the conditional response 'if the need arose':

[I would consider mediation], but not as an immediate thing. I would use it if there came to be problems with the children, custody, and things like that, but at the moment there's no need to. (F)

I may consider mediation at a later date if there were issues that couldn't be settled amicably between ourselves. (M)

Even if the need did arise, however, our study suggests that there may well be barriers to using mediation.

The Link between Increasing Awareness of Mediation and Its Use

Two hundred (2.5%) information meeting attendees indicated that they had used family mediation in the year prior to their attending an information meeting. Sixty per cent of those who had been to mediation had also been to marriage counselling while 64 per cent had consulted a solicitor. Almost a third of those who had been to mediation were involved in divorce proceedings; as two-thirds were not, the indication is that legal proceedings do not necessarily precede the use of mediation, although we would hypothesise that couples were clearly considering separation or divorce if they were attempting to negotiate arrangements.

Relevance of the information

We asked all those who had attended a group presentation a series of questions in an exit questionnaire about whether the meeting had increased their knowledge of certain issues,

including their knowledge about mediation. We found that 57 per cent of the 2,143 attendees who responded to the question indicated that they were much better informed about mediation as a result of having attended a group presentation, while 30 per cent claimed to be a little more informed and just 5 per cent said they were no more informed. Three per cent of attendees – the majority of whom either had no children or only had children aged over eighteen – felt that the information about mediation was not relevant to them. Moreover, attendees who did not have children were more likely than parents to describe information about mediation as not relevant. Eleven per cent of childless attendees, and 9 per cent of attendees whose children were aged over 18, suggested that mediation was not relevant to them. This of course indicates nevertheless that the majority of those without children consider information about mediation to be relevant. Moreover, more than half of them said they felt much better informed about mediation.

When interviewed a few weeks after the meeting, 60 per cent (N = 2,774) of attendees indicated that they would be willing to go to mediation if it were appropriate (initial telephone interview data) and 5 per cent said they had already been. Approximately half of the interviewees indicated that the information meeting had made no impact on whether they would go to mediation, however, while nearly 40 per cent suggested that it made mediation more likely.

As Table 19.2 indicates, people with young children were the most likely to be attracted by the idea of mediation. More than half of these said that mediation had become more likely because of their attendance at an information meeting.

Table 19.2 Impact of the information meeting on the likelihood of attendees using mediation (initial telephone interview data)

	Age of youngest child					<i>all interviewees</i>
	<i>no children</i>	<i>0–5</i>	<i>6–11</i>	<i>12–17</i>	<i>over 18</i>	
	%	%	%	%	%	
More likely	32.8	52.7	36.5	39.5	29.2	39.0
Less likely	9.2	4.1	5.5	6.3	8.2	6.2
No difference	51.1	37.5	51.8	49.7	54.5	48.7
Other	6.9	5.7	6.2	4.6	8.2	6.2
Total (100%)	131	315	438	304	257	1,445

There was no evidence of gender difference concerning either attitudes towards mediation or the impact of the information meeting on knowledge about it. Neither were there any discernible differences between people for whom the information meeting was a first port of call and those who had previously been to counselling or consulted a solicitor. People who were still living at the same address as their spouse were more likely to be influenced towards using mediation than those who were living apart from their spouse at the time they attended an information meeting. Forty-five per cent of the former and 35 per cent of the latter indicated that mediation had become a more likely option.

Timing

At the time of the follow-up telephone interview (5–7 months after the information meeting) approximately 36 per cent of the sample (N = 1,838) were involved in divorce proceedings. However, it appears that those involved in divorce proceedings were no more likely than those who had not reached that stage to use mediation. Thirty-four per cent of those involved in divorce proceedings and 41 per cent of other attendees indicated an increased likelihood of their going to mediation. Indeed, 7 per cent of attendees at follow-up interview told us that they believed it was ‘too late’ for mediation since they were too far down the path to divorce and were already involved in divorce proceedings. It seems that the timing of information is very important. If it is provided too early, before people have decided to separate, it may be perceived to be irrelevant and may be disregarded. If, however, it is provided when people are already involved in divorce proceedings some may consider that it comes too late. The optimum time would seem to be once people have decided to separate but before they become involved in divorce proceedings. Couples may attempt to make arrangements about children or financial assets at the point of separation and some couples may separate and live apart for some time before divorce proceedings are initiated. In such cases, giving information about mediation at the point when they initiate divorce proceedings might be considered too late as arrangements may already be in place. Providing information to couples at the point of separation rather than at the onset of divorce may increase the likelihood of some using mediation. However, getting information to couples at this juncture may be problematic.

Increasing the likelihood of mediation being used is, of course, only part of the objective. What we really need to know is how many actually used mediation and with what effect, and what happened to those who did not go to mediation. Receiving information and acting on it implies a process: people have first to understand information; then they have to consider its appropriateness to their particular situation; then they may have to convince their partner that mediation is an option worth trying. Simply imparting information in a meeting, usually only to one party, or providing someone with a leaflet in a pack, is not enough to get both parties into mediation. In the same way as health promotion campaigns telling people to do or not do certain things do not automatically result in behavioural change, so information meetings do not automatically lead to a greater use of mediation. Many other factors need to be in place.

Influencing choices

Seventy-nine people – 61 per cent of those who went to mediation – indicated that the information meeting had influenced their decision to go to mediation. Forty-eight of them indicated that this was due to their receiving new information at the meeting, and 30 felt that the meeting gave general encouragement to use mediation. Twelve people apparently went to mediation because they wanted to settle issues amicably, while nine wanted to avoid using solicitors. On the evidence available, however, the most optimistic assumption points to around 4 per cent of people who attended an information meeting actually being directly persuaded to attend mediation as a result. One might question, however, whether it is reasonable to expect attendees to isolate the impact of attendance at an information meeting from other things that might well have affected their decision to go to mediation. Moreover, 45 of the 1,172 people who had not been to mediation indicated that the information meeting had persuaded them not to go. The majority of

these told us that the meeting had confirmed that they had no need of mediation, and a few were concerned about the expense of the service.

One in ten of the 129 people who went to mediation indicated that they only went to one session. Of the others, 45 indicated that they were using mediation to resolve financial issues, while 31 were using it to resolve child issues and seven were hoping to make arrangements about property. It is worth noting that one in five of those who used mediation indicated that they had not been involved with a solicitor since the information meeting. We cannot know if they would have consulted solicitors had they not been to mediation.

Sixty-one per cent (N = 1,838) of those who went to an information meeting indicated that they did not intend going to mediation, but it cannot be assumed that they were intent on conducting their divorce acrimoniously. Nearly half (43%) suggested that they simply had no need to use mediation. Seventeen per cent, however, said their partner would not go, and 9 per cent felt they were too far down the path to divorce for mediation to have any value. Those already involved in divorce proceedings were no more likely to use mediation than those who were not involved in legal proceedings. There were within the divorcing sample, as within the sample as a whole, many attendees who had no need of mediation. They told us that they had nothing to mediate about. They had agreed with their ex-partners about arrangements and were simply using solicitors to complete the required paperwork, or in some cases were arranging the divorce themselves:

After she heard how amicable we were, the presenter said we didn't need a mediator – it was quite helpful that way. (F, divorced)⁴

We don't have any areas of disputes – we don't have anything to mediate about at the moment. (F, separated)

I didn't really feel it was necessary. We've never not been able to talk about things and he's never contested the situation about the children ... the children are with me and that's never been an issue. (F, divorced)

We thought about it but ... there hasn't been much contention about anything so we haven't needed it. (F, completed a DIY divorce)

We've handled it ourselves. Once the emotional trauma of separating happened we were both clear headed enough to get together and sit down and decide what was financially best for both of us. (F, separated, intending to divorce)

We sorted things out between us and then went to the solicitor with the package. There was no third party. (F, divorced)

It's not necessary. We have talked things through. The split is amicable. We just needed legal advice on pensions and how to get a divorce. (F, still living with spouse but intending to divorce)

Although it might be assumed that mediation may be most appropriate after the couple have separated and after divorce proceedings have been started, we were unable to detect any higher take-up of mediation among people who were involved in divorce proceedings

⁴ The situation of the attendee at the time of our follow-up interview 5–7 months after the information meeting is given in parentheses.

before they attended the information meeting or among those who were divorced or separated at the time of the follow-up interview. There were, however, differences between the models. It seems that group presentations were more influential in this respect than individual meetings. We interviewed 345 people who had been to a group presentation only (Models C, D and F) and a further 157 who had attended a group presentation as part of a two-part process after attending an individual meeting (Models B, C, F). We found that 11 per cent of the former and 10 per cent of the latter had used mediation after the meeting. This may be as a result of the increased emphasis placed on mediation during the group presentations, especially through the showing of the video (only in Model B was mediation mentioned – briefly – in the individual meeting). Only six people, however, suggested that the video itself had been instrumental in their decision to use mediation.

Not all group presentations achieved a high take-up of mediation, however. This is evident from a comparison of the two pilots operating the Model D version of the group presentation, which was available as a first port of call to all comers irrespective of what stage they were at in the divorce process. Fifteen per cent of those who attended a Model D meeting in East Anglia went on to attend mediation, as against only 5 per cent of those who attended the same type of meeting in the South West. Indeed, the East Anglian pilot performed well in this respect throughout the project. The take-up of mediation in East Anglia was 16 per cent for Model A attendees, 11 per cent for people who attended only the first part of Model B, and 15 per cent for those who attended both the individual and group parts of Model B. This consistency suggests that it is not the model that made the difference but the socio-legal culture within the area where the meeting took place. The higher take-up in East Anglia is unlikely to be due simply to the East-Anglian pilot being mediation-led, since the South Wales pilot, which was also mediation-led, achieved the lowest take-up of mediation of any of the pilots. To some extent, it might be explained by East Anglian attendees being more likely to be accompanied to the information meeting by a partner. However, even if this is controlled for, the East Anglian pilot still showed a significantly higher take-up of mediation than other pilots. East Anglia has a long-established mediation service which, over time, has come to be regarded locally as a widely acceptable service within the context of the divorce process. There was a good deal of local support (particularly through the Local Interdisciplinary Forum) for the pilot, and a high level of interdisciplinary co-operation has been noted in previous research.⁵ When judges and lawyers are supportive of a service, mediation stands a greater chance of success. It appears that East Anglia has to some extent experienced the cultural change needed to enable mediation to work successfully. This has taken many years and is still continuing, but it does demonstrate that given time and a supportive environment, the use of mediation may increase.

The Decision Not To Use Mediation

In order to understand why so many attendees apparently rejected mediation as an option, despite the fact that most thought the notion of a conciliatory divorce a good one, we explored the reasons given during our follow-up telephone interviews. We have discerned six main reasons why people did not use mediation:

⁵ Walker, J., McCarthy, P. and Timms, N., *Mediation: The Making and Remaking of Co-operative Relationships*, Relate Centre for Family Studies (1994).

1. It was not needed.
2. They were uncertain about what it is and does.
3. Their partner was unwilling or unable to attend mediation.
3. They were afraid of intimidation or did not trust their spouse.
4. Mediation services were inaccessible in terms of both distance and availability of appointments.
5. They regarded mediation as too expensive.

A third of attendees interviewed some five to seven months after attending an information meeting told us that mediation was simply not needed: either they had not been in dispute with their partner or, if there were disputes, these had been settled without recourse to a mediator. Clearly, if mediation is not necessary there is no need to consider how to encourage its usage. The other reasons given warrant some scrutiny, however, and we examine them in turn.

Uncertainty about what mediation is and does

During the research interviews, we did not embark on a thorough examination of the extent of attendees' knowledge and understanding of mediation – we did not wish the interview to be like a test! Rather, we wanted to understand the steps attendees had taken and the choices they had made. Without further detailed questioning it was impossible to test their level of understanding, and their responses were taken on face value. People may well report feeling 'better informed' about certain topics which have been covered (e.g. 84% (N = 2,733)) of initial telephone interviewees said they felt they had learned more about mediation), but we have no idea just how well or accurately a topic had been understood. From the interviews, however, we have found evidence of misconceptions about what mediation is and does.

At the time of our follow-up interviews people were at a variety of stages in the divorce process. Some had moved on to making a decision, be it to reconcile or to divorce; others were still in the same situation as they had been at their first interview and nothing had (apparently) changed for them. The use they had made of the information varied according to the stage they had been at when they had attended the information meeting. Information which they deemed irrelevant at the time of the meeting may simply have been disregarded. This is an important point to bear in mind when examining responses from attendees – what they recall and what they do not recall depend upon many factors, not least the relevance of the information to them at the time they were given it. For example, if attendees went to a meeting hoping to get some information about how to save a failing marriage, they may take notice of and subsequently recall information about marriage support services. They may have taken little notice of, and hence have a limited recall of, specific information such as mediation: hence the rationale for piloting Model C and F two-part models.

An examination of those interviews where an attendee may have misunderstood mediation provided valuable insights into the misinterpretations which can arise when people are given what the professionals would consider to be apparently straightforward information. Close examination of the follow-up telephone interview data has enabled us to distinguish types of misunderstanding: confusion of mediation with marriage counselling and marriage support services, and confusion of it with other types of counselling, especially personal counselling. In its most extreme form, ignorance took the form of attendees drawing a complete blank at the mention of the term 'mediation' during the telephone interviews. There were not very many examples of this, but they may well be linked to the fact that the information was not relevant to the attendee and therefore was not taken in. Some attendees were in a distressed state when they attended information meetings, in which case they may have missed much of the information.

The confusion between mediation and marriage counselling is one which has been common ever since mediation services began in this country and the process was referred to as 'conciliation'. The similarity between the terms 'conciliation' and 'reconciliation' proved to be problematic for professionals and potential users alike. It was not unusual for people who did not intend to use mediation to tell us that their marriage was beyond saving or that they did not wish to attempt a reconciliation with their partner:

I haven't considered mediation. The relationship is over completely. There's no going back. (M).

My marriage is over and it would be of no use to me. It would probably help someone with emotional problems in their marriage. (F)

As far as I understood it, it would be me and my partner sitting together with either a counsellor or someone else, discussing the problems and trying to keep the marriage together. (F)

One attendee who had been to both parts of Model B had still not clarified the difference between mediation and marriage counselling. Issues of expense (for counselling) came into the equation, too:

When he first left I went to counselling, which I think is the same thing [as mediation]. I went and obviously it did help me come to terms with what happened but I stopped it because it cost £25 per session and I was told that it would cost around £300. (F)

A number of people who had not used mediation at the time of our follow-up interview told us that they wanted to use the service in order to try to save their marriage:

I think it's a big issue. We have been married for 13 years ... obviously you just don't walk away from that. But just to talk and see what is causing the breakdown or whatever ... I think anything like that could be helpful ... I wasn't aware of the mediation service before the meeting. (M)

The confusion of marriage support services with mediation services resulted in people describing it as being 'too late' for mediation because they viewed their marriage as beyond saving. Since some information meetings were held in Relate offices it would not be surprising if attendees who were told about mediation during their meeting linked it with marriage counselling:

... mediation was connected with Relate [i.e. held in a Relate office]. I assumed they [the mediators] were connected with marriage guidance and that meant going backwards. (F)

Some of the confusion between marriage counselling and mediation may well be linked to the fact that both services involve the presence of a third party. Both services suggest a degree of neutrality and impartiality, and may sound similar when they are being described.

Some attendees misinterpreted mediation as a form of personal counselling. They had not used the service, but felt it may well have helped them come to terms with personal issues with which they or their spouse were dealing. One attendee described her difficulty as 'more of a medical problem this time than [a] relational one'. During the course of our interview she revealed that her husband was overdosing on his medication and behaving in a difficult manner. When asked if she had considered mediation at all, she said she felt it could have been very useful had things continued in that way:

I didn't know about it before. It could have been very useful if things had continued. My husband came back and barricaded himself in the spare room. He wouldn't come down. He would come down to the kitchen when I was at work, then would go back up when I came home. It was really an intolerable situation. Possibly talking to someone about this situation would have been good, but he would not acknowledge that he needed to talk to anyone. (F)

It is evident from the follow-up interviews that some attendees remained unclear about what mediation is and what it can do. When the question of whether an attendee had used mediation or not was asked at follow-up interview, attendees sometimes replied with a question of their own. In such cases the interviewers found themselves explaining what mediation is to the attendee. Once mediation was explained, attendees sometimes expressed interest and said that mediation was something that they would indeed consider. The research interview became an added level of information giving, and in such cases the research process itself may have impacted on outcomes. This pattern is portrayed in the following interview:

Interviewer. Have you considered mediation?

Attendee. I think we are well past it. Our relationship has reached the end of the line.

Interviewer. What do you consider mediation could be for?

Attendee. Would it be someone to talk to who would give you an unbiased opinion?

Interviewer. We're finding that some people don't have a clear understanding of mediation. It's meant to be used during the divorce process to help people come to agreements about finances and children.

Attendee. Oh, right. That would be handy. (F)

Having engaged in this kind of exchange, some attendees said that they would go back and look at their information packs to find out more.

Although the majority of attendees realised that mediation is indeed different from counselling, some remained uncertain about just how it differed. The assumption seemed to be that mediation is something more than just counselling: that it includes counselling, but offers something more as well:

It's not the same as counselling, is it really? It isn't just to counsel couples to get them back together. It's obviously discussing all the issues involved in divorcing. (F)

You can go there and discuss the sort of problems that you've had, maybe with the marriage as well, trying to resolve things, whether you can stay and work it out, work together or come to an agreement on the settlement side ... discuss emotions, discuss finances and try to resolve them. If there was any chance of actually getting back together then obviously maybe somebody else with a different point of view might say 'Well, don't you think you ought to give this a try?' ... (F)

In another research interview, the female attendee (who went to the first part of Model B) confused mediation with a support group for separating couples. The interviewer spoke a little about what mediation is, and the attendee was delighted to learn about it:

Attendee. These mediation meetings are where everybody gets together, aren't they?

[The interviewer explained what mediation is and does.]

Attendee. Oh, I actually misunderstood the mediation. I didn't think it was that. I thought that mediation was where you got together in a group with lots of other couples and talked about your situation and [tried to] get back together again ... Mediation sounds marvellous, then, because solicitors are just out for your money, and mediators, they are out for everybody's benefit. And then you can go to the solicitor's and finalise stuff, but if you can work through solicitors ... it costs a fortune for silly questions, which can be sorted out if they all got together like mediation. So I'm all in favour of it, I think it's marvellous ... Now that I've found out what it is, I would use it if I could get my husband to agree to going – because he doesn't believe I want to leave. [F, Model B individual meeting]

Having a partner who was unwilling or unable to attend

When we look at attendees' responses at follow-up telephone interview (N = 1,601) regarding why they had not been to mediation, we find that 18 per cent (288) said that their partner would be unwilling to attend, and therefore they did not consider mediation to be an option in their particular case. The information meetings provided information about mediation to one partner only (except for the few who attended as a couple). The attendee may have appreciated the potential value of mediation but their partner may not have heard any of the arguments in favour of mediation. Mediation requires two people.

Giving information to one person only is not the most helpful way forward. We spoke to many people who had been unable to persuade their partner to attend mediation, as the following comments indicate:

It's not compulsory, is it? [I] can't force my wife to go. It's Catch-22 really. (M)

I didn't know it existed before the information meeting. I am threatening him with a solicitor if he doesn't go to mediation. But mediation involves talking, communication – I don't know if [my husband] could do that. But I'll have to threaten him with a solicitor to get him off his backside. (F)

She wouldn't go. It's as simple as that. I went to two presentations [Model B], came back and asked her if she wanted to do that and she said 'No' ... I would have preferred to have settled through mediation ... It just degenerated within a week or so of solicitors getting involved. (M)

I would go but my husband wouldn't. This is the problem you know ... mediation hasn't got a fat chance. It's good on paper and would save a lot of money spent on solicitors if things got sorted out amicably ... but if you've got one partner who is in denial that there is anything to worry about, there's no way you can force them to go. (F)

It's a good idea, this scheme, but it seems to be totally aimed around the fact that both parties are going to co-operate. So yes, it is something I thought about, but my partner didn't want to at all. (M)

Some other attendees lamented the fact that their partner was unwilling to attend mediation, but it became clear that these attendees had erroneously interpreted mediation as a marriage support service:

Anything is worthwhile to save your marriage after fifteen years. I couldn't bring her to the table, no matter how hard I tried. She just wasn't interested. (M)

Things were past that. It was eighteen months down the road when I went to the meeting ... if I could have forced him to go then that would have been good but the divorce was granted on irreparable breakdown, which I didn't think was true. It was so one-sided and if he could have been forced to debate that in mediation I would have felt better. I would have known why. I never knew why [he wanted the divorce]. 'I just felt bored' or 'I just wanted out' – what can you do with that at the end of the day? (F)

If a partner is unwilling to consider mediation (irrespective of hoped-for outcomes) then the service cannot work and is not a realistic option. This issue was highlighted by Gwynn Davis and his colleagues in their research into publicly-funded mediation:

... how to attract second parties is a conundrum not so far resolved. If mediation is to operate on the scale envisaged, a way must be found to persuade second parties to at least consider it.⁶

⁶ Davis, G., Finch, S., Bevan, G., Dingwall, R. and James, A., *Researching Publicly Funded Mediation: Second Interim Report to the Legal Aid Board* (1999), p. 97.

If the use of mediation is to be promoted, both parties in the marriage need to be made aware of the potential benefits of such an approach. Solicitor-mediators have emphasised the importance of both parties attending the intake appointment for mediation:

These providers argue that the couple then hears the same things from the mediator at the same time, leaving less room for misunderstandings and further arguments.⁷

The same rationale can be applied to the information meeting. Both parties need to be made aware of the available option, particularly when that option requires two people to make it work. However, as the research has already illustrated, simply providing information does not necessarily result in behavioural change. Indeed, Davis made the following observation about partners who were not legally-aided and therefore not required to attend mediation:

On the whole, it appears that most second parties who are not under the section 29 requirement realise that they have a choice and exercise it in favour of not engaging with the mediation service at all.⁸

Being fearful of intimidation or not trusting a spouse

An information meeting does not attempt any form of assessment of suitability for mediation, yet there quite clearly are a number of people for whom mediation is not an appropriate option. In some cases intimidation by one partner, or even the threat of violence, might render a couple unsuitable for mediation:

It's something that, to be honest, wouldn't have worked with me ... one minute he was fine, the next minute he was aggressive. There were no in-betweens with him ... you wouldn't have known what he would be like at mediation. He probably wouldn't have spoken anyway, or there would have been a load of abuse ... To be honest, it would probably have done more damage than good. (F, who disclosed domestic violence during the research interview)

My solicitor advised against [going for mediation], because I've had to have my wife arrested twice and we were strongly advised not to be in the same room together. The court welfare officer has been advised not to ask us to attend together. (M)

In the following scenario, the attendee was a victim of domestic violence who, because of her religious beliefs, did not want a divorce but would have liked a legal separation. Her husband had a new partner but refused to move out of the marital home and she spent a lot of time living away from the home with her family. The financial aspects of the separation were left unresolved:

I'm sure it's a very good idea, and ... going to solicitors is very expensive. It's great, but it depends on the people and if they're prepared to meet half-way, and if they're in any way decent, and if they stick to a set code of rules – but if you're dealing with someone who doesn't stick to any forms of rules, it's out of the window ... I tell you, he's not that sort of person. People say it's guilt

⁷ *ibid.*, p. 99.

⁸ *ibid.*, p. 98.

but he's gone, like I'm his worse enemy in the world, and he just wants to annihilate me and leave me in the gutter, so that's his attitude and so he's not a candidate for mediation at all. (F)

This chimes with Davis's finding that, among Section 29 clients, mediators

have found mediation to be 'unsuitable' in a high proportion of cases (compared with private referrals), usually because there is said to be fear of violence or intimidation.⁹

Domestic violence is clearly an inhibiting factor when it comes to considering mediation, and mediators are required to screen potential clients for such matters. Equally, however, we have found, in this and in other research,¹⁰ that mediation requires trust to exist between the parties, and trust is often in short supply during the divorce process. For example, one female attendee explained to us that she knew about mediation before the information meeting, but felt it to be

only as good as the integrity of the persons involved. Once one is lying or being evasive it's no good.

The financial aspects of the settlement were still disputed at the time of our second interview, and the matter had gone to court:

They showed us this video. It made me laugh. There was so much in that that was similar to my situation. There was this nurse working nights and they try and pay the mortgage together. He plunders their joint account to pay for a sports car. She says 'How can you do this?' He says, 'I don't want to be here any more.' It shows the man climbing down the ladder and becoming putty in the mediator's hands: 'I've been a bad boy, haven't I?' But we all know most men aren't like that. They're incredibly arrogant and it's not going to happen. It's not happened in my case. (F, involved in divorce proceedings)

In the following case the video was seen as unrealistic in that it assumed a certain level of civility which is absent at the time many marriages are breaking down:

We can't sit down and talk like what it was showing on the video. People seemed to communicate a bit more, but ours stopped. That wouldn't work very well. He's a liar, you see. He wouldn't tell the truth. He wouldn't say, 'Oh yes, you're right to be concerned.' He denies everything, but he's always been like that. (F, unmarried parent)

She can be very manipulative, and she can use that to her advantage, as I don't think that people can see through that. It's not me being hurtful towards my wife – she's very clever with words and I can't communicate at that level with her and that frightens me, because now I have to go to the lottery of going before a county court judge to make a decision to decide my future and that of my children, and that frightens me. (M)

Even if there is no violence in the relationship, when a partner is not trusted mediation, which relies on mutual disclosure, will be problematic. If one partner does not want mediation to work it stands very little chance of success. The following comment was

⁹ *ibid.*, p. 93.

¹⁰ Walker, McCarthy and Timms (1994), *op. cit.*

made by a woman who filed for divorce after the information meeting but whose husband tore up the papers served on him by a bailiff and has since become increasingly abusive:

I don't think he would be willing to sit and talk. He wants to fight the whole way. My husband is quite aggressive. He wants to fight custody of the children and he wants to fight over the house, so I don't think it would be a good idea. He says I won't get any money.

Inaccessibility of mediation services in terms of distance and availability of appointments

A small number of attendees mentioned to us that even if they had wanted to go to mediation they would not have been able to because there was no service available locally. The postcodes of these attendees were checked and some, but not all, were residing in rural areas. Those who lived in urban areas may simply have been unaware of local services or there still may not have been a local mediation service available. The question of availability, however, raises important issues. If mediation is promoted attendees need up-to-date information about local services. If mediators are not available locally questions are raised about the appropriateness of providing information about a service which is not at hand:

Attendee. Well, definitely I would have gone [to mediation], but there's nothing in the area ... so that was useless.

Interviewer. Have you phoned the number given in the pack?

Attendee. No, because, as I said, at the information meeting they told us that there wasn't any in this area, so I didn't really bother. In fact, they said there's a chance they might be stopping that sort of thing [mediation], which seems silly, doesn't it? (F)

Other attendees were deterred from attempting mediation because of the distance involved:

I got put off because they [the mediators] were too far away [35 miles]. (M)

There was nowhere in our area, I think, that would do it ... Because it was out of the area we thought we may as well go to the solicitor's. A lot of these people only work office hours. By the time you get home from work you think it's not worth it. (M)

Another practical reason preventing mediation was the geographical distance between the two parties. We have examples of spouses who lived in different parts of the country and for whom co-ordinating mediation would therefore have been very difficult. Indeed, one woman whose ex-partner had moved abroad commented:

It would be pretty difficult to mediate with someone who lives 6,000 miles away.

Of course, it might be possible to mediate by conference telephone, but these kinds of services have been few and far between in the UK, although they are more common in North America where distance is a problem many divorcing couples experience. This suggests that mediators need to re-examine the models of practice which are routinely

used and to consider whether a more flexible approach to mediation might be adopted in certain circumstances.

In a handful of cases the attendee had no idea of the whereabouts of their ex-partner. All personal communication between them had ceased and any contact was via a solicitor:

I've considered mediation. I've applied for mediation. I got all the documentation but the problem was, I didn't know where she lived. I couldn't pass the information on to her to see if she agreed or not. (M)

In such cases mediation is clearly not practicable.

Concerns about the expense of mediation

Four per cent (68) of attendees (N = 1,601) expressed concerns that mediation is an expensive service. For some this was the deciding factor in their not using mediation. Some viewed mediation as an additional expense to solicitors – their thinking was that they would have to go to a solicitor anyway, so why use two services when one would suffice? Indeed, the report of the Conciliation Project Unit (1989)¹¹ found that the divorce process was more expensive if mediation was used. Mediation might cost less than going to a solicitor but there is no guarantee of this, especially if mediation is used in addition to using a solicitor, as it normally is. There was a category of people who did not qualify for legal aid because they were working and yet were on low incomes. For these people, paying for any service, be it solicitors or mediators, would have an adverse effect on the family budget. These attendees were not involved in divorce proceedings and told us that they simply could not afford to get divorced.

Other attendees, however, although they could have afforded to have used mediation, were horrified by the cost of the service. It seems that if mediation appears to be no cheaper than using a solicitor its attraction fades:

Personally that [i.e. mediation] is the way I'd rather go, but my wife, she's so strapped for cash ... she just wants to get divorced the cheapest and quickest way we can ... I think we were told it was between £80 and £100 and she didn't want to pay that. (M)

I did contact them and they said it was £100 for the first session. I said I couldn't afford it and therefore we didn't go to mediation. I don't know with hindsight whether that £100 would have been worth it. (M)

I think mediation costs a certain amount of money and that was the only thing. Because at a time when you're really clinging to how you're going to manage, any extra money that you have to pay out is really hard, you have to prioritise ... and for someone to say 'Well you actually have to pay for this – it's going to help you but you have to pay for this', it's really hard because you think 'Well I don't know if I would be able to pay for it'. (F)

I realised I couldn't afford a divorce. I'd have to pay about £100 per month towards legal aid, which is a lot of money. My kids need that money. (F)

¹¹ Conciliation Project Unit, *Report to the Lord Chancellor on the Costs and Effectiveness of Family Conciliation in England and Wales* (1989).

Because I'm working I can't get legal aid and I don't earn enough to be able to afford it [i.e. a solicitor and a divorce]. (F)

The need for realistic expectations

The reasons attendees presented for why they did not take up mediation following an information meeting were many and varied. Attendees provided us with very practical reasons for why they had not used, or may not use, mediation. Concerns existed also over whether it was in an attendee's best interests for them to go down the mediation route as opposed to seeing a solicitor. It is important to note that some research interviews were dominated by the fact that one of the parties was ill, and this had a major influence on how problems in the marriage were handled. Sometimes it served to bring people together and strengthen a marriage, while at other times it was the catalyst for separation. Ill health may lead to a state of stalemate where the illness is the dominating issue and everything else is put on hold. Where there is mental illness it can be difficult for spouses to communicate effectively with each other and hospitalisation can prevent mediation being a realistic option. We return to this issue in Chapter 29.

Clearly, information meetings did not divert people into mediation in any major way. The research indicates that the number of people who might seek the help of mediators in the future needs to be re-evaluated, even if a greater emphasis were to be given to promoting it as an option. Since the majority of people will consult a solicitor at some stage, the views of solicitors are also influential. In a few cases, we discovered that attendees had been discouraged from going to mediation by their solicitors. On the other hand, we spoke to attendees whose solicitors had suggested mediation to them. Solicitors evidently varied in their views on mediation, as we confirmed during the consultations in the pilot areas:¹²

We considered it, but interestingly, my solicitor recommended not to. (M)

I wouldn't have considered it. My solicitor advises against it. (F)

My solicitor hasn't told me about it and I think that he should. (F)

My solicitor ... actually advised me to go to mediation because, she said, 'You'll be spending £25 per hour instead of £75'. (M)

One attendee told us that the fact that a solicitor had recommended mediation to him had caused him to question the neutrality of the mediators, since they were linked to the solicitor's practice. Where a mediator is linked to a solicitor's practice, the party who uses that firm may be regarded as having an advantage over the other party in mediation. In this case, the attendee argued that if mediators were seen as separate from solicitors they would be more likely to be regarded as neutral and, therefore, as a more attractive option.

¹² See Ch. 32.

Experiences of Mediation

Responses to the time-slice postal survey (N = 701) provided information about attendees' use of mediation at three points in time following an information meeting: 12 months, 18 months and two years afterwards. Seventy attendees had been to mediation. Of these, 59 had used mediation with their partner, and a further 11 had attended a mediation session on their own. There was no difference in uptake at mediation between the three time-slices.

When asked why they had gone to mediation, most people offered more than one reason. Over half wanted help in making arrangements for children and over 60 per cent wanted help in making financial arrangements. About a quarter said that they had gone to mediation because the information presenter had suggested it. One-third of attendees went to mediation after their solicitor had suggested it to them.

Most of the mediation sessions were held at a mediation service, but a fifth involved a solicitor-mediator acting independently of a service. A third of attendees had only one session, but the average number of sessions was three. Attendees who had been to mediation were more likely to have used a solicitor and consulted a marriage counsellor than were other attendees in the sample. Attendees with children were more likely to have tried mediation than attendees without children.

As regards those attendees who went to mediation, agreements were reached in 37 per cent of cases, but 63 per cent of people who had been to mediation said that they still had issues to resolve. Satisfaction with mediation varied, with 44 per cent of people being satisfied to some degree and 33 per cent describing themselves as dissatisfied in some way. Reasons for dissatisfaction were mainly that there was no legal framework for advice, that agreements were not binding, or that mediation created bad feelings between the parties:

We were always in a worse and less co-operative mood after mediation. (F)

Anything agreed was seemingly not binding as my husband repeatedly went back on his word and there was never any comeback. The mediators seemed too impartial and we spent several sessions going over the same things with no definite outcome. (F)

The solicitors [solicitor-mediators] were giving no legal advice so although my husband and I agree on some things I felt I was, or could be, pressurised into agreeing to things not in my best interest[s] and not legally correct either – any woman (or man) used to agreeing for the sake of peace etc. would, or could, come off really badly. We were supposed to go to further meetings, but I refused and went back to my solicitor. The values of property (houses and cars) which we agreed at mediation were then disputed by my husband's solicitor. (F)

Half of the attendees who went to mediation had consulted a solicitor about going to mediation before using it. In 89 per cent of cases the solicitor consulted was reported to have encouraged the use of mediation. Twenty-two people consulted a solicitor after mediation, and ten of these reported that their solicitor disagreed with the arrangements that had been made in mediation. Most attendees who went to mediation consulted a solicitor at some point. It seems, then, that mediation did not replace the need for a solicitor in these cases, but rather was used in addition to the legal services.

In order to look more closely at the use of mediation after attendees had been to an information meeting we selected a subsample of people (42) who had been interviewed twice. We contacted them for a third time in order to conduct a longer, more in-depth interview. Some had been to mediation, others had not. The interviews illustrate the complexities many divorcing couples faced and the way in which they either used or rejected mediation. For those who went to mediation after the meeting (12) we found that getting to mediation was not the end of the story, nor did it automatically mean that a settlement was reached. How attendees defined the success of mediation varied from case to case. Some of the attendees were satisfied with their experience of mediation, whereas others were very dissatisfied. Trust and fairness were important factors for those attendees who chose to use mediation. The presence of a neutral third party featured strongly in some accounts as the reason for the service having been chosen.

The perceived helpfulness of a third party and the notion of fairness

The involvement of a helpful third party came through clearly as a reason for choosing mediation. Some regarded the third party as 'neutral', and envisaged that the third party would indicate whether what had been suggested was fair or not. This view stood in contrast to the view about solicitors, who were regarded as protecting a person's interests, rather than necessarily being fair. The notion of being seen to be fair was an important one for attendees. The mediator was sometimes regarded as someone who could guide couples to a fair decision. On occasion attendees assumed that the mediator would be able to advise on financial matters or offer concrete guidelines as to what a financial settlement between two parties would look like. Evidently, some of the assumptions attendees made about the precise role of mediators were sometimes a little misguided:

I wanted someone to take all the information and to say 'Right, this is what is going to be fair'. (M)

I was hoping that there was [*sic*] concrete guidelines where in this situation you do this, this and this. [I] wanted to be fair, but not have her ending up with everything and me with nothing, so I wanted someone to advise me 'Yes, you are being fair', or 'No, you're being too hard'. (M)

It was just a case of ... getting nowhere fast ... because neither of us had the experience to decide what is fair. (F)

The presence of a mediator was seen as helping to defuse emotionally-charged situations or as stopping them from developing. Whereas couples did not believe they would be able to talk to each other directly, they felt that the presence of the third party would enable them to talk and also keep the discussion 'civil' and 'on track'. Also, having a third party present was regarded as a way of making a partner listen. Whereas a partner may not listen to their spouse, it was envisaged that they would perhaps take more notice of a mediator:

I did hope that hearing it from a third person would make it mean something to him, rather than if I said we should do this or that – then it's just me saying it so he won't do it just because he wants to be awkward against me. Whereas if somebody else was to say, perhaps, 'This is a good idea' or 'The way things

are at the moment this is not good for your children' it might make him think twice. (F)

I wanted to sort things out and it seemed like the best way to do it, through a mediator ... because we obviously weren't going to do it, just the two of us. We disagreed on things and we couldn't talk anyway. (F)

It was quite useful to have had our conversation in front of somebody. Yes, just doing it on our own it might have got a little bit heated, and doing it through letters via a solicitor, I don't think that would have worked very well ... I think it was a good alternative, a good compromise ... having someone who was simply aiming for an agreement, and an impartial agreement. I think it was the impartiality ... and having someone there who was impartial – that was the main thing really. (M)

Unsurprisingly, perhaps, not all attendees got what they expected from the presence of a third party, particularly if they had been looking for guidance. Some reported being disappointed by the lack of direct intervention by the mediator in decisions that were being discussed, or by the lack of direction offered by the mediator. These couples continued to struggle to determine what was a fair settlement:

The most difficult thing about it was probably that there was no one there to say exactly what was fair ... but it was kind of left to us. She facilitated the process but it was up to us to come up with a conclusion ... I think I expected a little more direction ... I didn't know what the entitlement for either of us was ... we were both inventing our idea of what was legal and what was fair. (M)

I would have expected them to say 'What have you come up with yourselves?' and then advise us, like I say, whether that was being too greedy or whether it was a fair deal – you know, get their professional opinion if you like. Your expectations of the mediator are that they are professional people in all these different fields – you know – which they probably can't be. (M)

She [the mediator] was very young, very aggressive, and I felt that she didn't have much sympathy and understanding, to be honest. I feel a more experienced mediator might have had a bit more counselling skills rather than just keeping us on the right track. But perhaps I was asking too much – perhaps that's not what mediators are for. (F)

Personal Stories

The following individual stories describe the various experiences of mediation reported by attendees during the in-depth interviews. The first two stories describe 'successful' mediation, where both interviewees spoke of the potential benefit of having a neutral third party present and were able to reach some sort of agreement. The remaining stories document the various experiences of people who regarded their experiences of mediation as less than ideal.

*Brian – reaching a settlement and improving communication*¹³

Brian had been divorced for just over a year when we recontacted him for a third time in order to carry out an in-depth interview. At the time he went to the information meeting he was looking for direction because his wife had said that she was going to leave him by a set date and he wanted to know his options. At the time of the meeting Brian commented that he was hoping to be reconciled with his wife. *I was more focused on trying to patch the marriage up at that point.* He went to an introductory meeting at Relate following the information meeting and recalled that mediation was also mentioned at the Relate session as *a possible solution to the day-to-day crises.* He commented that at the time of the information meeting he was not aware of mediation, nor particularly looking for it at that point.

Brian's wife did leave him, and took their young son with her, after which time there was very little communication between himself and his ex-partner and he was concerned with arranging some contact with his son. Ideally, he would have liked shared care. He managed to make an informal contact agreement by negotiating directly with his ex-wife, but she reneged on it. He then suggested mediation to her but received no response and the situation was handled through their respective solicitors. He felt mediation would have been a useful route, as his wife was not communicating at all. Both Brian and his solicitor suggested mediation to his wife's solicitor as a way of improving communication. *We arrived at it, I think, from the point of view [that] my wife wasn't prepared to talk about this at all and I kept saying we need to settle things. Mediation was suggested by me and my solicitor, both he and me, to her solicitor.* Brian described his wife's solicitor as *very aggressive* and was frustrated by the numerous letters which he was sent, which did not resolve the situation and did not improve communication between him and his wife. *I was happy to mediate from very early on ... my view is it will be a better way to sort it out. It may give a third party a chance to give their own conversation and point out both sides, you know, perhaps areas ... we could have looked at ... there is another voice to say you must sort this out, talk and sort out the situation.*

Brian was one of a number of attendees who was unsure where and how mediation fitted into the divorce process. He remarked that mediation was *mentioned along with all the other things*, but it was not entirely clear to him what was involved. He remarked that at the time of the information meeting he may not have been *quite ready for the information at that point.* He felt that the information meeting (Model B, individual meeting) tried to cover too many topics and fit too many different situations. *I think it was trying to be too much, as an introduction – not to touch on anything specifically.* However, he remarked that it *pointed me in the right direction* and the information pack served as a *handy ready-wrapped reference.*

Brian's wife did not respond to his or his solicitor's suggestion of mediation. Communication between solicitors continued and the situation eventually reached the point of a pre-court hearing. The suggestion of mediation was made at the pre-court hearing and Brian's wife agreed to go. At the time of the pre-court hearing, his mother-in-law had been looking after his son while his wife was at work and he was keen that he should be allocated this responsibility and was willing to fit in with his wife's shifts.

The first mediation session was arranged some ten days after the pre-court hearing. The location was slightly inconvenient to Brian as it involved a twenty-to-thirty-mile journey,

¹³ All the names used in this chapter have been changed to protect confidentiality.

but he felt the fees to be reasonable at £20 per session, which he compared favourably with his solicitor's fees. Brian was very pleased finally to have managed to get his wife to go to mediation and he *anticipated it would produce results*. The couple had four mediation sessions, which Brian described as taking the following pattern: the first session was an individual one for them both, during which the mediator explained the service and began to touch on the issues that it was hoped would be resolved; the second session began to address the solution; and the third continued with this and an agreement was reached. There was a briefer fourth meeting a month or two later to make sure the arrangements were working. The sessions lasted about an hour and were a week to ten days apart.

Brian felt frustrated with the first session which explained mediation, since he felt by that point that he already knew what mediation was as his solicitor had explained it to him and he had read the leaflets included in the information pack. He was keen to get started on actually resolving the issues. After this, however, he felt the sessions went well. He commented that his wife took longer to reach a point of agreement and *went round the houses*, but the mediator was very helpful and *contributed by making practical suggestions*. The mediator raised issues, such as school holidays, that the couple had overlooked, which Brian found *very useful*. *I think [the mediator] did what I wanted her to do, which was try and get some reaction from [my wife] and try and get some issues on the table and start talking about them ... I was very happy with the whole process ... [I] wish we'd done it earlier but it takes two to tango.*

He described the settlement reached as *a two-stage settlement*. Temporary arrangements were put in place until he moved nearer to his wife and son. Once that had occurred, arrangements were set up whereby Brian had his son two nights a week and every other weekend, but there was a degree of flexibility. He expected that the arrangements would be reassessed as circumstances changed (i.e. as his son got older). He stated that the arrangements reached were put in writing and they *may have gone to court as part of the papers* but he added that he did not think they were formalised by either a solicitor or a court.

Brian explained that once the contact arrangements for their son had been resolved the tension in the relationship eased and the couple were able to apportion the financial proceeds from the house themselves, in a reasonably amicable manner. He felt that mediation had been useful, not only because it had enabled them to reach an agreement about their son but also because, after mediation, the relationship between the two of them *got better* and they were able to communicate with each other. Brian's story is very much a success story in terms of the aims of the FLA. Not only did mediation help the parties to reach an agreement which they both felt to be acceptable, but negotiating the agreement helped ease the tension in the relationship, leading to a more communicative relationship afterwards, which would probably facilitate continuing parenting and hence be beneficial to the child involved.

Anna – a better way

By the time of our in-depth interview with Anna she was divorced, and described her divorce as *amicable*. There had been no particular disagreement over issues, but Anna had preferred to use mediation rather than solicitors to settle matters and she saw mediation as *the logical way to go*. At the time of the information meeting (Model A)

Anna had just embarked on the divorce process and had consulted a solicitor, who had *put the wheels in motion*. When she went to the information meeting she was not looking for mediation in particular, but rather wanted information about the procedures involved in divorce. She recalled that information about mediation was presented to her as one option and she did not feel that the meeting influenced her to choose any particular route, but rather was *just a pointer on the way*. However, the idea of mediation appealed to her because she did not want to use solicitors, as she considered them expensive, and she did not want to *try and muddle through it* and resolve matters herself. Mediation offered an alternative route. *I think with a third party they can sort of be objective and they are not involved emotionally at all and they can sort of help you look at what you've got because they know the ways, they've done it before, they've got the experience, they have a certain plan of campaign if you like, a set of procedures to follow, and so that makes sure everything is covered.*

Anna was attracted to mediation for a number of reasons: so that she could benefit from the presence of a neutral third party; because she perceived it to be fair; and so she could avoid solicitors and, therefore, hope to reduce costs. These are reasons which attendees often told us had attracted them to mediation or made them consider it. The notion of fairness featured in Anna's account: *we were both already at the solicitors, and I mean the solicitor could have drawn up a financial agreement but then that could have been seen as being everything I wanted, and a part of me feels that it is important to work out, yes, what I wanted, but what was fair, in the light of all the circumstances.*

Anna had clear expectations about mediation. She expected that *something would get sorted out, that this was the right way to go – you know, that however long it took some decisions would be made. I really don't know why I thought it would work. I suppose the word 'mediation' seems to hold out some sort of hope.*

The separation between Anna and her husband appeared to be quite civil. They were both still in the marital home, but lived separately, and they had agreed that he would remain there until he found suitable alternative accommodation. She commented that, although there were no rows or physical dangers for her to contend with, she *couldn't stay in a prison any longer*. They had tried marriage counselling previously. For Anna mediation was *the end of a long, painful road*. She saw mediation as *the right way* and her husband agreed to use mediation. The particular issue to be resolved was the division of their assets, and she regarded mediation as *a means to an end*.

In order to access mediation Anna had first tried to contact the mediation service in writing, but commented that one of addresses given in her Local Service Directory in the information pack was incorrect. She felt that it was important that this information should be fully checked and kept updated. Anna enquired about mediation through a firm of solicitors but considered them too expensive, and so she then telephoned another number from the information pack and chose a mediation service which had already been mentioned to her by her church minister. The cost of £20 per hour (means tested) was acceptable to her and the couple had their first appointment within four to six weeks of the initial enquiry. Initially, Anna reported feeling nervous about going to mediation. *[I was] a bit scared, wondering what was going to happen. No matter how confident you think you are, underneath there are still the butterflies, aren't there? And how are they going to receive me, how are they going to cope with what I – we – tell them? I wouldn't say I was bursting with confidence but it seemed the OK place to go.*

Anna and her husband had six sessions, each of which lasted approximately an hour and a half and took place once a fortnight. Anna was pleased that the mediation was conducted with *sensitivity and confidentiality. And also with some structure. And it wasn't haphazard.* Everything was done to a timetable, and they were told what to bring for each session and given a cup of tea. The sessions were very practical, which Anna was expecting. She had not expected emotional issues to be addressed. However, she acknowledged that emotions might be stirred up by the process but, as she was having personal counselling alongside mediation, she felt that these would be dealt with in counselling. *I've been to counselling before so it wasn't like counselling ...while she [the mediator] was sort of sympathetic and understanding, she wasn't there to counsel, you know – she was there to help you make practical decisions ... I was attending counselling on my own. If there were any outcomes from mediation they would have been addressed with my counsellor – it wasn't necessary to bring them into mediation. It was basically certain feelings just got resurrected and they were all part of the ongoing counselling process anyway.*

The settlement that was reached represented a clean break and the Memorandum of Understanding was legitimised by solicitors. It was not necessary for Anna and her husband to go to court. Anna commented that she could have been awarded maintenance from her husband, but she did not want this, since she did not want to be tied to him in any way at all. When asked whether she felt mediation was a success she replied: *It worked. I suppose it was a success ... it had a positive outcome, so in that way I suppose it was a success. I got what I wanted ... it enabled us to come to a place and draw up a financial agreement which was then processed with solicitors.* She thought that her ex-husband felt the settlement was satisfactory, although he had remarked that he felt she was taking him for all she could get. Anna summed up the agreement as *I got what I wanted and my ex got what he needed to live on.* However, by discussing the issues via a third party they had both been able to offer suggestions, and by offering her husband the chance to have his say Anna felt she had at least been fair. She felt that the solicitors were a necessary part of the process and that the two systems worked well together. She did not consider her solicitors to be adversarial. They seemed happy with her using mediation and were willing to process the Memorandum of Understanding without making any changes.

She felt that mediation had worked well for her and remarked that, if the need ever arose, she would use it again. For Anna, the practical issues involved in the ending of a marriage were all resolved. She was still dealing with the emotional issues at the time of the in-depth interview and envisaged that she would continue to deal with them for some time to come.

Julie – wanting to be listened to

Julie had seen a solicitor before going to the information meeting to ensure that she had all the information available. Her husband had left her for another woman, and although she recognised that he would be able to see his children, she was resistant to them spending time with his new partner. He also lived a considerable distance from Julie and so any contact would involve the children staying overnight. Julie and her husband attended court in an attempt to resolve the issue of overnight contact. They were referred for mediation by the court. All along she knew that he would be granted overnight

contact with his children because *it's got nothing to do with the mother and the father, it's all to do with the children.*

Julie went to mediation with her husband, but even before she went she knew that she would not come away with what she wanted. She described herself as *let down* by mediation not because she did not get the settlement she wanted, as she was resigned to this, but because she had hoped to be listened to during the process and have her viewpoint at least registered, but she felt this had not happened. Julie told the tale of a divorce she did not really want but felt *forced into*, as it seemed that only through her getting a divorce would any financial settlement be reached. She felt that women were almost forced to get divorced if they wanted to settle any financial matters and could not understand why the law was such. Her understanding of the legalities of the situation was as follows: *If you've got a stubborn ex-husband who won't, in your opinion, give you what you're due, you cannot do anything legally unless you're either divorcing or going to divorce him, so you've got to rely on their good nature – so why are they making us [i.e. women] divorce them before we can go to court? I don't understand that bit of it and I never will.*

Julie's aim was to make the mediators, and ultimately the court, take some notice of why she felt this to be unfair on her. She knew that the outcome would be the same, but she hoped that there would be some acknowledgement of her feelings *and I suppose I went with the attitude that the more these people listen to the other side of somebody's argument, not all hunky-dory all the way down the line, but hopefully some little bits of information may sink in but, of course, again it didn't because it was all my emotions I suppose, and my feelings, and they don't take them into account.*

At mediation, the starting point for negotiation was the fact that Julie's ex-husband would be allowed to see the children and the purpose of the session was to establish how arrangements about this might be made. She wanted some discussion of the fact that she was *the injured party* and that none of it was fair on her: *They politely listened and then politely told me that what I said was of no consequence, and basically to pull my socks up and get on with my life was the attitude that came across ... I suppose if you can imagine a snotty headmistress talking down to you even though you're thirty-eight years of age, you know what I mean, a bit insignificant.*

The arrangements went back to the court and were endorsed, but Julie refused to pay for the mediation session saying her husband would have to pay. The couple went to court for a second time when he wished to take the children abroad on holiday and she again resisted. Once again, she knew she would not win the argument and once again they were referred to mediation: *I didn't have a leg to stand on but I just felt I have got to put my opinions across otherwise nobody hears what I have to say ... nobody is listening to me because I'm not important. The only people who are important are the children.*

The financial arrangements were settled using the solicitor and finally through a court ruling. She described solicitors as becoming involved when the trust between a husband and wife has gone, as was very much the case in her situation.

Len – describing unsuccessful mediation

It should not be assumed that once a couple have both agreed to go to mediation the process will be successful. Just as there are many obstacles that may prevent a couple getting to mediation in the first place, so there are many hurdles to be overcome once they are in mediation. Going to mediation is no guarantee of actually mediating. If one partner does not wish to take part in the process, despite agreeing to attend, it is unlikely anything will be resolved. The attendees we spoke to reported a whole range of experiences, ranging from reaching a successful settlement to not being able to mediate at all. In some instances, the partner was described as not being interested in reaching an agreement and as using the mediation session for other purposes. When the couple did not share the same agenda, mediation could become very difficult.

Len told us that mediation had not been successful. When he went to the information meeting he was looking for a way of resolving the difficult financial situation in which he found himself. He was paying what he considered to be a lot of money to his ex-partner and was finding it increasingly difficult to manage. The relationship between the two was very highly charged, with unresolved emotion and bitterness on both sides. He was the party who had left the relationship and there was evidently a great deal of guilt on his part. Len stated that at the time they went to mediation his ex-partner had not accepted the break-up. *She was in denial, couldn't accept it was over, couldn't face up to it.*

Len hoped that mediation would provide a *way forward* and that the presence of a third party might help to control the excessive anger and emotion in the relationship. He described his wife as *suspicious* of mediation to start with as she was uncertain of the implication for the relationship, and he linked this to her not wanting the relationship to end. Hence she had a very different agenda to his – whereas he wanted to *keep off the emotional stuff*, she insisted on going over it. In Len's view, his wife treated mediation *more as a marriage counselling session* and brought up things that he considered irrelevant to what was being discussed. He also commented that the mediator was *dumbstruck at some of the things she said*. Len felt that his wife needed counselling, and whereas he had been for couple of counselling sessions on his own through his place of work, she had not had any counselling. The outcome of mediation was *a bit of a financial agreement – but we had that before*. He ended up paying more to his ex-wife but was concerned that she would continue to demand more money in the future.

Both Len and his wife found the mediation sessions emotionally draining and he was particularly annoyed that he had been asked for payment immediately following a harrowing session. *There is no way you can justify £80 for what they did ... they went on about what mediation is – the ins and outs – and it dragged on and didn't address the finances. They were lining their own pockets and I didn't trust them ... it was a pay-back system, to ask for it cold-bloodedly after the meeting. It was disgusting ... it felt like paying to be harassed ... we both felt worse-off in different ways.*

Michelle – intimidated by her husband

Michelle reported having had a bad experience at mediation. The settlement that she reached through mediation was questioned by her solicitor. She had filed for divorce before going to the information meeting and her decree absolute had been granted by the time of our follow-up telephone interview. She had used mediation in order to resolve financial issues (having already resolved the children's issues before mediation). Michelle had expected to have two or three sessions, but actually had six and was very

unhappy with her experiences. She described the mediator as *not strong enough* and a second mediator was brought in. *The mediator was not strong enough to cope with emotion and aggression. She wasn't technically strong on figures, which is my husband's job. All three women were intimidated by him. It didn't work. For maintenance she [the mediator] said 'I'm not doing it', so it was never discussed.*

Michelle's solicitor was *horrified* at the mediated settlement, which was subsequently changed. *I thought it was very unfair what we came out with, and I subsequently went back and talked to the manager, who said I could complain, but with four kids, a full-time job and moving house there was too much going on.*

Deborah – difficulties with an uncooperative partner

Deborah told us that her solicitor had mentioned mediation and that her family therapist had also suggested it. She recalled having heard about it from the information meeting (which she attended with her husband) and remembered having found the video helpful. She attended a first assessment session on her own but told us that, despite letters from the mediation service, her husband refused to go. Her solicitor then wrote to him explaining that it might be a helpful way of making agreements about the children, but he still refused. He had also attended a group presentation and so had heard about mediation at first hand.

Deborah was hopeful about mediation as she believed her husband might take notice of a mediator whereas he was very dismissive of his wife. The mediator was expected to make suggestions that might make her husband think twice. However, Deborah's husband would not agree to go and she did not think it would be worth pursuing mediation. She felt that if her husband attended unwillingly then he would be unlikely to be helpful during the process or adhere to any agreement reached. She returned to her solicitor and the divorce was handled through solicitors from that point onwards.

Moira – problems with a directive mediator

In other cases, solicitors were consulted or reconsulted after mediation broke down or was felt to be unsatisfactory by one of the partners involved. Moira had been separated for over four years but was not divorced at the time of our in-depth interview. She had shelved the idea of a divorce, predicting that it would cause a great deal of turmoil and wrangling with her husband, whom she described as not wanting to let her go.

Moira went to mediation some time after attending an information meeting (Model A), but reported having learned about it from her solicitor. She was very receptive to the idea of mediation and was keen to keep matters civilised and, before her experience of mediation, felt she could trust her husband. *It seemed to me to be the right way forward to discuss things openly, for everyone to put their cards on the table.* Moira predicted that mediation would be *fair* and that the presence of a neutral third party would be very helpful, *keeping things a bit cooler and making suggestions.* She wished for financial matters, rather than children's arrangements, to be resolved through mediation. She felt able to handle the children's issues directly with her husband, but did not feel that she could negotiate with him on the financial side. She was keen to differentiate between the two sets of issues. *He has not been that great a husband, but he has been a good father*

and that's important. Once in mediation, she found one of the two female mediators very directive and this angered her because she felt the woman had no understanding of her circumstances. *The mediation people had absolutely no idea what our circumstances were. They kind of pre-decided what our lives were like with no knowledge of them.*

Moira felt that one of the mediators told her what she should do. *The other [mediator] was more directive – 'You've got to do this'. I thought 'I don't have to do anything'. It's for [my husband] and I to work out between us and for you to say 'Yes, this seems fair' or 'No, it doesn't'.*

Moira felt *forced into a corner* and that she was *having to concede everything*. She felt she was being questioned about her spending of income, such as her need to run a car. She commented that the mediators were making judgements about her lifestyle when in fact they had no knowledge of her responsibilities for her elderly mother or the fact she had to transport her laundry to the launderette since she had no washing machine. *When it got to the car, I said 'For God's sake, what else am I going to have to do without? This is impossible.' I think they knew I was upset.* She had looked to her husband for support on the car issue, but when he said nothing she felt *quite frightened*. *There was just a sort of feeling of helplessness, total helplessness, and sort of thinking, 'What do I do?' Either fight my corner or do I just say 'Oh all right. I don't care, it doesn't matter, have it all' ... a feeling of real helplessness.*

The final straw for Moira came when she and her husband were asked to produce cash flows consisting of income and expenditure and he did not do so. She had done as requested, and so her list was discussed in mediation. Her husband stated that his expenses were similar to her own, which Moira could not accept as he lived rent-free with his parents, paid no bills and had a company car. The children lived with her and she earned a lot less than him. After that mediation session she got in touch with the mediation service to say she would not be back. *I didn't want to feel powerful. I just wanted to feel that we could both make our case and that there would be somebody there to say which seemed fairer to them. But I think in the end it would be easier just to go to the lawyer's and thrash it out that way.*

Moira's husband continued to resist the idea of divorce and they have been in stalemate ever since. She is unwilling to progress further since she is put off by all the likely wrangling that would accompany it. She has reservations about solicitors, believing that they *breed suspicion* between the parties. Her experience of mediation had left her more anxious about pursuing a divorce than she was before. *It kind of left me with more anxiety than when I went in, thinking this should have been a reasonably amicable way of dealing with things and it jolly well wasn't, so if it's going to be like this open and in front of people, it's going to be even worse the other way.*

Despite her bad experience of mediation, she still believed that it could work for others, and that any intervention which minimised bad feeling was a good way forward. Her experience of mediation had put her off divorce altogether, but this was not a satisfactory outcome for her, and the research interview reaffirmed this. *Talking to you now is bringing back the feelings that I had then, and making me realise why I'm stalling because I'm really bothered about dealing with it, I really am. I don't want wrangles and trouble ... Marriage is a powerful thing, makes you feel very frightened of leaving, and that is not a good reason to stay.*

After the last mediation session Moira received a letter from her husband's solicitor stating terms which she felt were unacceptable and which probably stemmed from the fact that he was resistant to the divorce anyway. She told him that she felt it was unreasonable, and neither of them had progressed any further with the divorce since that time. Her story is a vivid example of a long and worsening marital situation. *Bad feeling has an awful habit of breeding more bad feeling ... the hatred and the anger and bad feeling can go on for so many years.* Moira surmised that mediation could work for some people, despite her own bad experiences, and remained much more sceptical about solicitors, believing that their involvement only makes matters worse.

Mavis – the importance of timing

In the next example, the ambivalence and ambiguity which may be involved in a divorce, and the importance of timing in mediation, are clearly illustrated. Mavis was asked by her husband for a divorce, which she refused. He suggested mediation to her as part of the process of splitting up, but, since she did not wish to consider divorce, she would not consider mediation either. *I didn't want to proceed ... I was exploring all the options I could.* After some time she came round to the idea of a divorce, but on the grounds of a two-year separation and not of unreasonable behaviour as her husband had suggested. At this point, however, her husband stopped all direct communication with her and would only communicate via solicitor's letters. Mavis contacted the mediation service and initially went on her own. When she suggested mediation to her husband he was no longer interested in negotiation. The divorce was then handled by solicitors and turned into a long-drawn-out process. *I felt it [mediation] might be better than trying to go through intermediaries and that has been the case, because if I say what I am thinking ... my solicitor takes out the bits of it ... [He] then relays them to another person by letter or phone, and that person then has to relay it on to my husband. It's like Chinese whispers ... whereas if we could have actually sat down with another person to say 'Hang on a minute – you're not supposed to be arguing, you're supposed to be agreeing to something. Behave or I'll bang your heads together' ... we might have been able to come to a more amicable agreement without solicitors making the legal noises as well, about this is your right and that is your right. Sometimes it's a question of appealing to somebody's better judgement, say, 'Well, do you think perhaps morally you owe this person something?', but solicitors and legal things don't go on moral bits – it's all legal bits.*

Mavis's wish to negotiate directly with her partner was not fulfilled. In this case, there had not been a time when both partners felt ready and willing to mediate. Consequently, despite the fact that at different moments during the process one or other of them would have been willing to negotiate, mediation did not happen. Arm's-length negotiation through partisan solicitors became the inevitable route through divorce. Such a situation reminds us that people can be at very different stages emotionally, and yet both need to be willing to work towards the same goals at the same time, for mediation to work.

Lessons To Be Learned

During our in-depth interviews we discovered that of the twelve attendees in our in-depth interview sample who went to mediation following the information meeting, three actually progressed no further into mediation than the initial intake session. From this

point onwards all matters were negotiated via solicitors. In these cases, their respective partners were unwilling to attend. Although these three attendees had begun the process themselves, mediation had fallen at the first fence when their partner refused to attend.

As can be seen, simply getting two people to mediation is not a straightforward matter. Even when a couple do go to mediation this does not guarantee that they will come out with a mediated agreement. Many factors have to be in place before mediation works successfully, just as many factors need to be in place in order for a couple to get to mediation in the first place.

The many reasons people have given for why they were deterred from using mediation need to be considered carefully and addressed where possible. For example, one might ask whether explaining the benefits of mediation to the second party would be beneficial and, if so, how this information might be delivered to the other partner. For mediation to be successful both parties need to feel that it is an appropriate route to follow and to cooperate with the process. When an unwilling participant is involved in the process mediation is unlikely to be successful. We have seen that some people are put off by the cost of mediation. Should mediation be free, or subsidised and more widely available? The negative factors which attendees have highlighted may need to be offset by positive portrayal, a much harder sell and increased incentives if people are to consider mediation as a realistic option. We note that more people took up the offer of a meeting with a marriage counsellor following an information meeting than went to mediation, and that attendees were given a special invitation to a meeting with a marriage counsellor, which was a more forceful intervention than simply imparting information.

During this chapter we have concentrated on the use of mediation *services* following an information meeting, since this was a measurable outcome. However, we spoke with attendees who had taken on board the ethos of mediation and had attempted to separate or divorce in a conciliatory manner, although they had not actually approached a mediation service. Some told us that they had asked a friend or another family member to act as a mediator and arrangements were negotiated via this third party:

My mediator is now my father-in-law because he is near enough to my husband. He can see how to handle him, which I cannot. (F)

One man explained how he had been disappointed with how the solicitors had handled his divorce. He had received almost thirty letters from his wife's solicitor with regard to finances, all 'addressed very insensitively'. He commented that the divorce 'dragged on', and with the benefit of hindsight he suggested that people should

try and get a good friend to try and mediate. I think that should be stressed – I wished we could have done that. (M)

Another couple used a mutual friend to mediate following the wife's attendance at an information meeting:

I've never really considered mediation before going to the meeting. I didn't go to a professional mediator as it were, but somebody that knew both of us who was able to look at it objectively, and that encouraged me to deal with it and talk about it and come to some mutual agreement about what was beneficial to both of us. Up to the point of going to the meeting, I hadn't really considered it at all as I was overcome by all these jealous angry feelings. (F)

As we noted in Chapter 11, the information meeting impacted upon people in ways which are difficult to measure. Nevertheless, attendees have been encouraged to act in ways which support the principles of the FLA. In fact, using a mediation service is only one approach to trying to achieve a conciliatory divorce. There are other routes, which may be more difficult to measure but which in some cases will encourage a conciliatory approach. Increasing knowledge about mediation by providing information is an important step along the road of encouraging people to think about it and accept its principles and, in some cases, to use mediation services themselves. Providing information is, however, only a first step.

Most attendees who had been to mediation told us that they had consulted a solicitor. Indeed, some mediation services recommend that a lawyer is consulted.¹⁴ Of the 42 in-depth interviewees, all those who had been to mediation following an information meeting (12) had also consulted a solicitor. These attendees did not view mediation and solicitors as an either-or choice. Rather, they used the service which best suited their needs. In cases where mediation did not get off the ground or did not reach a settlement, the attendee invariably turned (back) to solicitors. Where an agreement was reached, the Memorandum of Understanding was taken to a solicitor to be ratified or to be looked over with a legal eye. In such cases the role of the solicitor was to do the paperwork for what had already been agreed rather than to fight a party's corner. Using mediation may change the way in which the solicitor is used and what they are used for, rather than ruling out their use altogether. We consider the use of solicitors in greater depth in the next chapter.

¹⁴ See e.g. the National Family Mediation website at <http://www.nfm.u-net.com>

Chapter 20

The Role of Lawyers in Divorce

Cathy Stark and Carol Birmingham

... citizenship requires knowledge, but the pervasive lack of the most rudimentary knowledge about legal rights and procedures for enforcing or defending rights can lead to an unnecessary level of helplessness even among the more competent and resourceful.¹

Our first telephone interview with information meeting attendees, which took place within six weeks of them attending information meeting, indicated that 39 per cent (N = 3,311) described themselves as being more likely to consult a solicitor as a result. This is a finding that has caused some concern. In this chapter we examine this concern in the light of our research data in order to consider the role of solicitors in the divorce process.

Seeing a Solicitor as a 'Logical Next Step'

By the time we conducted follow-up interviews, five to seven months after the information meeting, 59 per cent of attendees had been to see a solicitor (N = 1,838). By the time of our follow-up time-slice survey (up to two years after the information meeting) 73 per cent had consulted a solicitor.² It seems that for the majority of people who pursue a divorce using a solicitor during the process is inevitable. As one male attendee in our study put it:

If you're ill you go to the doctor's. If you want to divorce you go to the solicitor's.

Indeed, other studies suggest an extremely high level of solicitor involvement in divorce proceedings. Davis (1988), drawing on evidence from five separate research studies,³ concluded that

for all the current interest in mediation in divorce, there is no doubt that solicitors continue to dominate the scene. In the overwhelming majority of cases, both husband and wife will, at some point, consult a solicitor.

The examples which Davis cites from previous studies indicate that solicitors dominate the scene. Of 299 people interviewed in the course of a study of contested divorce

¹ Genn, H., *Paths to Justice: What People Do and Think about Going to Law*, Hart (1999), p. 255.

² The follow-up postal survey (time-slice survey) looked at 701 attendees at one of three points in time: 12 months, 18 months and 2 years following attendance at an information meeting. Three-quarters of all respondents had consulted a solicitor since the information meeting and the length of time which had passed since they had attended an information meeting was not a significant variable. Attendees were significantly more likely to have consulted a solicitor if they had applied for a divorce or legal separation, or if they had children under 18.

³ Davis, G., *Partisans and Mediators*, Clarendon Press (1988). Details of the five studies which Davis referred to are given on pp. 16–17. The high level of solicitor involvement discovered during these studies is referred to on p. 85.

applications, all but two had sought legal advice. In a study of parents involved in 'special procedures' in divorce, 99 per cent of the 230 petitioning parents had consulted a solicitor and 92 per cent of the 144 respondent parents had done likewise.

Given the current culture of divorce it is unsurprising, in our view, that 59 per cent of the attendees at information meetings had consulted a solicitor within a few months of attending a meeting. We question whether it is realistic to expect that the information meeting could or should divert people away from solicitors. There are a number of reasons why it was unlikely to divert people during the pilots. The information meeting itself was never expected to replace the services offered by solicitors. The remit of the meeting was to provide information on a wide variety of topics, including legal services. Furthermore, the information meetings in the pilots were not designed to provide personalised information to attendees, nor to give advice. Our findings have shown that many attendees expected the meeting to be tailored to their needs or would have preferred it to be so. If attendees did not get their specific questions answered by the information presenter or by the information provided to them through the meeting or in the pack, they turned elsewhere for answers – usually to a solicitor. Therefore, attendees may well have described themselves as more likely to consult a solicitor because they had hoped the information meeting would answer their particular questions or provide advice, which it did not do. The following comments of attendees illustrate this point:

The meeting was not impressive. It was informative as far as the [telephone] numbers went, but those are numbers that anyone with an ounce of sense could get from the [telephone] directory or the library. I thought it might be more along the lines of a solicitor, what might happen, scenarios. It boils down to, if you want legal information, go to a solicitor. They're the ones that make the decision that goes to the court. If you intend to pursue along those lines, you've got to get a solicitor. There's no two ways about it. (F)

I don't think the information meeting had enough specific information. That's why I decided to go and see a solicitor. (F)

The solicitor talked my situation through with me and the different reasons why you can get a divorce. At the information meeting the man who spoke to me just gave me some leaflets to read and told me what you hoped to obtain from the meetings. He didn't listen to my situation or answer my questions. (F)

The information meeting did not tell me very much I didn't know already. Actually I didn't find it very helpful, because it did not admit enquiries specifically about my own individual circumstances. That was why I consulted a solicitor – to get advice specifically for me. (M)

I was at the stage where I wanted very specific answers to very specific questions. I wanted advice. I'd got all the information I needed out in front of me. I'd read the books, I'd talked, I'd listened, I'd watched. Now I needed advice on me as a person. Do I need to get a solicitor to get a divorce, or could I do it myself? That's basically what I wanted to know ... my husband and I went together [to the solicitor] to get the kind of advice I was hoping to get from the meeting – basically, where to get the forms from, whether we could do it on our own even if we've got children, whether one solicitor could represent both of us and a bit of advice on financial matters. (F)

The last comment here is typical of the category of attendees who had decided on divorce and wanted answers to specific questions – the third state of ignorance discussed in Chapter 4. This comment also illustrates the point that not all consultations with a solicitor are indicative of an acrimonious divorce. This attendee wanted advice and personalised information, but there did not appear to be any antagonism between herself and her husband. The information presenters were often asked specific questions by attendees on a variety of topics, but, because their remit was limited to information giving, they very frequently suggested that the attendee should see a solicitor in order to have their specific concerns and queries addressed, irrespective of whether the questions warranted a legal opinion. The very structure of the meeting, in fact, directly encouraged many attendees to go to see a solicitor:

The information meeting was not able to clarify my questions about the house. It's in my husband's name and I was concerned that he could sell it without my consent. The presenter suggested I should use the free half hour [with a solicitor]. I did. I also went to the CAB with the same query. (F)

The case was quite strongly put in the meeting that you needed to seek legal advice. (F)

I went upon the recommendation of the information meeting that I have a consultation with a solicitor. Both presenters recommended a talk with a solicitor. (M)

The sheer amount of information provided had alerted some attendees to the enormity and complexity of the divorce process and had led them to feel that the logical next step was for them to seek more personalised information from a solicitor:

Without a doubt the meeting influenced me to see a solicitor. One of those leaflets tells you about separation. A lot of people think it's easy, that you can split everything down the middle. I was one of those [people], but now I realise it's not like that. There are things you need to sort out – like the fridge freezer. The leaflet does explain it to you. It's not black and white like you think. Until I got that leaflet I was under the impression that everything would be split down the middle, so that [the leaflet] helped me there. (M)

Once he [the presenter] had explained all the processes involved and the circumstances involved, it was a real eye-opener for me, and I realised how much I could lose from it. The presenter suggested that I got my backside off the chair and that I go and see a solicitor straightaway – which I did. (M)

Of the 59 per cent of attendees who had consulted a solicitor between the information meeting and the follow-up telephone interviews five to seven months later, almost half had already consulted a solicitor before going to the meeting and simply continued to do so afterwards. Just over half of those going to a solicitor following an information meeting were consulting a solicitor for the first time. Of those who had not been to a solicitor in the 12 months prior to the information meeting, 51 per cent did consult a solicitor following the meeting. When we examine the evidence, we see clearly that the information meetings did not occur in a vacuum. For each attendee, an information meeting was but one episode in a chain of events. Attendees were at different stages of separation, divorce and reconciliation at the time of our second telephone interview. Some had consulted services such as marriage counselling either prior to or following the meeting. Others had spoken to friends and families about their situation, and/or had

sought information and advice from other sources, such as the Citizen’s Advice Bureau, a solicitor or other professionals. Interviewees shared with us the many and varied situations in which they found themselves. For the majority, the information meeting was but one stopping-off point in their journey down a very long road to divorce. Its impact could never be truly measured because there could be no control over the influence of other events in attendees’ lives. We asked attendees, during follow-up telephone interviews, whether they considered that the information provided in the meeting had made a difference to the actions they took or intended to take with respect to a solicitor (Figure 20.1).

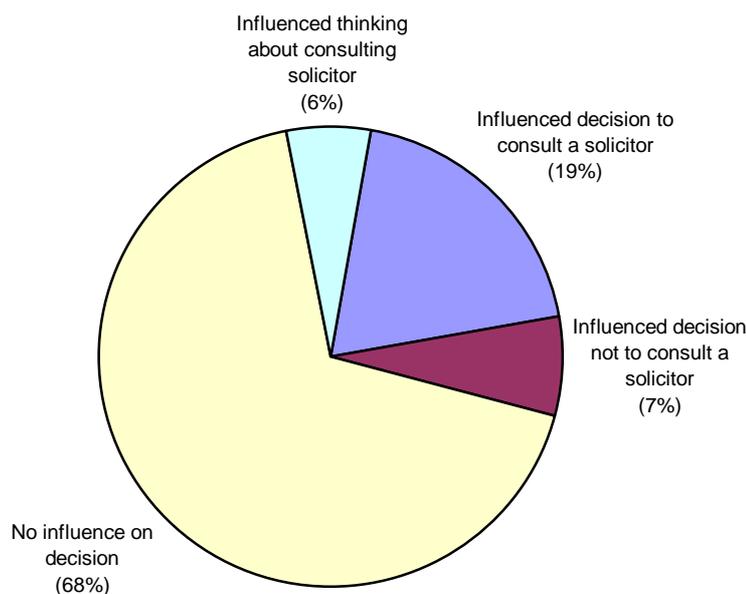


Figure 20.1 The ways in which information meetings influence attendees’ decisions to consult a solicitor (N = 1,738)

Those attendees who felt that the meeting had influenced them to go to a solicitor (19.3%) gave four main reasons for this.⁴ Just under a quarter stated that seeing a solicitor seemed to be the logical next step following the information meeting, and the same number stated that the information presenter had suggested that in order to get further or more detailed information they should consult a solicitor. In both these groups of people there were those who asked the presenters specific questions and were referred to a solicitor for answers:

The meeting was not able to clarify my queries about the house. The presenter suggested I use a free half-hour session, which I did. I also went to the CAB and they told me to check with the Land Registry. (F)

They weren’t pressing me to use a solicitor, but they did seem to think I needed legal advice. (F)

⁴ Attendees sometimes gave more than one reason when explaining their response, so the percentages do not necessarily add up to 100%.

The advice to go and see a solicitor was important. I was going to do things on my own but I'm glad I went to a solicitor. I was advised 'Make sure you go and see a solicitor'. Otherwise I wouldn't have bothered, but it worked out quite well. (F)

A third of the attendees who felt that the meeting had influenced them to consult a solicitor said that it had enlightened them about, and demystified the role of, solicitors, and this in turn had given them the confidence to consult a solicitor. These people described the information meeting as an important first step that prepared the way for them to consult a solicitor:

The information meeting gave me the context for consulting a solicitor and why I would be consulting a solicitor, and that made me, well, more confident really. I felt I could go to a solicitor. I knew what to ask. (F, intending to file for divorce)

It encouraged me to go and it prepared the way for what the solicitor would say. The leaflets suggested that for further information you should consult a solicitor. (F)

Twenty-four per cent of the 337 attendees who described the meeting as having influenced them to see a solicitor stated that they had needed more information. The presenters had not suggested seeing a solicitor, nor had attendees felt that the meeting itself pushed them down this route, but the information they had been given had made them aware that they needed to explore some areas in more depth and hence they felt more inclined to consult a solicitor:

It made me realise that to get things done properly I needed a solicitor. (F)

I think it just reinforced the need for a solicitor. (F)

The meeting stopped me rushing headlong into a divorce. It did raise a number of issues that I wanted to explore – the house and the welfare of the children and things like that came up in the meeting – and so by raising the issues the meeting encouraged me to see a solicitor. (F)

The author of the last comment, however, was 'very disappointed' by the solicitor she saw, who did not wish to discuss her personal circumstances but instead presented her with divorce papers even though she had not made up her mind that she really wanted a divorce. At the time of our second interview she described herself as separated but working towards a reconciliation. Her seeing a solicitor in this case did not mean the beginning of a divorce, even though the solicitor might have thought that it did.

Avoiding Solicitors

In contrast to those who were more likely to consult a solicitor, 121 (7%) attendees at follow-up interview told us that the information meeting had influenced their decision not to consult a solicitor. Thirty-five per cent of these 121 attendees stated quite clearly that the information meeting had put them off consulting a solicitor. This was not necessarily because solicitors had been portrayed negatively, but partly because the information meeting had alerted them to the fact that they did not have to see a solicitor in order to separate or divorce. This was a revelation to some of these attendees. The information

meeting had highlighted other options, particularly the benefits of negotiating directly with a partner:

We thought we had to use solicitors but the presenter explained all that to us. We sorted everything out ourselves. (F, who went to the meeting with her husband and filed for divorce afterwards)

I asked questions in the meeting. The presenter explained that it was better to talk to my partner as it costs money to go to a solicitor. It's better if you work something out between you. (F)

The meeting influenced me not to [go to a solicitor]. I think it made it clear that if you could agree things between yourselves that was the best option – the cheapest and the best option – and that things could be sorted without having to see a solicitor. (F)

These attendees had recognised the benefits of a 'conciliatory divorce' and acted accordingly. They had managed to avoid the need for solicitors, and indeed mediators, and resolve matters between themselves. Managing conciliatory divorce in this way may well be considered an optimum outcome, since these couples had no need of either a solicitor or a mediator. Thirty per cent of the 121 attendees who said the meeting had influenced them not to go to a solicitor told us that they were planning or undertaking a DIY divorce. Some had already considered this, but the information meeting had given them an extra burst of confidence and they had decided to proceed on their own without professional involvement. Others had learned that DIY divorce was possible by attending the information meeting:

I'm doing the divorce myself – the wife's going to a solicitor – and I wouldn't have been confident to handle that and doing it all if I hadn't been through all the various meetings and got all the information. (M)

After we went to the meeting we decided to do the divorce ourselves without solicitors. The presenter told us we could do it without a solicitor. (F, who went to the meeting with her husband)

Everything that I was unsure about doing it myself was confirmed as OK – I wouldn't need a solicitor. (F)

I was hoping for a DIY divorce. The meeting clarified that this was possible. (M)

It must be acknowledged that DIY divorce may be easier to manage in straightforward cases, perhaps where a couple have no children or property. However, even when children and property were involved, if the couple had decided they wanted to divorce without using solicitors, this could sometimes work out satisfactorily and could be a non-contentious route to divorce. In other cases it proved too difficult to arrange the divorce without legal involvement and solicitors were consulted, although this did not necessarily mean that the divorce then became contentious or was not conciliatory in nature.

Twenty-eight per cent of the 121 attendees who described the information meeting as having influenced them not to consult a solicitor said that they had no need to go to a solicitor. The information meeting had provided some of these people with the information they wanted:

I went to the meeting for my children and from the information I got from the meeting there seemed to be no need to go to a solicitor. The lady in the meeting said 'You are doing it all right', so there was no need to go to a solicitor. It just helped me feel better, because there was a niggling doubt in the back of my mind if I was doing it right. The meeting just confirmed that I was. (M)

I had some specific questions, and had I not gone [to the information meeting] I'd have had to go to a solicitor. I had particular queries about the myth of a quickie divorce if you've been married only a short time. I discovered there were no shortcuts, and that was useful. (M)

Fifteen per cent of the 121 attendees who had been influenced not to go to a solicitor explained that the meeting had alerted them to how expensive solicitors could be, and this had put them off consulting one. Seven per cent had been concerned by the potential animosity that solicitors can cause when they become involved in the divorce process and felt they would rather not consult one:

I was put off, partly by the cost and partly because it seems solicitors make things very confrontational. If you are going to separate, and you've got children especially, it's obviously best not to get nasty. (F)

Influencing Attitudes

It is clear from our listening both to attendees who were influenced to see a solicitor and those who were not that, although presenters worked to set scripts, their attitudes and beliefs about the most appropriate routes were likely to influence the presentation. Some people were given encouragement to manage without a solicitor and others came away with a strong sense that seeing a solicitor was the right thing to do. The vast majority of attendees (67%; N = 1,749), however, were in no way influenced by the meeting as regards their decision to consult a solicitor. Almost two-thirds of these 1,172 attendees told us either that they had seen a solicitor or that they would see one in the future, but in both cases the decision had nothing to do with the information meeting. Fourteen per cent stated that they had no need to consult a solicitor and the meeting had not changed this at all. Nine per cent told us that they might see a solicitor if the need arose, but that if so they would have done this anyway, regardless of the meeting. Five per cent of these people were intending to pursue a DIY divorce and the meeting had not influenced their decision either way. Nine per cent felt that they needed more information from a solicitor, but did not feel that the meeting itself had influenced their decision to consult one. Six per cent of attendees were already concerned about the expense of solicitors and the meeting had not changed their opinion about using them:

I've been to a solicitor since the meeting but not as a direct result of it. I'd made up my mind even before the meeting. The marriage is over and we knew that even before the meeting. I didn't know how to go about it until I got the information. Now I know what to do. (F)

I've not gone to a solicitor yet because I should like to do my own divorce if possible. That was one of the main reasons why I went to the meeting, but all you got from the people doing the presentation was 'solicitors, solicitors, solicitors', that's all, and I found that quite disappointing. (M)

I would have gone anyway. I just needed a solicitor with this one, because there was domestic violence. (F)

To get solicitors involved only means more money and, so long as we're not fighting, I don't see the point. (F)

One hundred and two attendees (6%; N = 1,749) felt that attending an information meeting had persuaded them to consider whether they ought to see a solicitor, but had not influenced them actually to do so. Forty-two per cent of these 102 attendees felt that the information meeting had helped demystify what solicitors do and enabled them to consider a solicitor as an option. Twelve per cent said that they had no need of a solicitor at the moment but had been encouraged to consider one as an option if the need arose. Fifteen per cent felt that they needed more information and the information meeting had led them to consider consulting a solicitor for this purpose:

I think I will have to go to a solicitor eventually. This was confirmed by the meeting. (F)

I'm thinking about it but the time doesn't seem right at the moment. I'd rather keep things open for the time being. (F)

The follow-up time-slice survey⁵ received responses from 701 attendees and the findings in relation to solicitors echo many of those which emerged from the follow-up telephone interviews. Nearly two-thirds of time-slice survey respondents said that the information meeting had not influenced their decision to consult a solicitor. Indeed, 49 per cent of men and 12 per cent of women stressed that they saw a solicitor in response to their partner starting divorce proceedings.

The reasons for consulting a solicitor that attendees gave 1–2 years after they had attended a information meeting were many and varied. Sixty-five per cent said they went to get financial advice, 60 per cent to protect their rights, and 58 per cent to manage their divorce. Just over half of the time-slice survey respondents said that their solicitor had given them information that they did not get from the information meeting. This information was predominantly financial, although several other specific topics were also raised (e.g. French property law, surrogacy and injunctions):

He [the solicitor] could advise me more fully as to what I was entitled to under any financial settlement, which was a huge relief as many women are frightened to take the *final* commitment of divorce because of financial worries. (F)

The solicitor made it clear where I would stand financially. She was able to start the proceedings for me and made everything seem easy. (F)

Most of the time-slice survey respondents reported being satisfied with the service they received from their solicitor, but one fifth were dissatisfied. The most common reasons for dissatisfaction were the length of time solicitors took to process the divorce and the expense incurred. Other reasons for dissatisfaction included solicitors being unavailable when needed, and their not explaining things clearly. We note however, that satisfaction with solicitors was greater than satisfaction with counsellors and mediators.

⁵ See n. 3.

It was very expensive – but lots of pointless letters were sent, which they charged me for. The solicitor constantly spelt the family names wrong in official documents, which then had to be amended – time consuming and expensive. The solicitor wanted me to continue contesting the finances to get more money, and when I explained I'd already had a nervous breakdown so I didn't wish to continue fighting and going to court, she then didn't want to know, or care about my case. To go to court would have made her bill even higher. I felt that's why so many trivial letters were written and mistakes made. (F)

It is obvious that solicitors are motivated solely by financial reward. The longer and more involved the process, the greater their share. After using up all available money, my solicitor suggested I applied for legal aid. I dispensed with his services and acted on our own behalf. It was OUR marriage, they were OUR problems, they had to be OUR solutions, not those of a judge or solicitor. (F)

After over a year of being divorced he still hasn't supplied some information to my ex-husband's solicitor. I have tried to contact him [her solicitor] by telephone but he is always unavailable and doesn't phone me back. (F)

The main reasons time-slice survey respondents gave for not consulting a solicitor were that they were too expensive, or that they did not need one. Also, some people had achieved reconciliation.

The data suggest that most people remain unaffected by the information they are given about solicitors. Where people do report that the information meeting has made a difference, this is because it has made them more rather than less likely to consult a solicitor. Some people had seen solicitors because the format of the meeting prevented the presenter from answering personalised questions; others had realised that the meeting could not answer their particular query and so had moved on to the solicitor; others realised that divorce was more complicated than they had anticipated and sought further information and advice from the legal profession; and others again understood more about the role of lawyers and felt more confident about approaching them.

Part of the disappointment that was expressed about the fact that so many attendees went on to see a solicitor may have arisen from a concern that consulting a solicitor might indicate that the parties were in dispute, or that mediation had been rejected. This is not necessarily so. Most family law solicitors are unlikely to promote conflict deliberately, although even if the divorcing parties can agree, the very involvement of a solicitor can sometimes disrupt an amicable relationship simply because solicitors are partisan in their approach. As Davis has noted:⁶

The problem, clearly enough, is that on divorce the parties' interests are likely to be opposed. It is upon this central premise that the adversarial system is based. The unsatisfactory corollary is that technical legal advice always comes in a partisan wrapping, so failing to cater for those couples who can agree – and who perhaps set great store by their ability to maintain amicable relations in difficult circumstances. It's a pity that we have not yet developed a form of advice-giving which caters for them.

⁶ Davis (1988), *op. cit.*, p. 94.

The information meeting certainly did not plug this gap, since its remit did not include advice giving. We have talked extensively with attendees who have consulted solicitors, and they have many tales to tell about their experiences. Some told of solicitors making matters worse, whereas others were more than happy with the service they had received.

The Problem of Partisanship

Our telephone interviews with attendees show that some feared that the involvement of a solicitor might aggravate a situation because their very involvement suggested opposing interests and fighting corners. This was a common concern. Sometimes the fears attendees harboured arose from anecdotal evidence and hearsay based on other people's stories that solicitors make things worse, and sometimes it was based on very real personal experiences:

I'm staying away from solicitors as long as possible. I have talked to people. It causes a lot of animosity so I'm trying to keep things amicable for as long as possible. (F)

I don't think he's acting on my behalf. Even my husband said 'Who's this man working for, you or me?' There's no animosity between us at all apart from when solicitors stick their finger in it ... I think it's dreadful. (F)

I think solicitors end up making it more vicious than it needs to be. (F)

Once the solicitors started advising me of my financial rights, and my husband's solicitor advised him, it could have led to some confrontation and it could have been pushed further than it need be. (F)

One of the consequences of partisanship is that if one party has a solicitor there is pressure on the other party to follow suit. Some attendees told us that they consulted a solicitor only because their partner did so, and there exists a certain inevitability that if one party has a solicitor the other will need one too:

It was inevitable that we would need to talk to a solicitor. (M)

Frankly, if there's any disagreement about finances you won't get far without a solicitor. (M)

I knew I had to go to a solicitor because my husband was going to make it really awkward. (F)

He wouldn't do it, I did ask him [to go to mediation]. He said 'No, I don't want to go to anyone else. You've got a solicitor, I've got a solicitor – we'll sort it out like that.' (F)

Well, my husband applied for a divorce, so that forced me into seeing a solicitor. (F)

As Davis has pointed out, couples who are not in dispute but who require high-quality legal advice are not currently catered for in the divorce process. Fourteen per cent of follow-up attendees (N = 1,838) told us that they had been to a Citizen's Advice Bureau,

which suggests that some attendees were indeed seeking advice, but not from solicitors. If neither the information meeting nor the CAB can provide this, it is entirely likely that people will approach a solicitor to gain this information. Under the current divorce system, lawyers are the most appropriate professionals to provide the advice needed by people involved in the divorce process.

Doing the Paperwork

We know from the interviews that attendees used solicitors in a variety of ways, for example to do the paperwork associated with a divorce once parties have agreed on the arrangements, or to assist in more complex financial affairs such as dividing pensions and property. The information meeting appears to have made some attendees aware that some solicitors offer an initial free half-hour consultation, and some people went on to pursue this option in order to gain further information and to use the solicitor as a sounding board before making decisions. Some attendees had consulted a solicitor on one occasion only since having attended the information meeting, had used only the free slot, and had not had any further involvement with solicitors after this visit. One man – an extreme case – told us that he went to free sessions with nine different solicitors and managed to gather all the information he needed without paying anything!

Needing Someone To Talk To

A small number of attendees who told us that they had consulted a solicitor had reconciled or were attempting a reconciliation with their partner by the time of the follow-up interview. Consulting a solicitor, like attending the information meeting, was something they had done in order to gather information or seek advice while working through problems in their marriage and making a decision about whether the marriage was over. Their visiting a solicitor was not itself indicative of involvement in divorce. Davis has noted that

most people approached a solicitor at a comparatively early stage, perhaps before they were really sure whether their marriage was at an end.⁷

However, approaching a solicitor at an early stage, before a firm decision about the marriage has been reached, can be problematic. In our study we found instances of attendees feeling rushed or pressured into making decisions before they were ready. They approached a solicitor to gain further information, or just to use the solicitor as a sounding board, but found that the solicitor wanted to take action or proceed with divorce. Davis has remarked that when solicitors are first approached by a matrimonial client it is not uncommon for the client to be depressed and unsure of whether they wish their marriage to continue. (Such people exemplify the first category of ignorance, ‘not knowing what on earth to do’, outlined in Chapter 4.) This can cause problems for solicitors, who are used to acting on a client’s instructions rather than to being faced with a client who is unsure of what they want. This underlines the value of the MWMC in helping to reduce uncertainty. It can also prove difficult for clients:

The only thing I would say is that when you sit in a solicitor’s office, they assume you’re there for a divorce. And that really upset me, because at that

⁷ Davis (1988), *op. cit.*, p. 85.

time I did not want to get divorced, and I had to make it very clear to my solicitor that I did not want to get divorced. It was very difficult to get that over. That's why I like the Family Law Act. The idea was that people didn't do things in a rush – you had time to reflect. (F)

They [solicitors] do have a tendency to bulldoze you into decisions that perhaps you didn't want to make initially. (F)

The reason I went to the solicitor was that my husband drew up a separation agreement and I must say, I wasn't forced into divorce, but it seems to be what solicitors want to do. It was as if she wanted me to hurry up and get it over with ... (F)

He [the solicitor] went on about pensions and my husband's assets ... he seemed obsessed by this and he wanted lists of things and I wasn't ready for that stage. (F)

Some attendees explained to us that they wanted the solicitor to understand their situation, which included understanding how they felt. A few reported feeling very let down and dissatisfied when no account was taken of their emotional needs:

The law doesn't allow for my feelings, that someone is to blame or is hurt or that the marriage breakdown is someone's fault ... there's nothing within the system that allows my hurt to be expressed ... I'm in grief and there's little support for that. (M)

He [the solicitor] doesn't get involved in the emotional side of it all, which can be very annoying at times, but there you are, that's not his job. They just see it as fairly black and white. They know that any settlements do not take into account any hurt. They can't consider who's suffering – they have to look at it factually. (F)

My solicitor is a 'mature' gentleman and he's obviously well practised. He said at the beginning, 'Remember, your comments are ruled by your heart. I'm here to rule from the head.' He reminded me that being emotional costs an awful lot of money, so I've come away at times with the feeling that I've not been able to express my wants and wishes. (M)

Assessing the Involvement of Solicitors

Whereas some attendees feared that the involvement of solicitors would exacerbate a situation, others were entirely happy with how their solicitor managed their divorce. Indeed, the results from the time-slice survey show that attendees were more likely to be satisfied with their solicitor than with either counsellors or mediators. At follow-up telephone interview, attendees expressed their satisfaction with the service they had received from their lawyer in a variety of ways:

The one [solicitor] I've got is very good. I wanted a lady because I think from a female point of view another woman might see things differently from a man ... I think men tend to look at things more, material things really, whereas this lady solicitor seems to know what I'm feeling deep down inside me. (F)

I suppose I felt intimidated by solicitors but the gentleman I spoke with was not very intimidating. It was nice to talk to him to get the information I needed. (F)

I suppose I'm lucky really in that I've got a solicitor who doesn't believe in going for the jugular just for the sake of it. He believes in trying to sort things out and he'll come in at the final moment. He has given me a lot of free advice so I'm lucky really. (F)

Solicitors are regarded as offering a good service when they do what the attendee wants in the way that they want. This often includes keeping the client informed about what is happening, not dragging their feet and taking longer than is necessary, and not fostering an adversarial situation between the parties. Whether an attendee felt that the solicitor had acknowledged the divorce to be an emotional process as well as a practical one could affect their view of the solicitor. When an attendee felt that their solicitor *cared* about what happened to them they lavished praise on them and expressed satisfaction with how their case had been handled:

My solicitor was wonderful. It's a stressful time and she was incredibly sensitive. From this experience I would prefer a woman solicitor. (F)

The evidence indicates that for some attendees the handling of the case is as important as the outcome. It is important for people to feel they are in alliance with the solicitor and that their own aims and desires are being taken into account, rather than their actions being dictated by the solicitor. While attendees may not expect to have their emotions addressed by a solicitor it is important to at least have them acknowledged. Attendees often complained that solicitors did not care about them as people and that their particular case did not appear to be important to the solicitor:

They don't actually care about either party. (M)

Some people complained about solicitors spinning things out and being pedantic:

I could have done it better myself. They string things along until the point of financial settlement and then they speed along, wind things up and present the bill. (M)

Sometimes attendees complained that solicitors were too adversarial, as well as very expensive:

I think that solicitors can prolong the agony, as it were, and there are so many letters going backwards and forwards that they are really very antagonistic. And I just think that they make an awful lot of money out of a miserable situation and they make it even more miserable by prolonging the agony. (F)

Once solicitors are involved it gets vicious. (F)

Solicitors to me, they like to take your money. (M)

... they are overpaid and under-useful. (M)

At other times attendees complained that they wanted their solicitor to be more partisan in their approach and to protect their interests rather more than they appeared to:

I don't think he was that good ... he didn't show a lot of interest. I think he should have done more and tried to fight for more than what he did. But then we weren't getting a lot of response back from his [i.e. her husband's] solicitor either, so I don't think he was particularly good either. (F)

I think I got a very bad deal from the solicitors ... my wife seemed a pathetic soul and I think that came across – she realised it was going to get the court's sympathy. I was the villain of the piece who had gone off with another woman and taken all the bank accounts with me ... [it was] a poor deal in the end. (M)

This last attendee felt that his solicitor had been taken in by his wife and that he showed a lack of partisanship and did not represent his interests. When a marriage breaks up there is often a great deal of bitterness, and some attendees with whom we spoke wanted a solicitor who would fight their corner and get the most they could from the ex-partner. They want their interests protected and the partisan approach of the solicitor met their needs:

The reason I went to see my solicitor was that my husband was like threatening me with court orders, things like that. He'd taken the key to the house off me and ordered me to get out of the house one day, and I wasn't allowed back in and I wanted to know where I stood legally. It was [for] quite a specific reason [that] I went to the solicitor. (F)

It's good to speak to someone about finances, especially if you can't talk to each other. If I didn't have a solicitor I would probably have lost the house. A solicitor can put it in perspective and write a letter saying 'OK, you pay half and it's due such and such'. (F)

My husband can be economical with the truth, withhold information and give us the run-around, provide six lever-arch files in response to a simple question and say 'The answer is in there'... He's playing a game and he's beaten me into a corner ... he refuses to give way and has basically refused to give me anything. I've no home, nothing ... (F)

Traditional partisan approaches can aid parties in situations such as those above where they feel they have no other way of getting what they deserve, or are divorcing partners whom they consider untrustworthy or unfair. In such situations the professional legal support of solicitors can be essential, particularly if the solicitors concerned show understanding of and concern with their clients' needs. When a person has been abused within a marriage or has been treated uncivilly and unfairly, their using a solicitor during the divorce becomes the best way for them to communicate with the ex-partner. For such people it is important that an emotional and physical distance is created between themselves and their spouse, and the partisanship of solicitors can help to achieve this.

One attendee told us that the involvement of solicitors had helped to keep their divorce more conciliatory than it might have been had they handled it themselves or through a

mediator. They did not distrust each other and both wanted to have a quick and clean divorce, but they could not communicate with each other without arguing, and the more they attempted to the more arguments they had. They found that the distance solicitors created between them was conducive to their keeping their relationship amicable. By contrast, it was interesting to note the inflammatory language attendees occasionally used when speaking of their solicitors and their divorces. Attendees commonly used figurative language relating to wars or battles to describe their own situation or a situation which they felt their solicitors had caused:

I'm not into fighting or mudslinging ... but the solicitor is talking in that way, which I don't like. (F)

I'm very much against battle lines being drawn between two people because the only people who really benefit are the legal profession. (F)

We both have solicitors and are battling it out in a very bitter sort of way. (F)

The more communication, the more hassle I got, the more arguments it created ... we couldn't get past a week without a major argument. Step-kids didn't get on with each other – total war, like living in a war zone. (M)

He wants to fight the whole way. My husband is quite aggressive. He wants to fight custody of the children, he wants to fight over the house, so I don't think it [mediation] would be a good idea. (F)

The Interface with Other Services

Most attendees looked to other sources along with the information meeting in order to obtain information, sound out ideas and make decisions. These included solicitors, CABx, libraries, mediators, counsellors, religious advisers, health visitors, GPs, friends and family. The complexity with which the information meeting and solicitors fitted together and meshed with other services was revealed during the telephone interviews:

I went to the solicitor first and they put me in touch with the pilot scheme [the information meeting]. (F)

Referred to solicitor by mediator to sort out pensions and ratify the agreements. (M)

I did consult a solicitor before the meeting, and it was she that recommended the information meeting. (F)

I went to my GP with it all and he recommended Relate. (F)

My solicitor recommended mediation to me. (F)

The male attendee quoted below compared his experience of going to an information meeting with his experience of other consultations:

In the information meeting and the solicitor's you are restricted for time, so the information I got from the meeting I could have got from the local library. The CAB had a lot more brochures and information and you were able to talk because there was no restriction on time. The information meeting had a

syllabus to cover and it was very short in some areas and the presenter wasn't qualified in those areas, whereas the person in the CAB seemed to be more legally-minded and *au fait* on things. The information in the information meeting was set out like an egg-timer – once the sand ran out that was it. It was the same with the solicitor – you can have a free half-hour session but then the clock starts running and that's not really what you want when you're in an emotional state. CAB were a bit like Samaritans. You chose which way you wanted to go, whether you wanted to pour your heart out or get information, whereas in information meetings, they imposed what they thought we needed. Solicitors just try and find more income.

Attendees used the variety of available services in a number of ways and had different perceptions as to their legitimacy or authority. Some used the information meeting to check what friends and family had told them, or what they had heard anecdotally. Sometimes the information meeting preceded a visit to CAB and sometimes it followed such a visit. The information meeting sometimes acted as the first port of call before attendees approached other services. Sometimes solicitors were later used to verify and confirm the information which had been provided in the meeting, or to provide information in more depth about certain topics that had been raised. Attendees described the information provided in the information meetings as 'neutral' or 'impartial' and that provided by solicitors as 'legal' and 'definite'. However, some went to the information meeting after consulting a solicitor in order to check what the solicitor had told them. They apparently used the various services in ways which met their needs and satisfied their personal sets of concerns or uncertainties. For others, information gathering and a philosophy of leaving no stone unturned motivated them to use whatever services were available, and the information meeting became another stopping-off point in the course of this process.

Information meetings existed during the pilots as another service available to people who were separating and divorcing. They were used in various ways alongside existing services by people in a range of different circumstances, with varying degrees of satisfaction. Overwhelmingly, however, attendees reported that they were glad to have gone to an information meeting, and the majority found it a useful experience. The following comments made by attendees at follow-up interviews illustrate how they used information meetings in conjunction with other services and how they viewed them:

I was still unsure when I came out of the meeting ... I felt I hadn't really done anything except seek advice for myself. Actually going to see the solicitor I felt was a lot more constructive ... The information [from the solicitor] didn't contradict it [information from the information meetings] but it was a lot more helpful and in-depth, more definite. (F)

It's new territory for me. The information meeting gave us the background of legal process and the solicitor backed it up with detail. (M)

I just wanted to hear from her [her solicitor] that the information [which the presenter] had given me was correct, and what she told me was exactly what they told me, so I was happy with that. (F)

I found out at the meeting [where I stood legally], but I suppose you feel more secure when you know it comes from a solicitor. (F)

Some attendees used the information meeting as a preparation for their visit to a solicitor:

I wanted to arm myself with information before I went to the solicitor, because I do feel it's an area that you don't know anything about. They're the experts and you're not ... it's difficult for people to go in and speak to a solicitor and the information is very useful for that. (F)

[Going to the information meeting] seemed like an in-between thing to do, before going to the solicitor. The more information you have the better. It was information gathering before I actually did anything ... I read all the leaflets but I still buried my head in the sand. I didn't know what to do first. I went for an initial free interview [with a solicitor] and still buried my head in the sand. Then my husband changed the locks on my house, which forced me to do something, and that's what influenced me to go to the solicitor really. (F)

Others went to the services in the reverse order, using the information meeting to check that the solicitor had not missed out any information:

I went to the information meeting after having been to the solicitor's. [I] used it as a check to make sure I hadn't missed anything ... I was actually quite switched on before I went to the information meeting. I had seen a solicitor because my wife had, so I was already quite well aware of my rights and what the ... solutions were, so the meeting was for me a method of making sure I wasn't missing anything. The CSA information in there I found quite useful. (M)

At the time of the follow-up telephone interview a large number of attendees had seen a solicitor as well as having gone to an information meeting. The majority (66%) reported nothing contradictory in what they had been told. Twenty-nine per cent commented that the information they had sought from their solicitor was of a very different nature from that given in the information meeting, and that it was therefore not possible to compare the sets of information from the two services. Many attendees commented that the solicitor had built upon the foundations laid down during the information meeting, and so the sets of information from the two sources complemented each other:

The information made me feel I was on a firmer foot making decisions. When I receive a letter from my wife's solicitor, I've got notes of the things to look out for, and would be able to respond to it. (M)

When you go to a solicitor the information you get becomes more refined to your individual case. The pack is fairly generic. (M)

It wasn't a rehash of what was said in the meeting. There was a whole lot of new things that the solicitor was dealing with for me. (M)

It was different. It was about finances. At the information meeting I don't think that I gained anything really. (F)

A small percentage of attendees, however (5%), told us that the information they received from a solicitor contradicted what they had been told in the information meeting. This percentage is small, but conflicting verdicts about entitlement to legal aid were mentioned on several occasions:

The only thing was the legal aid matter. That was the main thing for my reckoning ... I was told [at the information meeting] that irrespective of the house, pensions – I'm not talking millions of pounds, obviously – they would take off how much payout you would qualify [for], but I was told that didn't happen these days by my solicitor. (M)

Information about the splitting of assets was also thought misleading. One couple were told that personal assets were not included in settlements. The gift of money in question, however, was a large amount that had been given some years earlier to the husband, but the wife felt that it now belonged to the family as a whole and not to him. The information meeting seemed to suggest otherwise, and the wife commented that it 'scared the hell out of me'. She felt that such information should be offered far more cautiously since it can cause unnecessary upset and anxiety. Another female attendee remarked:

In the leaflets it said don't expect to get half of the property, but the solicitor said you did get half.

A few attendees mention other examples of contradictory information having been given:

At the information meeting I got the impression that I would stand a pretty poor chance of getting custody. The solicitor seemed to think exactly the opposite. (M)

I thought that because I'd started divorce proceedings I would not have to pay for the divorce, because I was unemployed at the time. Basically I'm not saying it was the presenter's fault, but I'd got the impression I'd be all right financially – not so much wrong information, but I probably got hold of the wrong end of the stick. (F)

Such contradiction was not limited to that between information given by the solicitor and that given at the information meeting. Attendees mentioned that there was conflict between what different solicitors said:

I had contradictory advice from the two solicitors I was using, but not from the information meeting. (M)

The one [i.e. solicitor] I had before was no good. The first one told me I wouldn't be eligible for legal aid, but I went to another solicitor, applied for it and got it. (F)

Nevertheless, information meetings and solicitors were seen as a more authoritative source of information than informal sources such as friends and family:

One thing that came out of it [the information meeting] was that if my partner agrees I can fill out the forms without a solicitor. A friend told me that and when I went to the meeting I asked about it and the presenter said 'Yes, you can do that'. I was glad to have it confirmed because I'd rather not use solicitors. (F)

I went to the solicitor for reassurance that what my daughter had told me about my husband not having a leg to stand on was correct. (F)

The Symbolic Importance of Solicitors

Attendees told us that the decision to consult a solicitor, or indeed to go to an information meeting, could be an emotional as well as a practical one. Some attendees regarded consulting a solicitor as making a statement that the marriage was in difficulty or as the beginning of the end. Hence they regarded it as a serious and difficult step.

Ending a marriage and pursuing a divorce is emotionally fraught for most people. Attendees have told us that even when the decision to end the marriage and divorce is theirs, and that this is what they want, the process is bound up with emotion, outlets for which are very limited. We have already noted the problems that can arise when attendees visit a solicitor before they have made their mind up that they want a divorce. Some attendees recognised for themselves that they were not emotionally ready to approach a solicitor:

It's very difficult for me, and emotionally I don't feel up to going to a solicitor at this time. (F)

I didn't see the point in going to a solicitor unless I really want to finalise it, or start something. I don't really know at the moment. (F)

When I go to a solicitor it is a final acknowledgement that there is definitely a problem. I want to be quite clear about what I'm doing ... not plunge into anything and then regret it. I'm near it, but I'm not there yet. But it won't take much more to make me go. (F)

Once I see the solicitor it means I'm committed to getting a divorce. There's no turning back. (F)

I think once you've seen a solicitor it's definitely over. (M)

This view of the seriousness of involving solicitors was borne out by the comments of those attendees who used the solicitor as a threat to negotiate with their partners or who were themselves threatened with a solicitor by their partner:

When I see him [her husband], I tell him if we don't agree on everything, I'll go and see a solicitor. (F)

I just didn't know what to do. My husband's left and I didn't know what to do. [The information meeting] gave me the chance to sit down and sort things out. It made me realise what was available to me. When my husband was saying 'I'll go to a solicitor' he'd heard that from other people, to actually turn round and say 'Well, actually you can't just go ahead and get divorced and you can't have this and you can't have that - I've been to a meeting', so it ... made him realise, so it did have an impact. (F)

The fact that some attendees had been to a meeting was clearly enough to jolt their partner into taking notice:

After the meeting that was a big turning-point in our relationship. That was like we now go forwards and put into practice everything we had been going through at Relate or we'll call it a day. Most of what was in the pack, children and finances, I think shocked him ... it made my husband more aware of what it all entails. I certainly learned that he did not see past the next stage until it

was put in black and white. This is what happens, this is what you go through. It didn't shock me, but it gave him the kick to pull himself together. (F)

Using Solicitors Differently

Some attendees told us that, following the meeting, they felt more confident and therefore better able to approach a solicitor: the information meeting had made them aware of what solicitors could do. Others who had already consulted solicitors were sometimes led to feel by the information meeting that they could be more in control of the process, and they therefore felt better able to instruct the solicitor as they wanted. Some attendees told us that after having been to an information meeting they felt less intimidated by solicitors overall and felt better able to enquire about costs, the need for letters, the length of time taken to complete instructions, and so on. The fact that solicitors offer free half-hour sessions, and the fact that it is possible to change a solicitor if necessary, were new pieces of information which were enlightening for some attendees:

The meeting helped me understand not just to go willy-nilly to just any solicitor. (M)

Reading the pack helped me decide to go to a solicitor. I found out about the free half-hour sessions. Reading the notes [leaflets] was more helpful than the meeting itself. (F)

It [the information meeting] made me go back and ask questions from the solicitor. (M)

I think the information meeting did stress that the solicitor was working for you, rather than the other way round, which was helpful. In fact, I've been a bit more pro-active with the solicitor following that than I would have been before. (F)

It was far better, what I got from [the information meeting]. [It] forewarned me a lot and I felt more wise to the situation due to the information I received ... I handled most of it myself but eventually I had to use a solicitor right at the end ... I felt able to say what I wanted rather than have him telling me. (M)

I had enough information from that booklet [the information pack] and I told my solicitor what I expected of him ... I am giving him instructions. I am the customer. (M)

Some attendees changed their solicitor after having attended the information meeting, and saw the list of local solicitors provided in the Local Service Directory as being very helpful:

I suppose it helped in sorting out the order in which to do things ... I think I learned from the meeting or the pack that I could ask for someone trained in family law. (F)

In a few cases attendees commented that having the general background information meant that they began their consultation with the solicitor without needing to obtain background information and therefore spent less time with the solicitor, which in turn reduced the cost:

The information meeting helped us speed things up as we knew how to use mediation for finances, and only needed the solicitor to sign the papers. (F)

It enabled us to make more economical use of the solicitor's time. (M)

I don't think I needed to depend on the solicitor a lot ... because of the information the meeting gave me. I more or less know the areas I'd got to cover. I actually went to the solicitor with a lot more knowledge than I think a lot of people would have done ... which meant I probably spent less. (F)

Personal Stories

The in-depth interviews with attendees gave us a vivid picture of their experiences of solicitors. Most attendees were quite happy with the service they got from their solicitor, but some were extremely dissatisfied and sometimes angry. The following stories⁸ have been selected to cover the range of their experiences, both positive and negative, and to provide a context for their views about solicitors.

Geoff – needing to protect his rights

Geoff was very keen to tell his side of the story of his divorce. He described himself as '*beaten*' and '*passive*', and as having been through an emotionally draining divorce. He saw himself as the injured party, since his wife had committed adultery, and yet he felt the divorce had cost him more both emotionally and financially than it had her. His wife had insisted that he drop the proven grounds of adultery against her and bear the cost of the divorce in exchange for being allowed to stay in the marital home indefinitely. Geoff was anxious to find someone to whom he could tell his side of the story – to complete the narrative. *You've got to let the anger go and then sit down and reconcile what's left.*

Communication between Geoff and his wife was very strained, and she refused any kind of discussion with him. Geoff contacted the mediation service before going to the information meeting. It had suggested that he discuss mediation with his wife first, but she would not entertain any suggestion he made. At the information meeting (Model A) Geoff paid very little attention to the information on mediation, and the presenter *skirted around it* because Geoff had already ruled it out as an option. He commented that he had been to CAB for advice and he tended to make CAB his starting point for any enquiry he had; CAB had advised him not to employ the first solicitor he came across but to *shop around*. He recalled the information on solicitors he had been given at the information meeting as having been *vague*, but had felt that solicitors were an integral part of the divorce process. *Obviously you need to involve a solicitor if you are going to pursue a case. Whether you're going to take out proceedings against your wife or whether she's taken proceedings against you, you need to safeguard yourself and therefore it's advisable to see a solicitor because you should get the proper legal advice you need to protect yourself.*

Geoff was one of the many attendees who described a need to protect his rights, to safeguard his own interests. To do this he felt he needed legal representation. However,

⁸ All the names used in this chapter have been changed to protect confidentiality.

he felt that employing a solicitor only served to make matters worse and that both solicitors were equally as costly and slow. He described his own solicitor's attitude as *very blasé, very devil-may-care*, and remarked that the legal system gives many people going through a divorce *more distress on top of what you've already got*. He was originally informed that the process would be over in a few months and would not be problematic, but this proved to be far from the case. He described his own solicitor as having a very offhand attitude and as lacking any understanding of the emotional impact of the divorce. His wife's solicitor had apparently tried to persuade her to push for a better settlement, which she resisted. Geoff described his wife's struggle with her solicitor thus: *All he kept trying to persuade her to do was push and push and push and push and make a fight out of it. She said 'I don't want to fight because I don't hate my husband' ... and he said 'Oh, I don't want to hear that. I want you to tell me that he's got X amount of money' ... and all that.*

After Geoff's wife refused to follow her solicitor's suggestion, Geoff believed that her solicitor paid the case less attention and the whole process slowed right down. Both parties were left with a very negative view of solicitors, and with hindsight Geoff did not think that solicitors are a necessary part of the divorce process. *To me it's like insurances – they've got the monopoly on them. You've got to have them. They're saying it's legal, so you've got to have them.*

Jonathan – a long-drawn-out process

Geoff was not alone in his re-evaluation of the legal profession following his experience during divorce. Jonathan felt that his divorce had become a long-drawn-out affair because his wife's solicitor, rather than his own, had misguided his wife. His own solicitor, though good in some ways, was *disappointing* in many others. Jonathan's experience of solicitors led him to question his own belief in the high standards of the legal profession. He told us that his wife's distrust of him was so great that she would not contemplate arranging the divorce by any means other than legal ones. However, he felt that she kept changing her mind about what she wanted from the divorce, and that this made negotiation very difficult. She refused to believe that her husband was trying to reach a fair deal and questioned any offer that was made. Her solicitor began to push for court action, while his solicitor tried to resist this. *My solicitor was very anti going to court, trying to keep the price down. I think my wife's solicitor was quite keen. He was always trying to revv it up a bit, really. Our financial position was quite good for him.*

Jonathan's solicitor did appear to be trying to minimise the contentious nature of the divorce but Jonathan was disappointed that he never offered any information freely, and when he asked him a question he would resort to legal jargon which seemed to cloud a lot of the issues. *Looking back, what guidance he gave me was very minimal. I found it hard to pick his brain. I had to go through all this legal jargon to understand what he was trying to say. We spent a lot of time. Rather than talking in plain English, he used all the legal jargon almost to cover up what I needed to know.* Jonathan felt he had done a lot of the ground work himself, despite having been charged the usual high fees, and at one point he felt very let down because the solicitor had let negotiations go on on the basis of an estimated figure for his pensions which he later found to be inaccurate, whereupon it all had to be done again. For Jonathan, the divorce was his first experience of using a solicitor. *It was quite a difficult experience for me, sort of guiding the solicitors and*

knowing what to expect from them. Early on I saw it as one of the 'high professions' sort of thing and it took me a while to get over that sort of hurdle.

Danny – over-involvement of solicitors

Danny described his solicitor as not partisan enough in his approach, and because of this he felt he had got a poor deal from his divorce. He felt forced to use a solicitor when his wife appointed one and set out to fight him. He had left his wife for another woman *after a long and unhappy marriage* and described his wife as embittered. Danny told us that his solicitor did not protect his interests. *I wish I could have avoided them more than ever. I see them as legalised highwaymen, and these unfortunate times of people's lives, you know, are a very lucrative business. Their profession, they make quite a lot of money out of it.*

Danny felt very disillusioned with the whole process and said he could easily feel bitter too. *I feel I have been badly let down by my solicitor. I feel I have been let down by the legal system who I sort of had on a pedestal before. I thought that the judicial system was a pinnacle to be admired, and now I have lost all faith in that, and I feel it's wrong. I have become very disillusioned ... I could easily feel very bitter.* He felt in retrospect that the contentiousness in his situation had been exacerbated by the involvement of the legal profession in the divorce. *What we were trying to divide really was a cake, and you would think it would be easy to cut it up. Clever people get involved, solicitors and things, and sort of add up how much money there is, pay off the debts and then divide down the middle. They seem to make it such a complicated mathematical sum ... they definitely made it worse.*

Susan – confidence in the solicitor

Some attendees we spoke with were very positive about their solicitors. Susan felt her solicitor had handled the situation just as she wished. She felt her solicitor understood the emotional impact of the divorce, which was important to her, and she was confident that her solicitor would protect her interests. At the time of our in-depth interview she was waiting for her decree absolute to come through. All matters concerning children and finances had been settled through the solicitors. She would have considered mediation, but her partner would not entertain the idea. He had left her for another woman who had children and she had at first hoped for a reconciliation, finding it hard to believe that her husband had walked away from a twenty-year marriage. However, he was adamant that he was not prepared to stay in the marriage. She described mediation as *not counselling*, but somewhere to go to *discuss emotions, discuss finances and try to resolve them. If there was any chance of actually getting back together then obviously somebody else with a different point of view might say, 'Well, don't you think you ought to give this a try?', that sort of thing.*

At the time she went to an information meeting (Model C) she was at the stage of *not really knowing where to turn, where I was going, what I was doing, and what I needed to do.* At the time of the information meeting she was still ambivalent about the future of her marriage. She wanted to gain more information about divorce while still hoping in the back of her mind that *if I actually forced the issue of divorce proceedings then he might think twice about what he was actually doing, but it didn't really work.* Throughout the

entire divorce process she would have considered reconciliation had her husband been willing to try it.

Susan said she had found the information meeting useful since it had given her *so much information on how to handle things and what would actually happen, and how things would work, and what was available for me as well*. She had found the pack very useful in terms of its information about courts and residence of the children. In her view, the role of solicitors was presented *neutrally, but as part of the process, as you don't need to use a solicitor if it's straightforward*. She did not feel the meeting had had any impact on her decision to see a solicitor. It was something she would have done anyway, since she did not trust her husband to reach a fair decision. *I didn't really trust what he was saying to me at the end of the day, and once I used a solicitor I realised I was right not to*.

Susan explained that although she could talk with her husband and they could sometimes make arrangements, she did not feel she could trust him in those arrangements *at all*. This was why she decided to consult a solicitor. *I think when you've got children involved then you're not only protecting yourself, you're protecting the children, and I decided, knowing my husband the way I do, I decided to see a solicitor and get their best advice, the best way about it, not just to accept what he actually said to me*.

Susan felt that she needed the legal support and advice of her solicitor to protect her own and the children's future interests. *There was quite a bit of money involved, and equity in the house, and I really wanted to secure it for the children, for their future, and make sure if they decided to go to college or university there was some fall-back or come-back so I wouldn't have to bear all the costs, because they are both our children at the end of the day*. Despite wanting to protect her own interests, however, she was also keen to communicate with her husband and to discuss what she could directly with him. She did not want a solicitor who would try to take over. The first solicitor she consulted appeared to want to do just this, and so she consulted another, a female solicitor. *I think we gelled, and she was so understanding. Maybe she saw it from a woman's point of view, I don't know, but I was very impressed with her. I felt like towards the end, I know she's a solicitor and I'm paying her for a job, but I felt I could really open up and talk to her about things that were going on, that I wasn't sure about, without feeling silly. She explained every step of the way everything that was happening*.

The second solicitor Susan consulted allowed her to handle her divorce in the way she wanted. Susan felt that her solicitor understood that the divorce was an emotional process as well as a practical one and she allowed Susan time to think through suggestions that she made and to discuss them with her husband if she wished to. *The solicitor suggested one thing and we [Susan and her husband] would get together about their letters and decide what was best for both of us*. The solicitor respected Susan's wish to keep the divorce as amicable as possible and advised her but did not push her. Susan was extremely happy with both the process and the outcome. *I would give her ten out of ten. She was very supportive and didn't make things more adversarial. She made sure my future and the children's future is covered, which is what I really wanted to do*.

Susan and her ex-husband managed their divorce via a mixture of informal agreements and legal advice. Although she remarked that they *had their moments*, they managed to remain on a fairly amicable footing and keep communicating with each other. *It was difficult. Sometimes it was a strain when we wanted to resolve something and couldn't see any solutions, but we did manage to get it all resolved in the end by purely talking*,

but there was a lot of to-ing and fro-ing. That they managed to keep the divorce amicable meant that they were still able to talk to each other and make arrangements for the children. He's got contact ... I'm quite flexible. I think it's important for children to see their dad. What has gone on between the two of us, I don't think it should affect the children in any way, although it does. I would never have stopped him from seeing the children at any time, so long as he lets me know. She felt, however, that the arrangements should be formalised more at some point, and intends to tackle this after she has moved house so that she can settle the children into a routine. I want to make it more set in stone, more secure for them.

Susan felt that it was her efforts that had kept the divorce reasonably amicable and that this was important because of the children. She had been deeply hurt by her husband, and commented that when there is a third person involved in the breakdown of a marriage an amicable divorce is much harder to achieve than if both parties have agreed together to end the marriage. She felt that she had managed to keep things amicable because she had had support from her family which had enabled her to think through what she was going to do. *I think it was having the time, having support from my parents, so I could stay in the house where I was, so I didn't feel pressurised to just get up and move, which would probably have been the wrong thing to do, and really just keep the channels of communication open between the two of us.*

Susan did manage to keep the channels of communication between her partner and herself open throughout the divorce. Her solicitor did not try to persuade her otherwise but rather supported her in this, whilst at the same time advising her about how best to protect her own and her children's future. Susan had only praise for her solicitor. At the end of the interview she described herself as having come through her divorce and as having reached a point where she felt able to move forward with her life. *I do feel now is the time to move on, really. I feel ready and more positive about it.*

Sarah, Heather and Ian – satisfactory and adequate experiences

People appeared more likely to provide full accounts when they were dissatisfied with a service than when a service met their needs. We encountered many cases of people describing the service they had from their solicitor as adequate and satisfactory, perhaps commenting that they were expensive or took a long time, but accepting this as part of the deal. These people did not speak of solicitors in either glowing or negative terms, but were neutral in their appraisal. Sarah, for example, used both solicitors and mediators during her divorce. She used the mediation services to resolve issues connected with arrangements for the children, and consulted solicitors about financial matters, which were still unresolved at the time of the in-depth interview. She was unhappy with the first solicitor she hired since she felt that he did not do anything and would not answer her questions. She then changed solicitors and was happier with the female solicitor she then had, although she was more expensive. She described her second solicitor as *competent*, but remarked that as the case had been going on for some time she was able to provide the solicitor with a great deal of information, which probably meant that the solicitor herself did not have to chase around as much. She was satisfied with the service her solicitor provided. *She's as helpful as a solicitor can be. I know they're protecting themselves. They can't say 'Yes, you'll get A, B and C and then you get E, F and G', because then you're going to sue, or whatever.*

She was waiting to see how her solicitor fared in the forthcoming court appearance to resolve finances. She saw her own case as complicated, but believed that in straightforward cases it might be possible not to use solicitors at all. For Sarah, however, solicitors were a very necessary part of the process. *If there's no trust and you can't agree, then you've got to have solicitors.*

Another attendee, Heather, also felt she needed solicitors. She had previously taken an injunction out against her husband, who had been physically violent towards her. She described the situation as having calmed down over time, and at the time of our last interview she was hopeful that the remaining issues to be resolved could be settled reasonably quickly. She felt she needed legal support in order to reach a fair settlement and so consulted a solicitor. *In my situation I'm glad they were there.* She did not find her solicitor particularly helpful or unhelpful, but remarked that solicitors took a long time. *I mean, you go into these things – you don't know what you're entitled to or how to go about things. It was only if I asked the questions that I got an answer.*

A male attendee, Ian, made a similar remark about solicitors. He felt they took a long time, but they were thorough. *They didn't add coals to the fire but they just wanted their client's position clarified on every point legally.* Although he and his wife were on fairly friendly terms he saw solicitors as necessary and helpful. He felt it was good *to have someone there to give leverage if things were stalling*, and also to be assured that agreements made have *proper legal standing*.

Difficult situations

Some attendees found themselves in such difficult circumstances that their solicitors were struggling. One man, for example, told us that his wife had stopped communicating with her own solicitor, and would not communicate directly or indirectly with her husband either. He described his own solicitor as being more at his 'wit's end' and unable to help. He remarked that his wife's solicitor was also very helpful in trying to resolve the situation, but that his wife's total lack of co-operation made it extremely difficult to move forward at all.

In another case, the attendee described how the solicitor tried to keep the situation amicable when antagonism between the couple flared up. What had started off as a straightforward divorce suddenly exploded into a battle when the wife threatened to stop her husband's contact with their child.

Pulling the Threads Together

It seems that after attending an information meeting most attendees continued to choose solicitors to guide them through the divorce process. The information meetings do not appear to have discouraged the use of solicitors or to have diverted people away from the legal profession. The pilots were not set up to do that. Neither the information meeting in its current format nor mediation can take the place of a solicitor. Indeed, some attendees were told at the meeting to seek the advice of a solicitor whereas others who had not had their questions answered saw a solicitor as the logical next step. Some attendees felt they *had* to consult a solicitor if they wanted to get a divorce or if their partner had consulted one. Others saw solicitors as the legitimate or authoritative source of information during a

divorce. Only a solicitor, they felt, could really assist some attendees with their situation and hence they appeared to have little real choice as regards where they went for advice.

There is evidence to suggest that the information meeting had encouraged some attendees to use solicitors differently from how they might otherwise have done. Some attendees used the free half-hour consultation with a solicitor which they had learned about at the meeting. Others changed solicitor, or approached a family law specialist. Some told us that they felt more confident in dealing with solicitors, and better able to instruct them and to express what they expected from them. Another effect of the information meeting was that some attendees decided to pursue a DIY divorce, either having learned about the possibility of doing so at the meeting or having had their feelings that this was indeed possible confirmed.

In the present climate solicitors are likely to continue to dominate the divorce scene, and it would take a much more radical intervention than an information meeting to change this. King⁹ has argued that solicitors are adapting to the climate of change where emphasis is increasingly on the welfare of the child, and are equipping themselves to deal more effectively with issues relating to arrangements for children at the time of the divorce. Some are training as mediators, while others present to their clients an understanding of child psychology and emphasise to them the importance of safeguarding the welfare of children. King's research suggests that, even if Part II of the FLA were to be implemented, solicitors would be unlikely to be removed from centre stage during the divorce. Our research supports this view.

⁹ King, M., 'Being sensible: images and practices of the new family lawyers', *Journal of Social Policy*, vol. 28, no. 2 (1999), pp. 249–73.

Chapter 21

Choosing a Route Through the Divorce Process

Cathy Stark

Mediators cannot take the place of lawyers in giving legal advice and assistance ... The important factor will be for people to receive the right professional assistance at the right time – whether from lawyers, mediators or marriage guidance counsellors.¹

The information meeting pilots were set up with two primary objectives: to direct a party's attention to the issues they should consider when contemplating taking steps to end the marriage; and to provide information on the various options for the resolution of difficulties. The information meeting was designed to impart information in order to enable people to make informed choices in relation to their own circumstances. We have noted already that there was no hard sell of any one option, and the meetings attempted to ensure that equal scope for the various services was maintained. We have also noted that giving information to attendees did not automatically result in their acting upon it in ways that may have been considered desirable in policy terms, or even in their acting upon it at all.

We have seen that the choices attendees made were shaped and structured by a variety of extraneous factors. So, for example, an attendee might decide to use mediation to settle disputes over finances or arrangements for children, believing that although it is difficult to negotiate directly with their partner, the presence of a third party will help to keep discussions on track. The attendee may also be concerned about notions of fairness, while wishing to limit solicitor involvement in order to reduce costs and minimise potential acrimony. Thus the attendee is likely to have made a number of choices before approaching a mediator. He or she then has to locate a mediation service which is accessible in order for mediation to take place. Both parties have to agree to go to mediation and to co-operate in the process with the shared aim of reaching an agreement. This requires a certain level of trust and openness between the parties and a belief that any arrangement reached will be adhered to. In other words, a particular set of conditions has to pertain before the choice of route can be established, not least that the attendee's partner is willing to make the same choices.

The research shows how attendees have tried, with varying degrees of success, to manage their divorce, not only to reach settlements that are acceptable to them, but to reach them through a process which is also acceptable. Whereas some attendees felt positive about their involvement with solicitors, others felt dissatisfied or even angry. Some found mediation helpful, others did not. We also encountered people who had steered their own course through divorce by keeping the involvement of all professionals to a minimum. Some of these attendees described their chosen path as 'do-it-yourself' divorce, while others simply stated that they had sought to minimise the interventions of professionals to reduce the cost to themselves.

¹ The Lord Chancellor, Lord Mackay of Clashfern, in J. Walker and J.P. Hornick (eds), *Communication in Marriage and Divorce: A Consultation on Family Law*, BT Forum (January 1996), p. 61.

Attendees defined the costs of divorce in various ways. There were emotional as well as financial costs; costs in terms of the amount of time taken, the amount of travelling to and from services; and costs in terms of outcomes and the aftermath of the divorce. There was a constant weighing up by the parties of what was happening to them and whether they felt that they were active participants in the process. Some felt they were in control, others felt relatively helpless.

In this chapter, through the use of data gleaned from our interviews, we consider the various routes people took through the divorce process, and illustrate the factors which influenced the decisions they made. In an attempt to extend our understanding of how people make choices we reinterviewed a subsample of 42 attendees in considerable depth. These attendees were quota-sampled from three distinct categories of people: those who told us at follow-up interview that they had been to mediation since the information meeting; those who said they may consider going to mediation; and those who told us they had no intention of going to mediation. The in-depth sample included attendees who had used the information meeting as a first port of call and also those who were not making their first venture into the world of divorce-related professional services. We selected the subsample from attendees who had become involved in divorce proceedings following an information meeting, since they were attendees who had clearly begun to make choices about the route they would take and for whom the information meeting may have had some impact on their choices.

A vast range of personal circumstances were represented within this subsample of 42 attendees, but nevertheless, patterns emerged which helped us to understand how people came to make their choices, how they made sense of the way in which legal and mediation services fitted together, and how they managed the options available to them. The data have enabled the context in which the choices were made to become apparent, and have revealed the emotions, uncertainties and aspirations that people experienced as they progressed through the divorce process.

Treading a Path through Divorce

From our interviews with attendees we have identified the three most likely paths that attendees took through divorce. These paths may run counter to each other or parallel, and on occasion a person may decide to change paths. An attendee has little idea of how arduous the path they have chosen will be until they have embarked on their journey. Their choice is made on the basis of the information they have about each route, combined with their own personal preferences and a very particular set of circumstances which may serve to limit or else to dictate any choice being made. In other words, not all the available paths are appropriate for all people.

The majority of attendees chose a solicitor as their main path through divorce. Solicitors can be consulted for a variety of reasons, and consulting one is not necessarily indicative of a contentious divorce, although, of course, in some cases litigation can be long-drawn-out. Some people preferred to negotiate with each other through the presence of a third party and some chose the mediation service as their route through the divorce process. Using mediation did not automatically exclude the need for or use of a solicitor. Others chose a path where professional involvement was kept to a minimum. Such attendees attempted a DIY divorce and only consulted a solicitor if absolutely necessary. An informal mediator in the form of a friend or relative was sometimes used to facilitate communication between the parties.

Factors Involved in Choosing a Route

In this chapter we draw heavily but not exclusively on in-depth interview data to explore how and why the attendees made the choices that they did, and if indeed they were able to make a choice at all. We examine how attendees weighed up the pros and cons of using or not using a particular service, and try to assess the role, if any, that information provision has played in the decisions that were made.

Knowledge of services

Being informed about the range of available services is an important first stage. Without it, choice is limited from the start. Nevertheless, data from in-depth interviews with twelve attendees who had been to mediation following an information meeting suggest that their having been given the information about mediation was not the deciding factor in their using it. In other words, there is no simple linkage between knowing about a particular service and going off to make an appointment. There is, however, evidence that being told about mediation at an information meeting did have some subtle impact upon decisions to go to mediation in that the knowledge enabled attendees to consider whether it was an appropriate option for them. One male attendee commented that the information meeting had provided him with the basic information about mediation, and so when his wife mentioned it as an option some time later he knew what it entailed and felt able to consider whether it was relevant to his situation:

If my wife had said out of the blue ‘Let’s try mediation’ I would perhaps have said ‘Hang on, I don’t know anything about this process. I don’t know what’s the right thing to do.’ As it was, I had already learned the general and felt more confident about that suggestion. (M)

By contrast, we have seen how partners who did not go to an information meeting were at a disadvantage when options were suggested, and so rejected them. Having knowledge can make the difference between considering an option or suggestion and dismissing it. One man remembered that mediation was presented at the information meeting as one in a list of options and he was able to recall the video in particular. He had been unaware of mediation before going to the information meeting. He felt that mediation might be a way of ‘sorting things out’ and ‘moving things forward’, and felt that the involvement of a third party may help control the anger and emotion in the relationship. He was looking for a way forward which would not exacerbate the already embittered situation between him and his wife, and mediation presented itself as an option. In this case mediation fitted the bill. Had he remained unaware of it, he might well have felt that solicitors were his only route unless the knowledge about mediation was imparted elsewhere at a later stage.

Mediation has some considerable ground to make up before people view it routinely as an option. We live in a society where solicitors and divorce go hand in hand. We encountered attendees who assumed that they must have a solicitor in order to get divorced and never questioned this assumption. We know that mediation is less well-known as a service than solicitors. Some people come into contact with solicitors for other reasons and they are seen as a legitimate source of legal authority. There are solicitors’ offices in all towns and many villages. By contrast, people are unlikely to come across or hear about mediation services in their daily life, nor will they necessarily notice them on the High Street, since there are far fewer mediation services than there are solicitors.

Understanding processes

In order to be able to make an informed choice about which, if any, service to use, people need to know more about the services than the mere fact of their availability. For some, simply knowing that mediation may offer an alternative route through the divorce process was not enough to enable them to view it as a valid option. Attendees were frequently left with an incomplete picture not only of where mediation fitted into the divorce process, but also of what was involved in the process of mediation itself. This led to some confusion over when mediation should be used and how it fitted with legal services:

I don't know if I really understood or still understand what mediation is all about. It seems an intermediate [service], or like a solicitor, or between a solicitor and a counsellor, but I don't know really. (F)

I was not one hundred per cent clear from the meeting where it fitted in or what happened or the best time to pursue it ... but as time went on it became very clear. (M)

During the interviews a small number of attendees described it as being 'too late' for mediation because they had already consulted a solicitor. Though there were nuances within the explanations given by these attendees, they all suggested that once a solicitor had been consulted it was simply 'too late' to consider doing anything else. In such cases, solicitors and mediators were viewed as either-or options: parties could choose to use a solicitor *or* a mediator, but they would not consider using a mediator once a solicitor had been consulted:

It's too late [to consider mediation] – the solicitors are already involved. (F)

Mediation sounds like a good idea – I would have liked to have known about it before I went to the solicitor's ... it might have saved some of the solicitor's bills ... but I don't know if it would be of any more use now that I'm in the hands of a solicitor ... I mean, I'd like to go through exactly what the mediation thing could do alongside a solicitor, that kind of thing. (F)

We know from the evaluation that when one partner goes to see a solicitor, the other partner is likely to feel under pressure to do the same. In other words, they can feel that they are left with no choice about whether or not to seek legal advice:

I don't think I really needed one [a solicitor]. It could have been done without one but my husband went straight to a solicitor, and when I got a letter from his solicitor I didn't really have a choice. (F)

I think my wife had already decided she would consult one, and then I realised I would have to consult one too. (M)

Some attendees we spoke with realised that they could consult a solicitor without needing a mediator, but assumed that if they chose to mediate a solicitor would still be required at some point. There was a sense of inevitability about using solicitors which frequently influenced the initial choice:

I'm not sure whether it would be better to use mediation or a solicitor. One of the things that disturbed me was the cost of using either. We'd rather sort it out ourselves, but the pension arrangements are so complicated ... so it might be better going to a solicitor. It's not that I want to be confrontational but I can see more issues than he [her husband] does. (F)

[Mediation] was a very expensive route for us to go down with no formal stamp at the end of it. You then have to go to a solicitor to get that done. (F)

Sometimes mediation appeared to be viewed as the service which *preceded* consulting a solicitor. Some attendees saw it as possible to use mediation before consulting a solicitor but not to use mediation once a solicitor was involved. This assumption was challenged when solicitors themselves recommended the use of mediation, legitimising it as a reasonable step within a process which was being handled by solicitors. Once again such attendees required a more thorough understanding of process.

The issue of timing is a theme which emerges throughout our evaluation of information provision and is one which we highlighted in our interim reports. It is significant when we consider how and when decisions are made. Attendees sometimes described themselves as being past the point when they could go to mediation, because their relationship had deteriorated to such a degree that they no longer felt able to trust their partner. In such cases they explained how events, such as the divorce process itself or the arrival of a new partner on the scene, had changed the relationship between the two parties and caused them to be less amicable and therefore less inclined to consider mediation as an option:

I think the circumstances of the separation are very important ... I mean, mediation is helpful if both parties can be open to reason. Sometimes that isn't possible, the parties can't be. For example, in my case she was continuing an affair where she actually slept there every night, so mediation in that case is quite difficult. (M)

If this couple had been able to mediate earlier in the process, before relations became so strained, mediation might have been a practicable option. In other cases, the marriage was ending under difficult and bitter circumstances which caused acute hostility. With unresolved feelings of anger still very much to the fore, parties felt unable to negotiate with each other even in the presence of a mediator. In these circumstances, solicitors were employed to manage the negotiations at arm's length. Comments such as the following typified these high-conflict situations:

... to be honest, if I saw him I'd probably take a swing at him. (F)

As far as I'm concerned, I never want to speak to my wife again. (M)

Later on in the process, when hostility had lessened and the intense feelings of anger had died down, parties sometimes felt able to talk directly. One attendee explained that having negotiated her divorce and completed most of the process using solicitors, she then felt able to settle outstanding issues directly with her partner. She explained that emotions had calmed so they were able to speak with each other again in a civilised manner. The services of a mediator were not needed, but rather direct negotiation between the couple replaced indirect negotiation via a solicitor.

One man explained how his wife wished to divorce him on the grounds of his adultery (which he had admitted). He told us that this required an affidavit from the 'other woman', but she would not comply. Solicitors were consulted and he described his wife as 'very upset' and communication as difficult. Over time, his wife came to accept a two-year separation as the ground for divorce. The parties were able to communicate once again and stopped using their solicitors and negotiated directly with each other. Although the attendee wished that this could have happened from the start, he remarked that the 'emotional process decided everything'; emotions had to be worked through before they could stop negotiating through solicitors and build up enough trust to negotiate directly:

It was the right thing to do, basically. We both realised it was the right decision, and when my wife realised she was better, there was no blame or guilt – then we could do it. (M)

Keeping Professional Involvement to a Minimum

Like the attendee quoted above, most attendees were of the view that direct communication between spouses was a better way to finalise arrangements, but this was not always possible. Sometimes attendees told us that they were unable to speak to their partner without arguing, or one partner was described as dismissive of the other. Mediation may have facilitated communication between partners in some cases, since the presence of a third party can help to defuse emotionally-charged situations. Mediation may also have helped where people were concerned with the notion of fairness and did not feel able to decide on what was fair without some input from outside. On the other hand, in cases where communication was difficult and the attendee did not feel that they could trust their partner or protect their own interests well enough in mediation, solicitors were often consulted. So, even though attendees could appreciate the potential benefits of negotiating directly with a partner, it was not a realistic option for all. One of the major benefits of direct communication with a partner is that professional intervention can be kept to a minimum, which in turn means less expense, a potentially quicker process, and in some cases a more conciliatory divorce. However, the potential to be conciliatory depends on the attitudes of the two parties involved as much as on the route chosen.

During the in-depth interviews a male attendee, Jacob,² explained to us why he had chosen a DIY route through divorce and how he had managed to minimise solicitor involvement. Jacob wished to keep the separation as amicable as possible, and considered that the best way of achieving this would be by doing his own divorce. Like many attendees, he expressed concern that the involvement of solicitors may lead to unnecessary acrimony and he limited his use of solicitors to two free half-hour sessions, each with a different solicitor. He had learned about the free half-hour offered by solicitors at the information meeting. He recalled that information on solicitors was ‘presented neutrally’ and he was left to make his own decision. He did not consider mediation, as he felt there was no need to use it. At the time of the information meeting he described himself as being uncertain about how to proceed with divorce (the second category of ignorance described in Chapter 4):

I felt I was in a forest and I didn’t know which way to get out. I just needed a finger to point me in the right direction really. [The information meeting] gave me all the information I needed. I just looked through it, read through it, took my own path and did what I thought was best at the time, and it seems to have worked out OK ... One of the fears with first seeing a solicitor was, right, I’m acting for you, I’m going to get everything I can for you ... it’s going to cause confrontation – and it wasn’t necessary. To be fair, it wasn’t a messy separation. It was on the cards and we both knew what was happening, so they weren’t really needed. We just decided at the time we’d do it ourselves and get on with it.

He felt that because there was no blame on either side he and his wife were able to establish arrangements with each other:

² All the names used in this chapter have been changed to protect confidentiality.

I don't think there's a tried and tested formula, to be fair. It depends on the couple. I was with [his wife] for ten years and we did know each other inside out, and we sort of sat down and said 'We've grown apart over time' and we were adult enough to say 'There's no point carrying on' and we went our separate ways. But not all people can do that – there's no formula or statistics you can do to get that mediation between you.

It may well be the case that, in divorces where there is more ill feeling, accusations of blame or feelings of guilt, communication between the spouses will be more difficult.

Jacob described himself as 'a bit of a soft touch' and felt this had helped in his making arrangements at the time, though he later grew to regret some of the arrangements to which he had agreed:

The only thing I regret is giving too much away ... but I'm not bitter about it.

It may be that for Jacob compromise was a necessary ingredient for keeping the divorce amicable. Jacob felt that direct communication between himself and his wife, and the pursuance of a DIY divorce, had in his case worked well. However, we also spoke with other attendees who, like Jacob, wished to minimise the involvement of professional services but for whom the outcome was not as favourable.

The next case concerns a couple who did not communicate well and who had a very strained relationship. The female attendee, Andrea, explained that so long as arrangements concerning the children suited her husband, he was happy. If they did not suit him, however, or if there was a need to make them flexible, he was wholly uncooperative. Nevertheless, the couple managed their divorce with minimum involvement from a solicitor and without mediation. On the surface, this may appear to be a desirable outcome, but it was achieved with various costs to Andrea, both emotionally and financially. Andrea described how she was 'still intimidated' by her husband and how he had involved their children in disputes and been disrespectful about her to the children. Although they managed the divorce themselves she felt she had conceded things to her husband on various issues in order to keep the case straightforward. For example, she described it as 'a matter of pride' that he divorced her rather than vice versa. She also refused to be swayed by her solicitor, who suggested she was being too generous in the settlement. Andrea did not have time to do a DIY divorce, and felt that in her case solicitors were a necessary part of the divorce process so far as the paperwork was concerned. With hindsight, however, she wondered whether mediation might have been helpful since there were many unresolved emotional issues which she felt had added to the bitterness her husband felt towards her. She wondered whether a mediator would have helped him 'move on':

A mediator would have been very good in maybe ... working between us, getting him to put things into perspective for him.

The couple had previously been to Relate, and Andrea's husband had continued to go on his own afterwards, but she did not think this had helped him to move on. Andrea believed that mediation was a forum where emotional issues could be addressed. This case raised a number of interesting issues. Andrea was able to negotiate directly with her partner; she did not feel she needed mediation, and she minimised the use of solicitors. As we have seen, however, there were many hidden costs which call into question whether the attendee was really better off doing the divorce in this way. It may well be that solicitors would have exacerbated the situation further and made matters worse, as she

feared, but on the other hand they might have protected her interests a little more. However, her chosen path was one of direct communication with her partner and minimal involvement from outside services.

Other attendees we spoke with did not manage without professional intervention, either because their divorce proved more complicated than they had anticipated or because they were told that they must seek legal representation in order to proceed further. For example, one attendee told us that he wanted to represent himself but his partner's solicitor refused to communicate directly with him, and so he felt forced to use a solicitor too:

In the early stages I handled all of the proceedings myself to my wife's solicitor, raised my own divorce petition, wrote back and forwards and suggested mediation, etc., but, in the end, the old boys' act of solicitors pushed me out of that situation. They wouldn't accept me as a person doing it on my own behalf. (M)

Many attendees expressed some degree of concern about involving solicitors in the divorce, but the majority of attendees nevertheless used them. When attendees had considerable concerns over using solicitors this could sometimes act as a catalyst for them to seek out other routes through divorce – perhaps mediation, or perhaps direct negotiation without using professional services. At other times, attendees chose mediation or direct negotiation for reasons which were entirely separate from their views about solicitors.

Solicitors and Mediators: Weighing Up the Pros and Cons

Attendees expressed three main concerns in connection with involving solicitors: concerns about creating ill feeling between the spouses; concern over the expense which could be incurred; and concern over the length of time that negotiating through a solicitor might take. Additional concerns were expressed, including about the emotional costs of using solicitors. Mediation was sometimes seen as a way of addressing these concerns:

I just regarded it [mediation] as an easier and quicker [option] ... just a better way of sorting everything out rather than going through solicitors, because ... it's a very long-winded process if you go and see a solicitor and they communicate with the other solicitor and back to the other spouse and back again and back again, and back again. Not only is it expensive, it's very time-consuming, and you can't have a conversation like that. (F)

We interviewed some attendees who, for various reasons, said they were disillusioned by solicitors and looked towards mediation as an alternative. Attendees in this category considered using mediation because they had had a negative experience of solicitors or had a negative image of them, rather than positively favouring mediation in its own right as a first choice:

If there came a situation where I wanted a divorce I would definitely go [to mediation]. I wouldn't go back to the solicitor. (F)

One male attendee, Gavin, offered a number of reasons to explain why he had chosen mediation rather than solicitors. Gavin regarded the mediator as possibly coming from a counselling background and therefore more adept at handling situations where emotions were involved. He also hoped for a cheaper route through the divorce process. He was

anxious to reach a fair settlement and hoped to achieve this through mediation, but found the lack of direction from the mediator difficult. He remarked that having a solicitor alongside the mediator would have been more helpful, since neither the mediator nor he or his wife were adequately informed about legal matters when they arose. The agreement reached through mediation was taken to a solicitor and used as the basis for a separation agreement after the parties had waited the requisite two years. Mediation had enabled Gavin to minimise his use of solicitors, which for him represented a satisfactory outcome:

Well, it [mediation] was really cheaper. I don't think it was that much cheaper, but we thought it was going to be a little cheaper than doing all the meetings via a solicitor, and it was probably going to be somebody who was also a counsellor so they would perhaps be able to handle it a bit better than a solicitor, albeit there are different skills in mediation skills, but it was of benefit for someone like that to be doing it rather than a solicitor. Besides, a solicitor only works for one person, and then we'd have had to have two solicitors and they would have ping-ponged over the outcome, and I don't think we'd have been in the same room, really. It was quite useful to have had our conversations in front of somebody. Just doing it on your own it might get a little bit heated, and doing it through letters via a solicitor, I don't think that would have worked very well ... I think it was a good alternative, a good compromise. (M)

However, despite attendees' references to the fact that solicitors were both expensive and potentially antagonistic, some saw solicitors as a more authoritative service than mediation and felt solicitors were most likely to protect their interests. Conversely, when speaking about mediation, attendees expressed concerns that mediation might not be in their best interests and that they might stand to 'lose out' or become 'worse-off'. They were not convinced that a mediated agreement would offer them the best deal. One man described how he felt that if he went to mediation he would be 'selling himself down the river' and that mediation would 'blow all [his] defences away'. Some expressed concerns that, even if a mediated agreement was reached, it was not a legally binding agreement and could be reneged upon. There was an underlying assumption that the settlements proffered by mediators were less legitimate, official or legally binding than those negotiated through solicitors:

I stand to lose a lot, so I couldn't afford not to have someone legally there fighting for me to get all that's due to me, really – that's the thing. (M)

The thing is, would they [mediators] know the legal ins and outs and be able to say to my husband 'I'm sorry, you can't have this'? (F)

My solicitor will act in my best interest so I'm leaving it to him. (F)

It [mediation] would be less costly than a solicitor. If they are knowledgeable about finances I would use them. The solicitor has that edge ... Mediators can suggest how to reach an amicable agreement but they can't say 'You're entitled to this'. (F)

I wanted to sort it out amicably, but personally I feel that I need something signed and sealed. (F)

The experience of one attendee, who had been to mediation to make arrangements about contact, illustrated this fear:

Looking back, because none of it is binding I think he basically used it to benefit himself. What we agreed to at mediation a year ago my husband has not adhered to. (F)

Frequently, attendees referred to the need for trust between partners as a vital ingredient in mediation. Lack of trust was sometimes cited as the reason for not going to mediation. Attendees who did not trust their partners were often wary about mediation and so ended up using solicitors. Susan's story, recounted in Chapter 20, illustrates this position.

The attendee whose story is outlined below described her divorce as having taken her to 'hell and back'. Sharon was able to articulate the potential benefits of mediation, but did not think it was the most appropriate route for her. Although the divorce was handled through solicitors, she felt that she remained in control during that time. The process was extremely long-drawn-out and had taken over two-and-a-half years to complete:

I told my solicitor a couple of weeks ago I was glad he was my solicitor and not my doctor, because I'd be dead by now ... They take so long.

Sharon understood mediation and could appreciate its potential benefits. Her husband had suggested it to her. However, she felt it was wholly unsuited to her circumstances because she had lost trust:

The point is with mediation – and this is one thing that I felt – with the situation I was in, your trust has gone in everybody, so my husband actually suggested mediation ... I had lost my way of life, I had lost my husband, I had lost trust in loads and loads of people. Then suddenly to have this ... the concept is excellent, the concept is really good, but it's like the emotional side, you've got somebody who doesn't trust anybody and how can they let basically a stranger sort it all out, or help to sort it all out? Emotionally I was, and probably still am, not as strong as my husband is, because he's basically walked out of one family into another and he seems very settled ... and that was the only thing I could be in control of – myself – and I think having control is an extremely important aspect of it all, because you feel as if you've lost control of your whole life anyway for a short time. It lasted about a year. So once you start getting that control back you're not going to pass that over to anybody, that's how I feel about it. And that is basically the main reason why I decided not to go for mediation.

Sharon felt better able to retain the control she saw as important by using solicitors, because

they are representing me and nobody else. I think, a mediator – you know the fact that you're dealing with somebody else that's dealing with both of you. I wouldn't, for a start, feel comfortable with that person ... It's only as I've gone through the whole divorce and settlement process that I can now see that, the other side of it. As I say the concept is extremely good but for me emotionally I would have found that extremely difficult ... They [her solicitor] were 100 per cent on my side and that came across very clearly; I know they can't make decisions for you because – emotionally that would be nice for somebody to do – but I just felt they were totally on my side.

Clearly, the element of partisanship in the way the solicitors worked was very important to Sharon, and although she acknowledged that this added to the length of the process (each party fighting their corner with offers going back and forth) she felt she eventually got what she deserved by doing it that way. She felt she had unfairly lost so much through

no fault of her own and did not regard mediation, which focused on fairness, as appropriate:

... he hadn't been fair to me, so why should I be fair to him?

She felt that she needed to be in control of her own destiny and that mediation might have threatened that:

The thing is with divorce, there is so much emotion going on, you're not yourself. You've got important decisions to make, plus you're not one hundred per cent *compos mentis*, so it's trying to find a fine line between those two things. And I think if somebody, even though they were trying to help ... – it would confuse you even more, because I think you've got to look at what you want yourself and go forward from that.

When asked what support she had to help her through this situation, Sharon replied that she had a supportive GP and that family and friends had been very good, although their support only went so far. She had had a session with Relate early in the process, which had helped her regain a small amount of self-esteem and confidence, and at the time of our in-depth interview she was considering going to counselling again since she felt there were still some 'ghosts to be laid to rest'. What had been helpful for her own personal healing process had been the fact that she felt she had kept control through using solicitors. Her experiences had convinced her that no-fault divorce was a 'ridiculous' concept:

All this thing about blameless divorce is just ridiculous; only a man could come up with that one ... this blameless divorce thing is so silly. To me there is no such thing, at the end of the day. If it's done on contracts, the fact that it's a marriage contract just seems to be obliterated.

She suggested that it might be a good idea if a couple retained their financial independence during their marriage and had a contract or agreement in place outlining what should happen in the event of a split:

This may sound a bit pessimistic but might help in the long run. That's definitely what I would have done, because if I'd known what I know now I would never have got married.

Attendees mentioned lack of trust time and again as a reason for handling divorce via a solicitor and rejecting mediation. In some cases, people decided not to use mediation even though they agreed with the idea in principle. One attendee used a solicitor because he regarded his wife as totally unreasonable. Even though he felt that he had been very open and had disclosed all the financial information and offered her a very generous settlement in order to speed up the process, his wife did not trust him. He felt his generosity was viewed as a ploy because he 'must have something to hide'. Trust had been completely erased from the relationship. He felt strongly that what is needed during divorce is a single service which combines aspects of mediation with legal advice. He commented that such a system should be able to say what is a *fair* settlement for *both* the parties involved. Solicitors cannot do this as they are partisan in their approach and represent one party only; mediators cannot do this as they remain neutral and impartial.

In other cases, the fact that one of the parties had already employed a lawyer led the other party to feel they must do likewise. One male attendee remembered the presenter telling him that mediation was the best way to go if he could not resolve the arrangements

himself. Although he agreed with the principle of mediation he felt that he needed a 'legal ally', since his wife had got a solicitor and he felt obliged to get one too. In reality, however, the involvement of partisan lawyers, while fulfilling the parties' need to have someone on their side, increased the tensions between them. The same attendee described how solicitor involvement caused the situation to escalate into

a classic case of 'I'll have everything you've got' [and me] defending my corner.

He explained how the solicitors took over the process and how it then ran 'the usual course of threats and intimidation':

Looking back, I really wish I'd have hung out a bit longer before going to see a solicitor. It would have made it more painless for both parties because obviously one solicitor makes a threat on behalf of their client and then it's just tit for tat, and everybody gets upset except the solicitor, who is making a bag-full of money out of it all.

However, the parties' consulting a lawyer need not necessarily mean that they have opposing interests. Sometimes solicitors are consulted just so as to carry out the paperwork. One attendee told us that she and her husband wanted their agreements drawn up into a legal settlement, and so they opted to use solicitors because it seemed appropriate and inevitable:

If there was another way to go rather than a solicitor I would have chosen that way. If we could have divorced without, [if we could have] applied to the courts ourselves, I would rather have done that than involve a solicitor.

She explained how the solicitor had suggested to her that she ought to push for a more generous settlement from her husband. However, she refused to be drawn into renegotiating what she had already informally agreed with her husband and was determined that the role of the solicitor would be minimal:

That was where it stopped straightaway. I wasn't going to fight. I was happy with what I got out of the house and all I wanted to do was file for the divorce, and I made that very clear.

At the time of our in-depth interview this attendee was waiting for the divorce papers to come through and described her relationship with her husband as 'fine'. They communicated by telephone and still trusted each other to keep to arrangements. She commented:

We probably talk better now than we did when we were married.

This couple had achieved a conciliatory divorce without the use of mediation and with very limited use of solicitors. The choice not to use mediation and the fact that a solicitor was consulted did not, either in this case or in many others, signal that the parties were unable to pursue a conciliatory divorce. It was the determination of the parties to remain amicable that was the important ingredient in their achieving a conciliatory divorce, rather than the route they chose.

Understanding Choices

Attendees' accounts of their experiences of going through the divorce process were vivid and often moving and thought-provoking. The situations in which people found themselves varied enormously, and the ways in which attendees had resolved issues differed from one person to another. Even when two people are given exactly the same information about the options available to them, they may well make very different choices about which route to take.

Genn's recent study of the paths taken by people involved in civil and family disputes indicates that of those experiencing divorce or separation problems, 99 per cent took action of one sort or another to try to solve the problem.³ Some (7%) had dealt with the problem without recourse to advice, but the vast majority (92%) had obtained advice, often from several services. The first point of contact was most frequently a solicitor, few of whom recommended the use of mediation as a way of seeking a resolution to the problem. Genn suggests that the heavy use of solicitors is a reflection of the seriousness with which matrimonial matters are regarded by the parties involved and of the availability of public funding for legal advice. She suggests that there is a correspondingly low level of interest in mediation. Our data would indicate, however, that although the majority of information meeting attendees did seek legal advice at some stage in the process of separation and divorce, they did so for a variety of reasons. Moreover, there was considerable interest in the concept of mediation, but in order for people to use mediation a number of criteria had to be fulfilled. Even when they were, we discerned other factors which militated against the use of mediation. In other words, the decision as to whether or not to use mediation is a complex one, even if the idea is appealing.

Given the Government's interest in promoting conciliatory divorce, particularly through mediation, it is important to understand the factors which appear to be present when people choose to go to mediation, and those which appear to militate against going to mediation. The lists are not exhaustive or exclusive. Mediation is likely to be used when *all or most* of the following conditions are satisfied:

- It is acknowledged that solicitors are not the only or the inevitable route through divorce.
- At least one of the spouses has more knowledge about mediation than just an awareness of the service, and understands the process – when to access mediation, how to access it, how mediation works and how it fits with other services.
- There are outstanding issues to be settled between the parties, whether financial, child-related or both.
- Both parties are willing to go to mediation.
- Both spouses believe that negotiation between themselves is a better way of making arrangements, but have problems with or are uncertain about communicating directly with each other and view the presence of a third party as beneficial in this process.

³ Genn, H., *Paths to Justice: What People Do and Think about Going to Law*, Hart (1999).

- The parties have enough trust in each other to feel negotiation is possible and that settlements reached will be adhered to.
- At least one of the parties has concerns about being fair.
- One or both parties wish to minimise use of solicitors.
- A mediation service is available which is accessible to the couple in terms of location, appointments and affordability.

Mediation is unlikely to be used if *any one* of the following applies:

- The service is not well understood and/or is confused with counselling or reconciliation (although such factors may attract people to mediation for the wrong reasons).
- There is nothing to mediate about, because the parties are not in disagreement over finances or arrangements for the children.
- The parties feel able to communicate and negotiate directly with each other.
- The parties are unable or unwilling to communicate or negotiate directly with each other in any way, even if a third party is present.
- The parties do not trust each other at all, or do not trust each other in relation to matters which are still unresolved.
- One of the parties is unwilling to consider mediation as an option.
- At least one of the parties is so concerned with protecting his/her own interests and rights that they feel an overwhelming need for legal representation.
- The divorce is complicated by issues such as property, pensions, other assets, or arrangements for the children which require a high level of legal knowledge in order for resolution to be reached.

The Challenges for Mediation

The Lord Chancellor has made it clear that he supports mediation as an alternative dispute resolution process, hence his disappointment with the initial research findings about the number of people going to mediation after attending an information meeting. This and other research suggests, however, that mediation is unlikely to be an option chosen by large numbers of people, for a whole variety of reasons. The challenges for mediation are clear. In order that people can consider mediation, they first need to know about it. They need to understand clearly what mediation is and does and, just as importantly, what it does not do. Mediation is sometimes confused with counselling, and sometimes associated with reconciliation. It is perceived by some as a way of keeping emotions out

of the picture and by others as a forum for addressing emotions. The confusions and misunderstandings are many, but are not insurmountable.

Mediation is sometimes regarded by people facing divorce as an either-or option, rather than as a process which can be used in conjunction with other legal services. Informing people that a solicitor can be used to cast a legal eye over any agreements reached through mediation may help to allay some of the fears that a mediated agreement may not be fair. People expressed concern that mediation does not offer the same level of legal expertise as a solicitor. Indeed it does not, and so it should not be packaged in a way that suggests it is a replacement for legal services. Promoting the value of mediation in its own right, rather than merely comparing it with solicitors, may enable more people to see its potential benefits. People remain unclear about the process of mediation and unaware that mediation may be used at various points in the divorce process, and that it is not too late to consider mediation once a solicitor is involved or once the divorce process is under way. Reminding people that mediation remains available before, during and after the divorce process may be useful information to impart.

The importance of information is evident, but a better knowledge of mediation may not lead to a particularly high take-up of the service because, as we have seen, many other conditions need to be in place at the same time before mediation can be undertaken. However, providing good-quality information will mean that people can make an informed choice about the route they choose. For those people who are suited to mediation but do not use it because they do not know enough about it, such information could make a real difference.

The Wider Challenges

Conciliatory divorce is a laudable goal and is achievable in many, but not in all, divorces. Some divorces could never be conciliatory because the parties involved do not want them to be. In other cases circumstances prevent conciliatory divorce becoming a reality, whether or not it is aspired to. Mediation is but one potential route to achieving a conciliatory divorce. It should not be seen as the only way of achieving this, nor should it be assumed that it is always successful. Some attendees who have gone to mediation did not reach a settlement, and on occasion the relationship between the parties deteriorated after their experience of mediation. By contrast, some attendees who have used solicitors have managed to remain on amicable terms with their partner. We spoke to one attendee who told us that the involvement of solicitors allowed some distance to be put between him and his wife and that this had kept the relationship on an amicable footing. There is, then, more than one route to a conciliatory divorce.

Solicitors are often regarded as causing contention and acrimony, and indeed they sometimes do. We have heard tales from attendees about lawyers whose aim was perceived to be to make as much money as they could out of the misfortunes of others. However, we have seen how people have managed their solicitors and have refused to be drawn into a contentious settlement process by them. There also exist solicitors who have been described as conciliatory, as not encouraging animosity and as avoiding conflict where possible and who are supportive of mediation.

Where mediation is not used because people feel they can negotiate directly with each other, the use of solicitors may be minimised too. The services are not either-or options, and not going to mediation does not automatically mean increased use of a solicitor.

Many attendees are aware that keeping the situation amicable and resolving matters through direct negotiation can be the best route to take. The principle of mediation is often acknowledged and taken on board even though mediation itself is not used. Indeed, some people maintained the principles of a conciliatory divorce in their dealings with solicitors and refused to allow the solicitor to push them into opposition with their partner.

Using solicitors and/or mediators or managing a do-it-yourself divorce all have the potential to be conciliatory. Our system of partisan legal representation does not lend itself easily to a conciliatory approach, but all routes have the potential either to cause further problems or, alternatively, to promote co-operation. It is the approach a person takes which is important rather than the service which is chosen. At the time of a separation, emotions are often running high. Hurt, anger, grief, fear and hate can cause people to act in ways which are not rational.

During the process of separation and divorce, other services and contacts are often involved – GPs, religious advisors, CABx, family and friends – and their opinions can be influential in terms of the path a person takes. It seems that it is not so much the route that matters, but rather whether or not the divorce is conciliatory and how the people involved manage the chosen route.

It seems that many attendees were looking for a hybrid service, a cross between lawyers and mediators. They would welcome a service which could offer high-quality legal advice, could suggest what is a fair settlement for both parties, does not encourage acrimony within the relationship and could allow a third party to facilitate communication between the couple. In the absence of such a multi-dimensional service, lawyers will probably continue to be the main route through divorce, at least for the foreseeable future.

5

**Promoting Continuing Relationships
between Parents and Children**

5. Promoting Continuing Relationships between Parents and Children

The sense of urgency which led the previous government to put forward its proposals for divorce reform was fuelled, in part, by widespread concern about the consequences of divorce for children. There was a belief in Parliament that the law has a responsibility to ensure that the best interests of children are paramount in the decision-making process, and that their needs, wishes and feelings are taken into account. The Family Law Act is based on principles which promote conciliatory divorce in order to minimise the distress to parents and to their children, and to ensure as good a continuing relationship between parents and their children as is possible. Children need to be protected during the upheavals, disruptions and transitions associated with the break-up of family life, and future arrangements, particularly those relating to their everyday care, have to be negotiated and agreed.

The vast majority of parents care deeply about the impact the breakdown of family life has on their children, but it is not always easy for them to focus on their children's needs at a time when they are having to disentangle their marital relationship. Divorce has a profound effect on parenting, and parents, particularly those who no longer live with their children on a daily basis, frequently have to surmount major obstacles in their endeavour to share parental responsibilities when mutual trust and respect may be limited.* The incompatibility which contributes to the breakdown of the marital relationships often continues in the experience of parenting post-divorce. There is little research evidence to indicate that non-residential parents (usually fathers) deliberately abandon their parental responsibilities, but the reality for many children is that fathers come to occupy a decidedly secondary parental position which is often rather precarious, and which has to be negotiated with caution. Maintaining good continuing relationships between parents and their children requires considerable commitment from both parents, and an ability to put their children's needs before their own. Furthermore, the relationships between parents and children after divorce are shaped and redefined in the context of other crucial relationships, most specifically by the emergence of step-parents.

Divorcing parents and their children are rarely prepared for the fundamental emotional, psychological and practical changes which have to be accommodated during and beyond the separation and divorce process. The Family Law Act seeks to support parents and children by providing information both for parents and for children, and by encouraging parents to settle disputes amicably, perhaps using mediation services which seek to improve communication and reduce conflict.

In Chapters 22–25 we consider the needs of children whose parents are separating and divorcing, examine parents' reactions to the provision of information about children, consider the views of children and young people about information written for them, and discuss the ways in which parents have responded to and used a parenting plan developed for use in the pilots.

* Simpson, B., McCarthy, P. and Walker, J., *Being There: Fathers After Divorce*, University of Newcastle upon Tyne (1995); Simpson, B., *Changing Families*, Berg (1998).

Chapter 22

The Needs of Children

Martin Richards

Most children and young people feel powerless in situations of family change. They find themselves in situations which they are forced to accept and yet they feel they have had no say in them ... children and young people want to be consulted in the decisions that affect them; they want to be listened to, not to have the ultimate responsibility, however, for decision-making.¹

Much has been written about the impact of parental separation on children, and, as the current divorce rate persists,² so the widespread concern for the welfare of children experiencing the separation or divorce of their parents continues. The Family Law Act 1996, in common with recent divorce legislation in other jurisdictions, emphasises the needs of children at divorce and in this it both reflects the widespread concern about the effect of parental divorce for children and takes account of the accumulated evidence from a considerable body of systematic research on the subject.³ It is generally accepted that most children manage to survive the divorce or separation of their parents, and adapt successfully to the changes this brings to their lives, but for a minority of children there are long-term consequences that may stretch into adulthood.

Research over the past forty years provides a consistent picture of the ways in which children may be affected by their parents' separation and/or divorce.⁴ At the time of the separation itself, and indeed during the period of parental conflict and marital instability that often precedes separation, both children and adults can be very distressed.⁵ At this time children very commonly experience unhappiness and low self-esteem and may exhibit behavioural problems. These difficulties may spill over into problems with relationships with family members and friends, and with schoolwork. All these difficulties are generally short-lived and usually fade as children settle into their new domestic circumstances, but may return if there are further domestic upheavals, such as the arrival of new partners in the household or the breakup of new relationships that have been established after the first separation. Rather than adapting to repeated separations, children may become sensitised and react with increasing disturbance.

Research suggests that children of divorced or separated parents often express strong feelings that their parents should have stayed together and express hope that they will get

¹ Stepfamily Association, Children and Young People Project, National Stepfamily Association (1999).

² If current rates persist, four out of ten marriages will end in divorce.

³ These statements are based on a number of reviews of research: Amato, P.R. and Keith, B., 'Parental divorce and the wellbeing of children, a meta analysis', *Psychological Bulletin*, vol. 110 (1991), pp. 26–46; Burgoyne, J., Ormrod, R. and Richards, M.P.M., *Divorce Matters*, Penguin (1987); Emery, R.F., *Marriage, Divorce and Children's Adjustment*, Sage (1998); Richards, M.P.M., 'The needs of children of divorce', in J. Koreczewski and M. Maclean (eds), *Family Law and Social Policy in the New Europe*, Dartmouth (1996); Rodgers, B. and Pryor, J., *Divorce and Separation: The Outcomes for Children*, Joseph Rowntree Foundation (1998).

⁴ See Rogers and Pryor (1998), *op. cit.*

⁵ Mitchell, A., *Children in the Middle: Living through Divorce*, Tavistock (1985); Walczak, Y. and Burns, S., *Divorce: The Child's Point of View*, Harper & Row (1984).

back together again. Children may feel powerless in the face of what is happening to them and frequently feel resentment at the failure of their parents to provide clear information about what is happening or to ask about their feelings or views. It is clear that many parents, perhaps because of their own feelings of distress, anger or guilt, find it very hard to talk to their children about what is happening and may only do so after the separation has taken place, if at all.⁶

Rodgers and Pryor,⁷ in the most recent extensive systematic review of the evidence, suggest that ‘as a rule of thumb’ adverse outcomes are roughly twice as prevalent among children who experience divorce than they are among those from similar social backgrounds whose parents remain together. They add, however, that the disadvantages identified by research typically apply only to a minority of those whose parents have separated during childhood (and a smaller minority of those whose parents have stayed together). They identify seven areas where such differences have been established through follow-up research studies. Children of separated families:

- tend to grow up in households with lower incomes, poorer housing and greater financial hardship than intact families (especially those headed by lone mothers)
- tend to achieve less in socio-economic terms when they become adult than children from intact families
- are at increased risk of behaviour problems, including bedwetting, withdrawn behaviour, aggression, delinquency and other anti-social behaviour
- tend to perform less well in school and to gain fewer educational qualifications
- are more likely to be admitted to hospital following accidents, to have more reported health problems and to visit their family doctor
- are more likely to leave school and home when young and more likely at an early age to become sexually active, form a cohabiting partnership, become pregnant, become a parent, and give birth outside marriage
- tend to report more depressive symptoms and higher levels of smoking, drinking and other drug use during adolescence and adulthood

There is, however, no direct relationship between parental separation and children’s adjustment. Simple absence of a parent on a daily basis (usually, of course, the father) does not seem to be the crucial factor since bereaved children do not share the same risks of poorer educational attainment, lower socio-economic status and poorer mental health.

⁶ See Mitchell (1985), *op. cit.*; Burgoyne, Ormrod and Richards (1987), *op. cit.*; Rodgers, B. and Pryor, J., *Children and Family Transitions: Separation, Divorce and Step-parent Living*, Blackwells (due 2001).

⁷ Rodgers and Pryor (1998), *op. cit.*

However, the manner of a father's departure and the subsequent economic position of the household he leaves may be crucial factors. While we still lack an adequate understanding of individual children's strengths and weaknesses in these situations, which can mean, for example, that siblings from the same home can be affected very differently, there is widespread agreement about the major factors that influence outcomes for children.⁸ Six factors may be singled out as having particular importance:

1. *Economic factors.* Almost all households with children suffer a very significant fall in income after a separation. Low incomes have multiple effects but are particularly closely associated with limited educational (and socio-economic) achievement. While remarriage or repartnering may often improve household incomes these often do not return to the pre-divorce level.
2. *Conflict.* Conflict between parents causes distress and unhappiness in children and can contribute to behavioural problems. After separation, conflict can lead to a deterioration or ending of children's relationships with their non-resident parent.
3. *The relationship with the non-resident parent.* A continuing and satisfactory relationship with the non-resident parent can improve the chances of favourable outcomes for children. Continuing relationships with the wider kin are also important, but these may well be mediated through the non-resident parent. The loss of contact with a non-resident parent can mean the loss of contact with all relations on that side of the family.
4. *Parents' adaptation.* Particularly in the short term, but in the longer term too, the parents' ability to recover from the distress of separation can influence a child's ability to readjust. Sadly, often at the time when a child is most upset and in need of comfort and support, their parent will be distressed and preoccupied and so least able to provide what their child needs.
5. *Information for children.* A specific aspect of children's relationships with their parents which seems of especial significance to them at separation is their need for clear information and to have their own feelings recognised. As one review puts it, children need 'accurate information about what is happening to their parents' marriage, and its implications for their own lives and opportunities for talking about their experiences and fears and for comparing them with those of others'.⁹ Rodgers and Pryor¹⁰ state that 'good, continuing communication and contact between children and both parents appear especially important in assisting children to adapt'. Clear explanations about what is happening and why can help, as can reassurance for younger children that they are not being abandoned and that the parents are still parents even when they leave the home to live elsewhere.

⁸ See Richards (1996), *op. cit.*, Rodgers and Pryor (1998), *op. cit.*

⁹ Burgoyne, Ormrod and Richards (1987), *op. cit.*

¹⁰ Rodgers and Pryor (1998), *op. cit.*

6. *Transitions.* Changes in living arrangements can be particularly unsettling to children. A move of house can mean the loss of friends and a new school to cope with. When such moves are coupled with all the other changes that a separation may bring, the effects for children can be very significant. The arrival of new partners, especially if they are accompanied by their own children, can be very disruptive to children and research indicates that entering a stepfamily may have an effect of comparable magnitude to the original divorce or separation.

The evidence produced by social science research suggests that both parents and children need help during the separation and divorce process. During the debates in the House of Commons during the passage of the Family Law Bill the sentiment was repeatedly expressed that the welfare of children in the divorce process should be paramount:

The interests of children in a divorce must be paramount. I am sure that the House will support anything that can be done to protect their interests and avoid wounds that can last a lifetime.¹¹

I was interested to hear the minister say that children's needs are paramount. He will recall that that is a phrase used in the Children Act 1989 ... children's views should always be taken into account, of course, and I am pleased that the Bill reinforces that idea.¹²

We are not merely considering the way in which we live our lives in society today, but how we will lead our lives into the next century and the sort of society we build for our children and grandchildren who are our future. The Bill is about the future of marriage, the future of families and future of our children. We owe it to all of them to ensure we get it right.¹³

The optimum time for the period of reflection was debated at length, with some disagreement over whether 12 months was adequate, or indeed too long when there were children concerned, as the following comments illustrate:

The majority of responses to the Law Commission and the Government's consultations favored a period of 12 months. In particular, that period was regarded by the main children's organisations as being long enough, and they recently repeated that advice. An extremely important factor in deciding the appropriate length of time is that when children are involved, uncertainty is bad for them. It cannot be stressed too strongly that 12 months is a long time in the life of a young child living with uncertainty. Too long a period would prolong the agony not only for the adults, but for the children. Children are after all the innocent victims of marriage breakdown. It is vital that the divorce law should do all it can to minimise the damaging effect of divorce on children. Recognising that, it is vital that, so far as possible, children emerge after the divorce having a good relationship with both parents.¹⁴

¹¹ Mr Freeman, Chancellor of the Duchy of Lancaster, Official Report (H.C.), 25 March 1996 at col. 747.

¹² Mr Tipping MP (Sherwood), Official Report (H.C.), 25 March 1996 at cols 785–6.

¹³ Mrs Roche MP (Hornsey and Wood Green), Official Report (H.C.), 25 March 2000 at cols 798–9.

¹⁴ Mr Freeman, Chancellor of the Duchy of Lancaster, Official report (H.C.), 25 March 1996 at col. 784.

... are we really arguing that a year is adequate time when children may be involved and when a promise has been made for life? A year is far too short a time. Is it too much to argue that we should wait just 18 months or two years as a period for mature consideration of reconciliation and before mediation begins?¹⁵

Others felt that in certain circumstances children needed extra support:

Children's voices should be heard throughout the Bill. Where complex and difficult cases arise, the child's needs should be protected by the appointment of a guardian ad litem and reporting officer. It is crucial that independent advice and assistance is offered to children, because they are often the real losers – not only emotionally but materially. There should be a legal requirement, as exists in Scottish legislation, for parents to have regard to their children's views. When a parent makes a statement of marital breakdown, courts can provide children with information appropriate to their age. Those proposals enjoy support from many organisations involved in child welfare.¹⁶

Several provisions were introduced into the Act which were intended to strengthen the emphasis upon the importance of the welfare of children at divorce. Part I lays out the principles on which Parts II and III of the Act are based. Part I Section 1(c) states:

A marriage which has irretrievably broken down and is being brought to an end should be brought to an end –

- i. with minimum distress to the parties and the children affected;
- ii. with questions dealt with in a manner designed to promote as good a continuing relationship between the parties and any children affected as is possible in the circumstances.¹⁷

In order to give parents time to consider appropriate arrangements for their children thoroughly, the period of reflection was lengthened by six months where there were children of the marriage (Part II, s. 7(11)). Section 8(9) specifies nine areas in relation to which information must be given in the information meeting, including:

(b) the importance to be attached to the welfare, wishes and feelings of children; (c) how the parties may acquire a better understanding of the ways in which children can be helped to cope with the breakdown of a marriage ... (s. 8(9)(b) and (c))

The emphasis is very much on helping parents to understand better how their children might be feeling, and on taking their views into consideration, which will in turn be of benefit to the children themselves. Under Section 12 a legal representative might be required by rules made by the Lord Chancellor to inform the client about the need to consider the children's welfare, wishes and feelings.¹⁸ Any mediation service contracted with the Legal Services Commission would have to comply with a code of practice requiring the mediator to ensure that the parties are encouraged to consider the welfare, wishes and feelings of the child.

¹⁵ Mr Leigh MP (Gainsborough and Horncastle), Official Report (H.C.), 25 March 2000 at col. 784.

¹⁶ Mr Llwyd MP (Meirionnydd nant Conwy), Official Report (H.C.), 25 March 2000 at col. 783.

¹⁷ Family Law Act, Part I, s. 1(c).

¹⁸ Family Law Act, Part I, s. 12(2)(a)(iii).

Addressing the Needs of Children and their Parents

The various provisions within the FLA and the procedures designed to be introduced with it address the needs of parents and children in five main ways, as follows.

(1) Reduction of conflict between parents

As we have already mentioned, the research on children indicates that conflict between their parents may affect them adversely. The Act addresses this in two ways. It provides for 'no fault' divorce and facilitates the use of mediation. Neither of these will, in themselves, remove or prevent conflict, but both are likely to reduce the chances of conflict between parents being exacerbated during the process of divorce. As the MORI polls have indicated, both divorced people and the population at large believe that most people would prefer to negotiate divorce settlements without resorting to litigation. Mediation provides an avenue for face-to-face negotiation. Whether children would benefit from being involved in mediation remains a largely unevaluated area but one which may well warrant further investigation, given the emphasis on mediation within the Act.

(2) The provision of information for parents

The research evidence suggests that there is much that parents can do to ensure that their divorce has a minimal effect on their children. The information meeting provides information to parents in various ways about how they can support their children – through verbal presentation or CD-ROM, via the leaflets for parents, and through the parenting plan¹⁹ which was included in some later pilots. This information is not provided on the basis of a deficit model which implies that parents are in some way incompetent in looking after their children. Rather, it acknowledges that when going through the upheaval and emotional turmoil that so often accompanies separation it may be easy to lose sight of the needs of children or to provide them with the support they need. Furthermore, separation often brings new challenges and problems that parents may not have faced before. Information about how others have coped with these problems which is grounded in the research evidence can both point the ways forward and reassure parents in what they may be doing. As research has often demonstrated, parents would welcome more advice and support during the separation and divorce process and they generally accept that the state has a role to play in this provision.²⁰

The major aim of the information provided for parents through the information meetings and information packs was to indicate the conditions under which children are least likely to suffer adversely through their parents' divorce. The messages given were that:

¹⁹ See Ch. 25. The parenting plan is a booklet designed to assist parents in making plans for the care of their children after separation.

²⁰ Murch, M., Douglas, G., Scanlan, L. *et al.*, *Safeguarding Children's Welfare in Uncontentious Divorce*, Lord Chancellor's Department Research Series No. 7/99 (1999).

1. Conflict between parents should be kept to a minimum. Where conflict cannot be avoided parents should ensure as far as possible that children are not directly involved and do not witness their parents' disputes.
2. Children should be able to maintain as good a relationship with both parents as is possible in the circumstances. In most cases, but not all, this will mean adequate contact with the non-resident parent. In rare cases contact with a parent may not be in a child's best interests.
3. Children need clear information about what is happening when their parents' marriage ends and what is planned for the future. As Walczak and Burns, among others, found, 'good communication at the time of separation helped children cope with separation at the time it happened and served as an insurance policy against effects in the long run'.²¹
4. Parents need to be aware of children's wishes and anxieties when making arrangements for their care after separation.
5. Parents need to be aware of children's feelings about the separation, and should help children to express what they feel and should listen to what they have to say.

Information is provided via the information meetings and in the pack about telephone helplines, sources of written information and organisations, both voluntary and statutory, which can provide help. Our research suggests that this information is generally well-received by most parents, but that standardised information is of limited use to some parents in particular circumstances, for example those with children with special needs (see Chapter 23).

(3) The provision of information for children

Given the evidence that many parents find it very difficult to talk to children about their divorce and about how the children may feel, it was considered important to provide information directly for children. Two leaflets, for younger and older children, were produced by the National Council for Family Proceedings. These were distributed in the packs handed out to those who attended information meetings and in the postal packs, with the suggestion that parents might pass them on to their children. Our research found that very few parents passed on the information leaflets to their children, and offered a variety of reasons as to why they had not done so (see Chapter 24). For example, we identified the importance of information being age-appropriate, and we also noted that some parents would have liked more information on how to help their grown-up 'children' through the separation of their parents. However, the fact that parents operated as gatekeepers of information for their children raised a number of issues about whether children should be able to access information in their own right, and if so how this would be managed.

²¹ Walczak and Burns (1984), *op. cit.*

(4) *Safeguarding children's welfare in uncontentious divorce*

Under the current divorce legislation the petitioner of a divorce is required to provide written details (referred to as the Statement of Arrangements, Section 41 of the Matrimonial Causes Act 1973) to the district judge of the proposals for the children's care after the divorce is finalised. Section 11 of the FLA 1996 was designed to replace Section 41 but retains the basic approach of Section 41, that is, to require the court to consider the proposed arrangements for children, and only in exceptional circumstances to delay the granting of a divorce. However, Section 11 makes clear that, in deciding whether to exercise any of its powers under the Children Act 1989, should the circumstances of the case require it 'the court shall treat the welfare of the child as paramount' (s. 11(3)).

The working of the current arrangements (s. 41) has been studied by Murch *et al.* at Cardiff Law School.²² The team found a general scepticism among district judges and solicitors regarding the utility of the current arrangements, although there was a general acceptance that the state has a continuing role to play in safeguarding children's welfare in divorce. Currently, district judges rarely take action after seeing the statement of arrangements, largely because the form is not well designed to provide appropriate information and because judges do not consider that there is much that they can usefully do to address any problems that may be identified. Murch *et al.* comment that the statement of arrangements is currently checked by district judges at the point of granting a divorce, but they raise the question of whether this could be done earlier (i.e. at the beginning of the divorce process). The timing of information and support to parents, as we have already suggested, is crucial.

Murch *et al.* suggest that the procedures under Section 11 of the Family Law Act could be used as a further tool for providing advice, support and assistance for parents and children. Section 41 could be used as a means of identifying and channelling families who need help towards appropriate providers. They suggest that a statement of arrangements form would give details of all children in the family and of any worries and concerns the parent has regarding their behaviour and adjustment to the breakdown of the marriage. The form could include an invitation for parents to contact the Family Court Welfare Officer (FCWO) to discuss their concerns, or alternatively, the FCWO, on receipt of a form, could contact both parents to make them aware of the availability of advice and support services and invite them to discuss any concerns that they might have. Welfare officers may be able to help parents talk to their children or may offer to talk with the children directly. Murch *et al.* suggest that 'welfare officers should be sufficiently familiar with a range of local support services to help and enable parents, and sometimes children, to make effective use of them'.²³ The period of reflection would provide the opportunity to follow up such services. However, whether such 'support services' would actually be available to parents, wherever they lived and whatever their varying circumstances, is debatable.

The Criminal Justice and Court Services Bill creates a new service entitled the Children and Family Court Advisory and Support Service (CAFCASS). The service assumes the function currently carried out by the Family Court Welfare Service, the Guardian Ad Litem and Reporting Officer service and part of the Official Solicitor's Office. It will service the Family Division of the High Court, county courts and family proceedings courts and will safeguard and promote the welfare of children before the courts. One of its

²² Murch *et al.* (1999), *op. cit.*

²³ *ibid.*, p. 264.

main functions will be ‘to provide information, advice and other support for children and families’²⁴ in respect of family proceedings in which the welfare of children is, or may be, in question. This may provide another route for getting information to parents in addition to that offered by the information meeting.

A rather more coercive interventionist approach has been proposed by a group of child psychiatrists.²⁵ They propose that divorcing parents and their children should be screened for a wide range of psychiatric disorders, antisocial behaviour, drug and alcohol misuse, psychological disorders, violence, domestic and other disputes, and other conditions, and be referred for appropriate professional intervention. However, this proposal is not generally accepted by child psychiatrists, and as yet no evidence has been provided that such a screening programme would be either effective or efficient. While there is certainly evidence that suggests links between a wide range of parental attributes, disorders and circumstances and the development of children, the predictive power of such factors tends to be low. The list of factors provided by these authors would doubtless capture a very significant proportion of the divorcing population and their children, but without better evidence for the specificity of the proposed screening, the predictive power of the proposed measures and the effectiveness of interventions that may follow identification, there is little reason to believe such a proposal would be either effective or efficient in safeguarding the well-being of children of divorcing parents.

(5) Safeguarding children’s welfare when parents disagree

As far as children’s welfare is concerned, the FLA has the Children Act 1989 as its foundation. For situations which are contested, the FLA sets out the principles that the court must follow when considering whether to exercise its powers under the Children Act. In the absence of evidence to the contrary, the welfare of the child will be best served by maintaining contact with both parents. The court must also have regard for the child’s wishes and feelings and look for any risk attributable to the arrangements proposed for the child’s upbringing.

Getting information to help parents which will in turn indirectly benefit children is one of the main thrusts of information provision within the FLA. However, our research suggests that there are limitations inherent in the approach of the FLA to information provision for parents. Although the information meeting provides a means of imparting information to the parent who attends, some of the measures suggested, such as mediation or jointly completing a parenting plan, require the co-operation of both parents. How to get information to the other parent remains an important consideration. Also, timing of information is important. Very often parents and children need most support around the time of separation. However, separation may precede filing for a divorce by some time, and therefore how to get information to parents at the time they most need it remains an issue. Also, provision of information only to the divorcing parent may not go far enough. As we have stated throughout our report, information meetings do not occur in a vacuum, and parents may well look elsewhere for support. Rogers and Pryor²⁶ comment that parents may turn to GPs, family lawyers or teachers, and these people may well have gaps

²⁴ Criminal Justice and Court Services Bill, Part I, Ch. II, s. 12(1)(d).

²⁵ Glaser, D. and Spurge, C., ‘Divorce and separation. Impact of parental factors on children: alerting past and present circumstances’, in L.J. Thorpe and E. Clark (eds), *No Fault or Flaw: The Future of the Family Law Act 1996*, Family Law (2000).

²⁶ Rodgers and Pryor (1998), *op. cit.*

in their knowledge about dealing with separation and divorce. They suggest that a wider understanding of divorce and separation in the communities in which families live is also important.

Indeed, the great majority of cases involving children do not reach the court for disputes to be resolved, and therefore information through the courts would only reach a proportion of the target audience. Most parents make arrangements for their children through solicitors, through mediators, or by themselves with no professional intervention. Some may talk to others such as GPs or religious advisors. It is important that information is available to parents through all the various channels that they may approach for help, and it is equally important that information about what is best for children is backed up with further support services if these are needed. This is not entirely the case at present.

There is also a question about whether information on its own is enough to enable parents to involve their children in the decision-making process. It should also be noted that Part II of the FLA is concerned with divorce, and so by definition excludes those parents who are not married. During the information meeting pilots, however, unmarried parents involved in children's proceedings were included in some of the group information presentations. The needs of children who experience the breakup of their parents' cohabiting relationships will be similar in many ways to those of children whose parents are married. In addition, not all marriages which break down are first marriages. One or both of the parties may have been married already and so have children living elsewhere or have become step-parent to a new partner's children. We have noted the complexities of family relationships within stepfamilies included in our research, and identified this as an area in which parents required more information.

A comprehensive examination of what information is already available to parents and children about separation and divorce, and how it reaches them, would be useful. Some organisations already offer information to parents and children experiencing separation and divorce. For example, Parentline has recently produced leaflets for parents and children on this subject, and there are an increasing number of websites which offer information to parents. Other mechanisms could potentially offer outlets for providing information to parents experiencing separation and divorce: for example, the newly formed CAFCASS. Also GPs, family lawyers, libraries and the internet, among others, could offer a means of getting information to parents who would be unlikely to appear in the divorce courts. There are undoubtedly many other options too, but what is needed is a strategy for getting information to both parents, and a strategy for getting information to children and involving them in the decision-making process, irrespective of whether part II of the FLA is implemented.

Efforts are being made in this respect. The report of the working group²⁷ set up to advise the Lord Chancellor on Section 41 of the Matrimonial Causes Act 1973 draws upon the work of Murch *et al.* and focuses on the practical means by which the existing procedures can be strengthened and improved. The remit of the working group was to advise on how Section 41 could operate more effectively to protect the interests of children. However, it has recognised that since relationship breakdown also affects children who have non-married parents, who will not therefore become involved in divorce proceedings, any suggested solutions will only be partial. The working group has made eleven recommendations. The first four are aimed at eliciting further information about arrangements for children and how each child appears to be coping with various aspects

²⁷ Working group on Section 41 of the Matrimonial Causes Act 1973, Report to the Lord Chancellor (2000).

of the marriage breakdown, including emotional well-being and the extent to which they have been informed about the divorce. The working party recommended that the child's school or nursery be contacted and a report obtained. Parents are also encouraged to fill in a parenting plan, although it is recognised that the plan used in the information meetings pilots would need to be redesigned to avoid areas of overlap between it and the expanded Statement of Arrangements.

The working group suggests that judges should be encouraged to act upon the additional information that they will receive and take action where they identify concerns. For example, it recommended that the parents and children (of 9 and over) attend a hearing at which arrangements are discussed, ensuring that the views of children are taken into account. Further consideration is needed to decide whether all families should be required to attend or only those families where concerns have been identified. The working group recommended that judges are more proactive in giving direction to involve other professionals where appropriate. The National Family and Parenting Institute is currently mapping the availability of support services nation-wide and will ultimately be able to provide comprehensive Local Service Directories which would be of assistance in Section 41 proceedings.

The working group recommends the provision of information to parents and children experiencing separation and divorce. Various outlets for information are suggested, including solicitors, benefit offices, CABx, libraries and schools. The newly-formed CAFCASS is also identified as a possible route for providing information to parents and children. Indeed, the working group recommends that CAFCASS could be involved in generally supporting arrangements within a new Section 41. It might, for example, become involved in referrals to mediation and to services in connection with domestic violence issues.

Chapter 23

Giving Information to Parents

Cathy Stark, Karen Laing and Peter McCarthy

We must not overlook the fact that adults who are preoccupied by problems within their own relationships may well have difficulty in dealing with the needs of their children.¹

In 1997, 55 per cent of all divorces involved couples with children under 16² and over 150,000 children experienced their parents' divorce. The focus of information meeting provision in the pilots was on meeting the needs of children by providing information to parents so that they in turn could help their children through the separation and divorce process. Both written and oral information about parenting and the needs of children was given in the information meetings. There were four main themes in the information provision:

1. That parents should continue to share responsibility for their children even though their marriage may be over.
2. That children do best if their parents can co-operate and discuss arrangements with each other and with their children.
3. That children need to know what is happening and that their parents should take account of their feelings and wishes.
4. That conflict between parents, especially if it involves children, may be damaging to children.

These themes were outlined through the scripts used in the oral presentation at meetings, and through the content of the children's section of the CD-ROM used in Model E. They were included in the leaflet for parents 'How can I help my children?', which was included in the information pack sent out through the post as part of the postal pack study and handed out at the information meetings. After the pilot projects had closed, a revised version of the leaflet for parents was developed. This was piloted with a small group of parents, and the findings are presented later in this chapter. The information pack distributed in the pilots also included a number of other leaflets intended to inform parents about various children's issues: for example, children's rights and legal issues related to divorce. Two leaflets intended for parents to give to their children were also included in the pack and these are discussed in the next chapter. At information meetings in the later pilots, parents with children under 18 were given a parenting plan. The parenting plan is a work booklet designed to help parents identify the kind of issues which need to be considered when arrangements for children are being made.³ The plan itself and parents' reactions to it are discussed in Chapter 25.

¹ *Supporting Families: A Consultation Document*, Home Office (1998), p. 31.

² Data provided by Office for National Statistics.

³ For more particulars about parenting plans see paras 8.7–8.9 in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999) and Ch. 25 of this report.

Two of the objectives of the information meeting were, first, to educate parents about how their children may be feeling and how to recognise symptoms of distress, and therefore indirectly meet the child's emotional needs; and secondly, to provide parents with information about other needs of children, for example appropriate contact with the non-residential parent and other family members. In all the individual models of information meeting except Models C and F, attendees were given information about 'the importance of giving consideration to children's welfare, wishes and feelings'.⁴ This included information about: the effects of relationship breakdown on children and how to help them cope with these; how to make contact arrangements work; support services that are available to help both parents and children; and the benefits of mediation. During group presentations, children's issues were covered in some depth and a video was shown outlining the ways in which mediation may help. The video showed clips of children talking about their feelings regarding their parents' separation and divorce.

Characteristics of Parents Attending Information Meetings

Of the 7,789 attendees who told us about their parental status, 74 per cent (5,734) had children aged 17 and under. The parents were categorised by the age of their youngest child, although of course parents may have had children in one or more of the age bands. Of the parents who had children under 18, 32 per cent had at least one child under five and 65 per cent had at least one child under twelve. Fifteen per cent of all attendees had children aged eighteen or over, and just 11 per cent had no children from their current marriage or any previous relationship. There was a larger proportion of parents in our sample than in the general divorcing population, which indicates that parents were more likely to attend an information meeting, perhaps because of the focus on children in some advertisements and publicity material combined with the fact that divorcing parents tend to have concerns about their children.

Among those attendees who were parents, 93 per cent of mothers had resident children under 18, as against 52 per cent of fathers. Nearly half of the parents who went to an information meeting were still living with their spouse, and half were separated. As was expected, after parents had separated the great majority of children lived with their mothers. Of the fathers who were separated, only 22 per cent had children living with them, whereas this was true for 90 per cent of the mothers.

We compared the characteristics of parents with dependent children with those of parents whose children were over 18 and those of attendees who had no children. As we would expect, parents with younger children were themselves younger than those parents with older children. Attendees without children were spread throughout the age range of attendees, but were mostly in the 26–45 age group. While the majority (61%) of attendees without children had been married for under ten years, the majority (72%) of those with children over 18 had been married over 25 years. Twelve parents were still in the first year of marriage. Thirteen per cent of attendees were in their second or subsequent marriages. Attendees without children were less likely than others to have been married before.

⁴ As specified in the presenter's kit for individual information meetings.

Employment and socio-economic status

Most of those who attended an information meeting were in employment, but, following the usual pattern, mothers with children under 18 were more likely than other women to work part-time. Twenty-six per cent of mothers with children under 18 worked full-time, as against just over 60 per cent of women without dependent children (Table 23.1).

Table 23.1 Employment and parental status of female attendees

	Children under 18 %	Children over 18 %	No children %
Employed full-time	26.5	34.3	61.9
Employed part-time	43.1	29.9	16.2
Self-employed	5.8	6.4	4.5
Unemployed	3.9	5.5	4.3
Inactive/other	20.7	23.9	13.1
Total (100%)	3,488	813	556

Source: exit questionnaire.

Fathers with children over 18 were less likely to work full-time than other male attendees. More men in this group were self-employed, possibly reflecting age effects on employment status, or were economically inactive, suggesting they were retired (Table 23.2).

Table 23.2 Employment and parental status of male attendees

	Children under 18 %	Children over 18 %	No children %
Employed full-time	78.5	46.5	70.1
Employed part-time	2.6	6.4	2.6
Self-employed	10.4	14.7	10.9
Unemployed	4.6	5.9	6.7
Inactive/other	3.9	26.5	9.9
Total (100%)	2,238	374	304

Source: exit questionnaire.

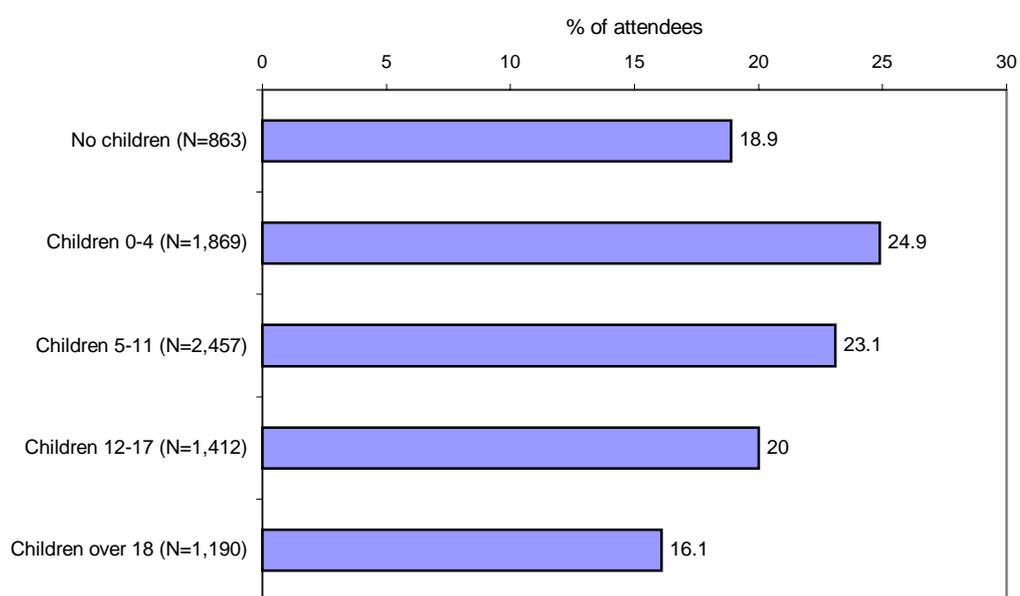
In terms of housing tenure, attendees without children were less likely to be owner-occupiers and were more likely to live in privately-rented accommodation or to describe themselves as living in 'other' types of accommodation, particularly when they were separated.⁵ This could reflect the fact that people without children found it easier to separate⁶ and to gain access to privately-rented accommodation, both of which can be more difficult if there are children.

⁵ Other accommodation could include 'living in' with family or friends, Forces accommodation, tied houses, etc.

⁶ McCarthy, P. and Simpson, R., *Issues in Post-divorce Housing*, Avebury (1991).

Use of marriage counselling, mediation and solicitors

Parents with young children were more likely than other attendees to have been to marriage counselling, mediation or a solicitor in the previous twelve months, while attendees without children were less likely than those with children to have used any of these services. However, those without children were most likely to be pre-proceedings when they accessed an information meeting, and therefore at an earlier stage of the separation or divorce process. As Figure 23.1 shows, those with children under the age of twelve were most likely to have been to marriage counselling. The data do not allow us to explain this finding with any degree of certainty, but it could indicate that the concerns parents have about the consequences of divorce and separation for children, especially those of tender years, make it more likely that they will take steps to try to save the marriage. It may also be that those with older children have been married longer, and may well have tried marriage counselling at an earlier stage in their marriage.



Source: exit questionnaire.

Figure 23.1 Attendance at marriage counselling in the year prior to attendance at an information meeting by age of youngest child

Attendees without children were less likely than those with young children to have attended a group presentation or to have completed a two-part process where one was available to them. Parents, particularly fathers, with children aged between 5 and 11 were most likely to attend both parts of a two-part process. Individual information meetings tended to last longer for parents. In Model A, for instance, 58 per cent of attendees without children completed their meeting in under 45 minutes, as against 34 per cent of those with children. Of the 99 meetings that went over the allotted hour only four involved people who had no children.

Parents with children under five experienced the most difficulty getting to their information meeting. Fifteen per cent of such parents experienced difficulties, mainly owing to problems with childcare. One attendee with two children aged 4 and 7 said that what she liked least about the pilot was

an evening meeting and making arrangements for children ... not much notice. Had to be quick arranging childcare ... was tempted not to bother.

Some pilots discussed the provision of crèche facilities – a matter which was highlighted during debates on the Family Law Bill in the Commons – but we know of no such facilities being used during the pilots.

Reactions to the Information Meeting

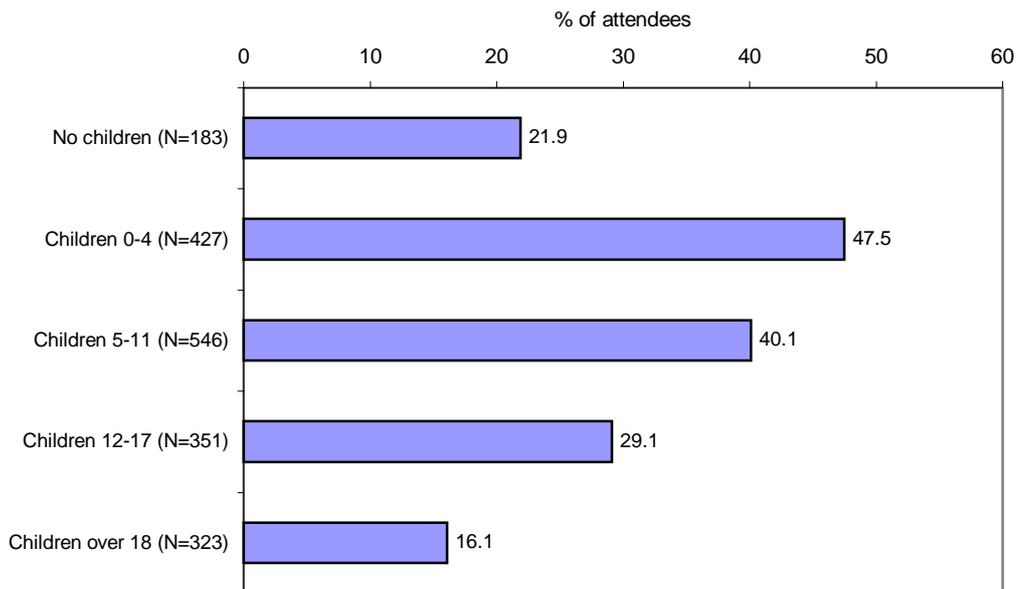
It seems that people with children under the age of 18 were more likely to attend an information meeting than those who did not have children or had grown-up children. Nevertheless, among those who made an application to attend an information meeting, those who had children over 18 were more likely than those with younger children to turn up. There was little difference in terms of satisfaction between parents and non-parents at individual meetings, but parents of younger children were more likely than those with older children or those without children to find the group presentation useful and relevant. Nevertheless, both parents and non-parents tended to be more satisfied with the individual meeting than with the group presentation.

Group presenters commented on the presentations' lack of relevance for people without young children:

From the information we had about the attendees before the meeting, it was clear that a lot of them had older or grown up children. I suspect they did not find much of the stuff on children very relevant, even if the rest of it was. I think group meetings need to be divided as one for people with children, and others for those without or where 'children' are grown up.

The group presentations devoted a large proportion of time to children's issues. Those attendees without children, or with children over 18, were most likely to say that the meeting was not at all useful. As Figure 23.2 shows, those with very young children were the most likely to indicate that the information provided was relevant to them. Attendees with children over 18 were more likely than those without children to say that the meeting had no relevance at all; 41 per cent of the former as against 21 per cent of the latter indicated that the meeting was not at all relevant to them. Furthermore, those with children under 12 were the most likely to say that they felt glad they had gone to a meeting, that the presenters had told them all they needed to know, and that they would recommend the group presentation to others in the same situation as themselves. Parents with children under 18 were more likely than other attendees to say that the video had been very helpful and that it had influenced them to consider mediation. In particular, resident parents of children under five tended to claim that they had learned more about mediation, had found the information about mediation very useful, and were more likely to go to mediation in the future.

Parents were also more likely than those without children to have claimed to have read all the leaflets and to have shown the leaflets to their partner. They were also more likely to say that their partner knew they had attended the meeting. At the time of our follow-up interviews, 63 per cent of attendees (N = 1,230) said that they could still talk to their partner about what was happening, and it was significant that the younger the child, the more likely it was that the channels of communication were still open. Having young children almost certainly provides a strong reason for parents to communicate.



Source: exit questionnaire.

Figure 23.2 Percentage of attendees who found a group presentation 'very relevant', based on the age of the youngest child

Parents in general, and parents of younger children in particular, appeared to get more out of information meetings than attendees without children. As regards the information provided to parents about children, parents of younger children found more topics relevant, and were more likely than other attendees to say they were glad they had gone, and that the meeting had told them what they needed to know. During the initial telephone interviews (N = 2,468), parents of children under 18 were asked whether they felt the information about various children's issues was useful to them. Seventy-six per cent of parents found the information about the Family Court Welfare Service useful and 83 per cent found the information about how their children might feel useful. Sixty-four per cent of parents said that they had found the information about making arrangements for children useful.

As regards the more general information attendees received, parents of adult children were less likely than parents of children under 12 to say that the information on marriage support had been useful, although there was no difference in the take-up rate of marriage counselling. Parents with children under 12 were also more likely to say that they would consider using mediation, but again, there was no significant difference in the take-up of mediation. Attendees with younger children were more likely than other attendees to have found information about marriage counselling and mediation useful.

In order to explore in depth what parents thought about the information provided through the information meeting and pack, we examined the follow-up telephone interview data. Follow-up telephone interviews were undertaken some five to seven months after an information meeting, during which time parents may have thought about or used the information they had been given at the meeting, or read the leaflets included in the information pack. A total of 1,230 parents with children aged 16 or under were interviewed at follow-up and, in order to examine their comments in some depth, we focused on data provided by a 10 per cent quota sample of these parents. This resulting

sample of 123 parents was sufficiently large to allow us to analyse the qualitative data in some depth.⁷ The sample of 84 mothers and 39 fathers covered all the information meeting models. Their children ranged in age from 1 to 16.

During interviews, some parents were able to differentiate between information they had read in the leaflets and the information they had been given at the meeting, but the majority were unable to remember clearly the exact source of their information. Hence, when we asked parents about the usefulness of information, we asked about the information they had received as a whole, rather than trying to differentiate between the meeting and the information pack. However, most remembered the video as a specific item, especially when they had thought it useful. The telephone interviews found that most parents thought that the information about children was useful and were positive about it, but other reactions were also expressed.

Positive Responses to the Information

Over half the parents (64) responded positively to the information they were given about children. Typical comments from this group of parents included remarks that the information had made them more aware that their children had their own needs, had encouraged them to listen more carefully to their children, or had led them to moderate their behaviour in front of the children. Some parents had made changes to contact arrangements. Many parents felt reassured by the information they had received. While the information in many cases was not new to them, it reassured them that they were handling the situation in the right way:

It sort of confirmed what we were doing, of putting the kids first. It reinforced that and we had already agreed that we are doing things and thinking about the kids. I think that's why we're not sort of rushing into anything. (mother of children aged 12 and 13)

Some parents described how easy it was for them to become wrapped up in their own emotions and overlook the emotional needs of their children. The information pack reminded some parents of the importance of considering the needs of the child. For others, the information represented a starting-point for a new way of thinking about the needs of their children. The following comments are typical of the responses we received:

It made me realise that you have to be careful not to involve children in the blame between two parents. The information I got from the meeting was well worth listening to. It made me realise sometimes you do things and you don't even realise you're doing them. Helps guard yourself better. (father of child aged 16 and two 19-year-olds)

Reading the documents I realised that in the end you have to do what's right for the children. (mother of children aged 12 and 17)

⁷ The 10 per cent sample (every 10th parent on the follow-up database) selected for this in-depth analysis was compared to the wider sample of attendees as a whole (N = 7,863), since we were aware that biases are built into the sample over time. It was discovered that the parents in the sample group were more likely to live apart than people in the sample as a whole (63% as against 54% of the whole sample); they were more likely to have been to marriage counselling in the 12 months prior to attending an information meeting (34% as against 21%); and they were more likely to have applied for a divorce (24% as against 16% of the total sample).

It made me think to consider my daughter's feelings as well as my own feelings. (mother of child aged 11)

I've taken hints from the leaflets, picked up ideas, not laying blame on them [children], not taking your feelings out on them, which is not easy to do. It's good to know that there are other people who've been through the same situation. (mother of children aged 2 and 6)

Quite a bit of it helped me look at it from the child's point of view because you don't realise how children look at it. They do blame themselves but you don't realise that. The leaflets were the best things I got, from my own personal point of view. It has had an effect – it tells you the telltale signs to look for and I've been looking for them. I arranged for him [his son] to be counselled because I knew there was something wrong, and I knew he had to speak to somebody that wasn't me or his mum. (father of children aged 11 and 14)

In some cases, thinking about issues had led on to action, and parents had changed their own behaviour:

I feel very angry, but it helped me tone down the anger and carry on with it, to be reasonable and grown up about it for the child's sake. I try and do that but it's not always easy. (mother of child aged 3)

We have tried not to argue in front of the children but it does happen and then you see them shouting and you think 'Oh God, they got that from us'. (mother of children aged 4 and 6)

Messages about the importance of providing stability and security through regular contact had hit home, and some attendees responded by taking steps towards more regular, more clearly defined contact:

I can recall the information about the important aspects of kids seeing both parents – I had tried to stop [my daughter] seeing him but it made me persevere despite the unpleasantness of it all, as it was good for the kids. (mother of children aged 8, 10, 13 and 15)

In terms of making practical changes, of those few attendees who told us that they had acted upon the information and revised contact arrangements, the majority had attempted to improve contact between the non-resident parent and the children. We were struck by the number of attendees within this small sample who had informal arrangements for children which they had negotiated with their ex-partner. Some of these were described as 'satisfactory' or 'working well' or 'adequate at present', but a small proportion were described as 'unsatisfactory', 'unworkable' and 'unfair'. The problem sometimes centred on the non-resident parent renegeing on arrangements, often at very short notice, or being unaware of or unsympathetic to the resident parent's and the children's need to be able to plan. It may be that the number of informal arrangements was indicative of the stage people were at (i.e. they were still in the process of divorcing and their arrangements may not yet have been finalised).

Neutral Responses to the Information

Just under one-third of parents in our sample (36) spoke of the information in neutral terms. They had neither particularly liked nor disliked it; they had paid it very little

attention; or else it had had very little impact on them. However, some parents could appreciate the value the information might have for others or the value of having information *per se*. For example, a mother working in 'a caring profession' described herself as 'dealing with emotions', and consequently had not felt the need for the information herself:

I'm quite up on not making them pawns. I think it would be useful for anyone who wasn't. (mother of children aged 4 and 6)

Such parents were confident in their own agency as parents. This confidence sometimes stemmed from lack of conflict over arrangements, or from a judgement that their own arrangements were working well. In such instances minimal use was made of the leaflets or the parenting plan. Parents regarded them as simply not needed in their particular situation. For example, when asked about the parenting plan one father commented:

[There was] nothing in it [of which] I was not aware. There's nothing wrong with it, but most of it was not relevant ... where it was relevant there was nothing that any sensible person did not know anyway ... I flicked through the leaflets and from what was there I realised I had already thought through most of the relevant areas. (father of children aged 14 and 19)

Such attendees might appreciate the potential value of giving out information to others, but the information had no particular impact upon them as parents.

Mixed Responses to the Information

We classified five parents in our 10 per cent sample (N = 123) as having mixed reactions to the children's information. These parents made both positive and negative comments about the information. They liked certain aspects of the information but were disappointed with others. In the following case, the parents who went to a Model B information meeting together described the information as making them 'slow down' rather than fundamentally change the direction they had chosen. They had two boys aged 13 and 15. They commented that the video was especially helpful since it encouraged them to 'slow down, plan more carefully and slowly'. It had reminded them of the impact divorce can have on children. The mother told us that she and her husband had made a point of consulting the boys about any arrangements they were making for them. They had given the leaflets to their children but not discussed them specifically, but rather had discussed the situation more generally. However, despite making positive comments about the video and the fact that they had been encouraged to slow down, the mother also described herself as 'disappointed' and 'annoyed' at some aspects of the meeting. This was because she felt that the video presented a stereotypical situation:

I went to the library before the information meeting to get information about the impact on kids. I felt the books stereotyped people's circumstances i.e. that all children were young and they all lived with mummy while daddy left them. I was disappointed and annoyed that the meeting reinforced this stereotype. I hoped they would have put forward different situations and scenarios that could occur but I felt they put forward very limited choices. Our sons are older and very articulate, old enough to make their own decisions. Even though at one stage I wanted the younger boy to live with me, he made it quite plain he wanted to be with his father and brother. He is going to choose his own way and we need to respect that. The information meeting didn't really look at older children. The assumption is 'the best place is with mum'

which in our case is not the case. They should point out that everyone's case is different. If they did mention this, it didn't come across very strongly. (mother of children aged 13 and 15)

In this case, part of the message – to consider children's welfare – was taken on board, appreciated and acted upon. However, the fact that standardised information takes no account of the very different family circumstances that may exist irritated the couple. Another mother of children aged 11 and 13 commented that she recognised the importance of being given information about children and found some of it of use, but found the tone of the information 'patronising'. Information that is found 'patronising' may be experienced as questioning parental ability. Attendees may appreciate the importance of the information that they are being given, but be left cold by its delivery.

In the following case, the attendee told us that her husband had assaulted both her and their baby (18 months old) and had threatened to kill them both. The husband had apparently told his partner that he only married her to get a UK passport. Immigration officials, police and the attendee's MP were all involved in the case. Overall, she found the meeting useful but commented that she could only put so much of the information into practice, mediation, for example, being out of the question. She had no clear idea where the future would lead as regards contact with the father of her child. However, she valued the children's information and felt that some of it, at least, would be helpful:

I found the information about 'How can I help my children?' very interesting. It made me think about things, such as children's emotions and feelings, for when my baby gets older and he becomes more aware of the situation he's in, I'll be able to talk to him and help him in any way I can. (mother of child aged 18 months)

Negative Responses to the Information

Some of the reactions that we classed as being negative involved more extreme versions of the responses described above. Ten parents made negative comments about the information they had been given. Standardised information about what was best for children angered some parents, who found themselves in situations where they were limited in what they were able to do in relation to their children. Other parents felt the information made assumptions about what was best for children, but again, did not appear to acknowledge that there would always be exceptions to the rule. Attendees were often keen to point out what was happening in their own situation and how this was at odds with the information they had been given.

One woman was struggling to make sense of the information she had been given which had promoted the importance of regular contact:

It takes for granted that contact with the father is a good thing. But where's the balance? I know it's good to see him regularly but what does regular mean? I'm worried that the father sees him so often that the child is dragged between me and his Dad. (mother of child aged 1)

In situations where there had been domestic violence, the information given about children was not always viewed as helpful. One woman who had disclosed domestic violence had found the meeting

quite upsetting and narrow when it came to the children, because they gave us this dogmatic rule that the basic rule for contact is short and frequent ... The fact [is] that my husband lives over a hundred miles away, so obviously that is totally irrelevant and really I thought it was stupid of them to give such a guideline. OK, it was suitable for those who still live in the same town, but I don't know many cases of those that do live in the same town. (mother of children aged 1 and 2)

Another mother questioned and disputed the message from the information meeting, which she interpreted as suggesting that contact with both parents was automatically considered a 'good thing'. She claimed that there had been no tears when she and her husband had split up and that neither she nor the children missed her husband as he was a violent man who had abused them for years. Another mother described her husband as 'emotionally violent' towards her and she wanted to leave the marriage. However, her eldest son (aged 14) was also physically violent towards her and hence she did not feel she could share any of the information from the meeting with her children.

One father described himself as having been falsely accused of domestic violence towards his wife, while no one would take seriously the fact that the violence had actually come from her. In his account of his situation he told us that, as a result of accusations of domestic violence, he had not seen his daughter for six years and had contacted a range of agencies and organisations but had never got any further forward. Hence he viewed the information as being presented very much from the angle of woman as victim, man as perpetrator, and he described the law as 'a sham'.

The relationship between domestic violence and contact is an important issue. Research⁸ has suggested that where there is domestic violence fathers may use contact with children as a route to continued abuse of the mother. Hester and Radford argue that contact should not be presumed to be in the best interest of the child where there has been domestic violence to the mother. Some mothers in our study have also suggested that contact is not necessarily always a good thing. Of course, the FLA itself qualifies the presumption of a continuing relationship between parents and children and is very explicit about this in describing the principles a court must follow in exercising its power under the Children's Act. In general, both the literature prepared for the packs distributed at the information meeting and the verbal information included in the presenters' scripts were careful to avoid the suggestion that contact is *always* in the best interest of the child. However, given the focus on continuing parenting after divorce, it is not surprising that some parents felt that the messages given indicated strongly that contact is always a good thing.

Information Shortfall

There is a balance to be struck between providing people with so much information that they feel swamped by it and not providing enough. There is also the obvious difficulty in trying to provide information that is relevant to every specific circumstance. Attendees, however, raised a number of issues during the follow-up interviews (N = 1,230) which they felt were not adequately covered in the information meeting, the leaflets or the

⁸ See Hester, M. and Radford, L., 'Domestic violence and child contact arrangements', *Findings*, Social Policy Research No. 100 (June 1996). In the context of England and Denmark the authors looked at safety of child contact arrangements following divorce and separation where there had been a history of domestic violence to the mothers. In-depth interviews with 79 mothers and 99 professionals showed that fathers commonly used contact with children as a route to further abuse of the mother. There were no interviews with fathers, however.

parenting plan. Sometimes the issue raised was quite specific or specialised, such as the lack of relevance of the information to children with special needs, and sometimes it was more general in nature, such as the need for information about stepfamilies.

Stepfamilies

Some attendees we spoke with were already living in stepfamilies, and it was the stepfamily that would break up if the partners decided to separate or divorce. For example, an attendee might have children living with them who were not the children of the current marriage but were children from the attendee's previous relationship, or their partner's previous relationship. In some cases the attendee was a resident step-parent to a partner's children and had contact visits with his or her natural children.

There were serious difficulties and uncertainties when an already established stepfamily broke up. The breakdown of stepfamilies can be enormously complex. For example, one male attendee lived with his wife and their 4-year-old daughter and his wife's two sons from her first marriage (aged 8 and 9). However, when the marriage ended, the mother repartnered and moved in with a man described as being violent. Both natural fathers of the children successfully applied to the court for residency of their respective biological children. The mother was given contact with each set of children once a week.

We also interviewed a female attendee who lived with her husband and their 6-year-old daughter. Her husband was stepfather to her two older children (11 and 12) from her first marriage. When the second marriage ended one of the older children was described as being 'anti' her stepfather. Although the attendee was happy for her ex-husband to see his natural child and his stepchildren, she was not happy with the prospect of him taking the children out with his new partner. She referred to the video shown in the group presentation as being reassuring:

In the meeting it was useful to me – the video on family mediation. I understood completely how the wife wouldn't let the husband go out with the children and the new woman, because that's what I wouldn't do. He did it a few times without my knowledge. (mother of children aged 6, 11 and 12)

Some of the attendees to whom we talked at length described the complexities of negotiations and renegotiations when a stepfamily splits up. These complexities are clearly illustrated through the following personal story.⁹

Joe – negotiating stepfamily relationships. At the time Joe went to the information meeting he was divorcing his second wife. While married to her he had been step-father to her daughter but had not legally adopted the child, since he felt there was no need. Eighteen months after he had decided not to adopt her, the marriage ended. Joe's wife repartnered and refused Joe any access to his stepdaughter. At the time of the second research interview he had not seen his stepdaughter for eight months, and had considered going to court to try to establish contact. A telephone number for the Stepfamilies Association was listed in the information pack and he rang up the organisation and spoke with a man on two separate occasions. He reported being told that going to court would be a waste of his time and money because the court had never granted access to a step-parent after separation where the child was not adopted and where the mother refused contact. He was told that the mother's decision was final and it was suggested he wrote to

⁹ All the names used in this chapter have been changed to protect confidentiality.

the mother and appealed directly to her, rather than take the case to court. Joe followed this advice, but it did not initially gain him any contact.

Joe had been married before and had a daughter by his first wife. This daughter lived with her mother and saw Joe regularly, although the relationship between Joe and his first wife's new partner had not always run smoothly. During his second marriage, Joe's natural daughter by his first marriage and his step-daughter from his second marriage had become close friends and regarded each other as 'sisters'. Joe told us that his natural daughter found the lack of contact with her 'sister' very hard and he had tried to explain it to her as best he could. However, the same evening as the follow-up telephone interview took place, Joe had had a call from his ex-wife saying that he could see his step-daughter and he could bring his natural daughter with him. He had no idea how the situation would unfold but was hopeful that the events of the evening pointed towards progress. Although Joe felt the information meeting itself had not really made a difference, because it had come rather too late in the day after a divorce had already been decided upon, he was pleased to have contacted the National Stepfamily Association and to have discovered that the court would have been a fruitless route. Joe had a new partner by the time of follow-up interview, thus adding to the complexities of ongoing parenting.

Information about second marriages, second families and step-relationships is complex. It is an area which has been highlighted as needing to be addressed in information meetings. Indeed, divorce within stepfamilies can bring substantial changes for members of the extended family too. For example, we interviewed a grandfather who was very fond of his step-grandchildren (the grandchildren of his wife by her first marriage). When his marriage ended, he told us how sad he was to have lost contact with his step-grandchildren. As we discussed in Chapter 22, the maintaining of contact between children and their wider family, including their grandparents, is an important issue.

In other cases, the attendees found themselves in a situation which heralded the formation of a stepfamily. For example, the fact that one parent had forged a new relationship may have been the catalyst to the ending of the marriage, and both children and parents may have taken some time to adjust to the resulting changes. In such cases children were not only adjusting to a parent leaving, but sometimes to new family members arriving on the scene. In all cases, stepfamilies had been created, and it was evident from our interviews that the tensions involved were often considerable. One father was anxious to find out about the rights of his children who were now living with his ex-wife and her new partner. The new partner, whom the father told us was not liked by his children, caused him concern:

My two kids came to me, the two younger ones, and asked 'What are our rights? This guy has moved into the house and we don't like it. It's our home. Do we have any rights?' Well my solicitor had to go and find out – they didn't – they were only 9 and 12 at the time. They didn't have access to a telephone at their mother's house and they didn't know where to turn. I had to go along and find out they didn't have any rights – you know, if Jack the Ripper walked in ... (father of children aged 9, 12 and 15)

Children with special needs

Children with special needs raise particular issues in respect of parenting. Although, as far as we know, there were not large numbers of parents of children with special needs in our

sample, the difficulties they had were all too apparent. The following examples give some indication of the types of problem some of these parents faced.

We spoke with two parents who each had a child with autism. In the first case, the mother was divorced at the time of our second interview and had used a solicitor throughout her divorce. She had consulted her GP and was being treated with anti-depressants. She felt that the information meeting had been valuable in terms of the information she got about children and benefits. On telling the presenter that her son had autism, she learned that she was entitled to claim a disability allowance for him and a carer's allowance for herself, and by the time of the follow-up interview she was in receipt of these (an example, perhaps, of the presenter overstepping his/her role, but providing a service to the attendee). By contrast, the second mother whose young son had autism commented that she felt 'hurt' by the information given in the group meeting about how children may feel about separation. She described her son's autism as a 'communication problem' and found it very difficult to judge how he was reacting to events. She simply did not know whether the behaviour she encountered was linked to his father leaving or to his condition.

Another mother went to the information meeting with the hope of being able to speak to someone about how to help her children through separation and divorce, especially a child with learning difficulties. She felt her children (aged 4 and 5) were too young to be given leaflets, yet she got books out of the library which she read through with the children a couple of times. She remarked, however, that she found it difficult to explain things to the child with learning difficulties. She felt she did not manage to get any help with this from the information meeting. The mother had also contacted social services, and they put her in touch with an organisation, which she contacted, but which could not help her in relation to separation and divorce. She remarked to the interviewer that she would have liked to have spoken to someone with a child with special needs who had gone through a similar experience, to find out how they had coped and what advice they could offer her.

In the next example, the attendee was a mother of four children, the youngest of whom was 15. The attendee had shown the 15-year-old the leaflet but the children were adamant that they did not want their mother to go back with their father. One of the children was described as 'mentally handicapped'. He was over 18 and lived with his father. The father was denying the mother contact with her son and was also denying his other children contact with their brother. The attendee said that the information meeting gave her the confidence to approach a solicitor. Apparently she spoke with a presenter after the meeting who had advised her to seek a specialist solicitor, which she did. Ideally she wanted joint care of her son, but at the very least she wanted to see him. She believed that her son was aware that his father was keeping the rest of the family from him and that this would be causing him distress. At the time of our follow-up interview the situation had not been resolved and the matter was going to court.

The brief examples presented above raise a number of issues. First, and fundamentally, in any initiative aimed at making divorce and separation a less damaging process for children the diversity of children's needs should be acknowledged. While clearly it is impossible to provide detailed information relevant to all situations, it is vital that diversity is acknowledged and sources of more specialised assistance referred to. At the same time, efforts should be made provide information about divorce and separation to those agencies and organisations that provide help and assistance to parents with children with special needs.

Residence and contact battles

It would appear that when parents are wrangling over residence of, or contact with, their children, and especially when the courts are involved in such cases, the information provided in the meeting may be of limited use. That is not to say that parents did not appreciate the *idea* of the information, but rather that it was difficult for them to put it into practice under their current circumstances. We have various examples of parents wanting contact with their children or desiring joint residency. In cases where the battle had been going on for some time and was fraught with difficulties, these issues tended to dominate the lives of attendees.

Tim – no communication. Tim was living with five children, aged 6 to 15, before separating from his wife. The two eldest children were his children by a previous relationship. The three youngest children were his wife's by a previous relationship. When the parents separated, the children each stayed with their natural parent, but for the four months prior to the interview his ex-wife had not allowed him or his children to see the children who resided with her. She had given Tim no reason, but had apparently told him that if he tried for a contact order she would ignore it. He had not denied her contact with his children who lived with him. He described his children as 'very upset' by the situation. Tim commented that the meeting prompted him to consider mediation, but his ex-wife would not agree. Because of the lack of communication with his ex-wife Tim tried to communicate with her using the parenting plan which he had been given at the information meeting. *I felt that as she wouldn't talk, if I wrote something down on paper she may read it and consider it.* Tim filled in his half of the plan and sent it to his wife but she returned it to him uncompleted. This stalemate was persisting at the time of our follow-up interview.

Jackie – fighting for residence. Jackie had separated from her husband and moved into her own flat with her young daughter. However, her husband took the daughter from Jackie's flat one evening and she now lived with him. Jackie was fighting to get residency of her daughter and the matter had gone to court. The court case had been cancelled three times and she was very frustrated. She felt that she had received little information on the welfare and the court systems, and had not found much information about where to go for help or support. At the time we last spoke to Jackie (during our follow-up interview) she felt that she could not move forward with anything, including her divorce from her husband, until the court case was settled.

Hari – using the court. Hari had been divorced for six months at the time of our follow-up interview. His ex-wife would not let him see his children (aged 11 and 13) unless she was present. The result of such visits was that Hari and his ex-wife would argue and he would walk out. At the time of interview he was not seeing his children at all. Hari was going through the courts to try to make arrangements to enable him to see his children on his own. He described the information in the leaflets as 'irrelevant' to him because he did not have contact with his children. However, he did write to them and did send the children's leaflets to them, but had no idea whether they had read them. His children had apparently stated that they did not want to see him, but he believed that this was as a result of his ex-wife pressuring them since he had been close to his children during the marriage.

Hari was Asian and felt that things should be kept within the family. He had not spoken to many people about his situation. *I mean being Asian, the reaction is quite ... anti-divorce. There's been a lot of pressure on me not to divorce, a lot of cultural and family pressures to stay together ... eventually I just had to break away.*

It appears that, when communication between parents has broken down to such an extent that no progress can be made, it is impossible for parents to put much of the information about the children and parenting into practice.

Child abuse

Information about children and contact was considered to be lacking in cases where there had been child abuse. One attendee's husband had assaulted their 15-month-old baby and was currently awaiting his case being heard in court. It was the third incident of assault on the child. Her husband was blaming the injuries on his wife and the two older children (who were his wife's children by her first marriage). At the time of our interview the husband had supervised contact with the baby, but the attendee did not wish him to have any contact at all. She was expecting that he would be imprisoned following the court case and felt sure that the issue about contact would itself end up in court. Her two older children (aged 11 and 13) had been very upset by events and were waiting to see a psychologist via social services, and so she did not feel it was an appropriate time to give the children the leaflets, but said that she might in the future. She described herself as talking with the children about what was happening on a regular basis. In her case, much of the information about co-operative parenting seemed irrelevant.

The Challenge of Post-divorce Parenting

The importance of communication

The legal framework for the exercise of parental responsibility after divorce is provided by the Children Act 1989, which sought to shift the emphasis from parental rights to parental responsibilities, in the expectation that private ordering would predominate in the majority of cases. The Act assumes that divorced parents will continue to share parenting responsibilities, and indeed there is considerable evidence that it is in the child's best interests if they do.¹⁰ Precisely how parents should develop effective parenting arrangements in the circumstances that typically follow marriage breakdown is, however, far from clear. What is clear is that parenting arrangements will be subject to a constant process of negotiation and renegotiation, which is dependent on parents being able to communicate despite living at physical and emotional distances from each other. The experiences of many parents who attended an information meeting indicated that the maintenance of channels of communication after separation is not an easy task. Findings from our time-slice survey reveal that more than a year after attending an information meeting, 21 per cent of the parents who were separated from their spouse described the quality of communication about children as poor, while 19 per cent told us that such communication was non-existent. The following remarks illustrate the continual problems that separated parents experience, although these parents had been advised of the importance of maintaining communication when they attended an information meeting:

He won't have anything to do with me. (resident mother of child aged 17)¹¹

¹⁰ Hoffman, C.D., 'Pre-divorce and post-divorce father-child relationships and child adjustment: non-custodial fathers' perspectives', *Journal of Divorce and Remarriage*, vol. 23, no. 1 (1995), pp. 3–20; King, V., 'Non-resident father involvement and child well-being: can dads make a difference?', *Journal of Family Issues*, vol. 15, no. 1 (1994), pp. 78–96; Koch, M.A.P. and Lowery, C.R., 'Visitation and the non-custodial father', *Journal of Divorce*, vol. 8, no. 2 (1984), pp. 47–65.

¹¹ Ages of children are those at the time of the survey.

Communication is done mainly through his mum. (resident mother of children aged 3, 5 and 6)

We communicate by note form. He refuses to discuss anything. (resident mother of children aged 5 and 9)

The communication is adequate when the boyfriend is not on the scene. It is non-existent when boyfriend is on the scene. (father with shared residence arrangements for children aged 8 and 12)

It all depends on her moods. (non-resident father of child aged 8 and twins aged 5)

The communication is poor, due to the bitterness caused by the CSA. (father with shared residence for children aged 11 and 13)

In all, 421 separated parents responded to the time-slice survey. Eighteen per cent of them told us that attending an information meeting had helped to improve communication, but it seems that in most cases such improvement was limited – ‘poor to adequate’, in the words of one attendee. Another attendee told us that communication had improved because of the meeting but that this had been short-lived and, apparently, communication ‘went downhill as the divorce got messier’. Some attendees, however, reminded us that communication requires two people, while only one will be required to attend an information meeting, thus limiting the prospects for improvement. One respondent volunteered the information that in her case attendance at an information meeting had led to communication deteriorating:

It made things worse. He twisted everything I said to him. Now all contact with him is via a solicitor. (resident mother of children aged 2, 5 and 7)

Residence arrangements

Following 90 per cent of divorces children continue to live with their mother and an estimated 35 per cent of non-resident parents do not maintain contact with children after divorce.¹² A number of factors have been correlated with the amount of contact that non-resident parents (usually fathers) have with children, including housing circumstances, income, geographic location and the gender of the children. The accounts of non-resident fathers, however, suggest that the most important of these factors is the relationship they have with their ex-wives.¹³ The central role mothers play in childcare is fundamental in this regard since in most cases it tends to be reinforced following divorce, while the father’s role is apt to become increasingly ancillary. The tendency for the residence and day-to-day care of children to be matrifocal places a burden on resident mothers which may impact negatively on their capacity to negotiate alternative domestic arrangements with their former partners.¹⁴ Bradshaw *et al.*¹⁵ found that the most common reason fathers gave for having lost contact was that the mother of the child had ‘obstructed access’.

¹² Bradshaw, J. and Millar, J., *Lone Parent Families in the UK*, HMSO (1991).

¹³ Bradshaw, J., Stimson, C., Skinner, C. and Williams, J., *Absent Fathers?* Routledge (1999); Simpson, B., McCarthy, P. and Walker, J., *Being There: Fathers After Divorce*, Relate Centre for Family Studies (1995).

¹⁴ Smart, C., ‘The new parenthood: fathers and mothers after divorce’, in E.B. Silva and C. Smart (eds), *The New Family?*, Sage (1999).

¹⁵ Bradshaw, Stimson, Skinner and Williams (1999), *op. cit.*

There can be good reasons for such obstruction: for example, there may be a history of violence or abuse.¹⁶ Although fathers' rights groups complain that the system is biased in favour of mothers, others have expressed concerns that the assumptions about joint parenting that are implicit in the Children Act have tended to be interpreted so that contact with children becomes regarded as a right.¹⁷ This is clearly not appropriate in all circumstances. The following remark by an information meeting attendee describes a situation in which parental contact is, at the very least, a debatable issue:

My son was only 2 years old. His father was living with his stepsister, who was pregnant by him. The whole situation was very messy. It was not appropriate, bearing in mind the family history of abuse in my ex-husband's family, for there to be any access.

Contact arrangements

Children of divorce tend not to thrive when contact with both parents places them in the midst of severe ongoing conflict,¹⁸ and while some objections to paternal contact might be well-founded, others might be less so. It has been suggested that parents (particularly resident parents) might engage in 'alienating' activities, subjecting their children to a series of consciously or subconsciously practised behaviours which denigrate the other parent and ensure that their children will not wish to live with or have contact with them. Some researchers have suggested that such behaviour is so prevalent as to represent what they define as a 'parental-alienation syndrome',¹⁹ and there was some evidence of the presence of the kind of strong negative feelings that promote such behaviour among information meeting attendees:

He has turned the two boys against me and blames me for them having to get out of the marital home, which they currently reside in, even though it was in my sole name to start with. I am now taking him to court for contact. (Non-resident mother of children aged 11, 13 and 14)

Because of a big bust-up witnessed by my children, my ex-wife has poisoned my children against me. (non-resident father of children aged 8 and 11)

She (bitch of an ex-wife) uses children as a lever. Makes as many obstacles as possible when it is my agreed times with the children, especially on birthdays, Christmas, Father's Day and holidays. She is a freeloader and a fraudster. (non-resident father of children aged 3 and 5)

My husband is, by admission, only after the children to hurt me, not because he wants them ... He has been violent to me in front of my daughter ... When he comes to visit her, he terrifies her by telling her 'Daddy is going to take you away'. This has made her very clingy to me, and she now wets the bed and has nightmares. (resident mother of child aged 3)

¹⁶ Radford, L., Sayer, S. and AMICA, *Unreasonable Fears? Child Contact in the Context of Domestic Violence: A Survey of Mother's Perceptions of Harm*, Women's Aid Federation of England (2000).

¹⁷ Bailey-Harris, R., Barron, J. and Pearce, J., 'From utility to rights? The presumption of contact in practice', *International Journal of Law, Policy, and the Family*, vol. 13 (1999), pp. 111–31.

¹⁸ Maccoby, E. and Mnookin, R.H., *Dividing the Child: Social and Legal Dilemmas of Custody*, Harvard University Press (1992).

¹⁹ Cartwright, G.F., 'Expanding the parameters of parental-alienation syndrome', *American Journal of Family Therapy*, vol. 21, no. 3 (1993), pp. 205–15; Gardener, R.A., *The Parental-alienation Syndrome: A Guide for Mental Health and Legal Professionals*, Creative Therapeutics (1992).

We did not discuss arrangements with the children because they were too young. If they had been older, and knew what a slapper their mum was, I am sure they would be with me now. (non-resident father of children aged 7 and 9)

Satisfaction with arrangements

The majority of the separated parents who responded to our survey (59%) told us that the children lived with them most of the time (resident parents), while 26 per cent said the children spent most of their time with their other parent (non-resident parents). Ninety per cent of the resident parents, and 12 per cent of the non-resident parents, were female. Thirty-two of the separated parents had shared parenting arrangements whereby children spent equal time with each parent, while 8 parents had some but not all of the children living with them (split residence).

More than one in four (26%) of the 421 separated parents indicated that they were not satisfied with current childcare arrangements. Dissatisfaction was highest among non-resident parents and those that had split residence arrangements; 42 per cent of the former and 50 per cent of the latter told us they were dissatisfied. The dissatisfied parents with split residence arrangements all wanted to have all the children living with them. Notably, six of the eight parents in this category indicated that parental communication about children was poor.

One in four of the 32 parents with shared parenting arrangements expressed dissatisfaction. Those who were dissatisfied told us that they felt like 'part-time parents', and that they were not spending enough time with children. Some, however, felt the arrangement was simply not working and questioned the commitment and/or the motivation of the other parent:

I would prefer, and feel that it is in my children's best interests, [for them] to be with myself for the majority of [the] time, as their father does not spend a great deal of time at home with them or take them anywhere. (mother of children aged 3 and 15)

Because men/fathers are not treated the same as women/mothers by the courts. I wanted a 50/50 shared residence of our children because I believe children need both parents. My wife probably feels the same but because solicitors are involved, it is my opinion that they are encouraging her to go for full residence because of the financial rewards. (father of children aged 5 and 9)

Almost one in four (23%) of the resident parents told us that they were dissatisfied with the arrangements for their children. Some of this dissatisfaction arose from concerns about the quality of care that the children received when they were with the non-resident parent, but resident parents seemed as likely to want children to have more contact as they were to want them to have less contact with their other parent:

I am dissatisfied with the fact that he will not have both children together – my son goes one Saturday and my daughter the next – so I never get time on my own. Also, when the children are not at school because of sickness or teacher training days he won't look after them, even though he doesn't work and I do. (resident mother of children aged 8 and 13)

I am dissatisfied, as my ex-husband has set the level of contact to suit himself and his lifestyle, and there is no way he can be made to see his child more often. (resident mother of child aged 6)

He had the choice [as to whether] to see his son, and stopped for months. This is unsettling for my son and confuses him now. (resident mother of child aged 4)

I think my son would benefit from seeing his father more. He lives very near us and I work full-time which means my son is on his own a lot. His father seems too preoccupied with his new family. It cuts through me to admit this, so what does it do to my child? (resident mother of child aged 14)

He begrudges coming here to look after the children. I think he feels he is doing me a favour. He invariably threatens to stop doing it. He values his free time, and has 'not been put on this earth to be a babysitter'. (resident mother of children aged 4 and 5)

He comes to see them for maybe twenty minutes once a week (if that) then has them for a weekend. It suits him but not me. I would like him to see them much more, as they miss him dearly. (resident mother of children aged 10 and 11)

I am dissatisfied because my husband will not have regular access. I think the children need a pattern to the contact, but he disagrees. Regular contact would strengthen their relationship. His view is that no one is telling him when he can, and cannot, see his kids. He tells them 'you can come anytime' and 'keep in touch'. When they ring, he is always out. (resident mother of children aged 10 and 13)

Of course, some dissatisfied residential parents took the opposite view and indicated that they would prefer contact to be less frequent, or not occur at all:

He has overnight contact midweek, which means the children have a long journey home on a school morning, starting early. If I say this is not in the best interests of children, he causes a lot of problems. His needs are more important to him than what is best for the children. (resident mother of children aged 8 and 10)

Husband wants daughter more but it is impractical. I am dissatisfied with continuous rows about access. (resident mother of child aged 4)

He wants more access and, because of his behaviour, I don't want him to have any access. (resident mother of child aged 5)

The presence of a new partner is apt to create tensions over contact arrangements:

He would like them to spend weekends with him and his new partner but the children have no wish to do this because of her presence. Although this means I am caring for the children alone 95 per cent of the time this arrangement suits me, because I have no wish for them to be with her either. (resident mother of children aged 10 and 13)

I feel at home with the children living with me and resent them liking their dad's new partner. (resident mother of children aged 11 and 15)

I have never agreed to my daughter sleeping at the home of my husband and partner. Neither has she wanted to do so. (resident mother of children aged 14 and 16)

He wants to have access every other weekend from Friday to Sunday evening, but he works an 8-hour shift on one of these weekends. He expects me to let him go so his girlfriend can look after him while he is at work, but my son doesn't like her, and has asked not to go when his dad is at work. (resident mother of child aged 12)

As one might expect, not only resident parents express concerns about new partners. For instance, one non-resident father told us he was dissatisfied with arrangements

because the bastard that took over my role, and stole my right to be a husband and father, breathes. I hate him and I want to kill him. (non-resident father of children aged 3 and 5)

Both resident and non-resident parents feel they need guidelines as to how much contact is reasonable, but it is not the frequency but the inconsistency that troubles some resident parents:

It is difficult to plan ahead, as he puts a note through the door on Fridays, asking to see the children sometime over the weekend. So far I have been able to accommodate requests but sometimes need to re-shuffle arrangements. It is not always convenient but I think it is important for them to maintain contact with their father. (resident mother of children aged 7 and 9)

As one resident mother pointed out, however, consistency tends not to be what non-resident fathers prefer:

I am dissatisfied because of 1. Husband's bad time keeping. 2. No framework of activities or rules for children when he sees them, therefore leading to discipline problems at home. For my husband's part: 1. Feels the arrangements are too stifling and organised for him. (resident mother of children aged 10, 13 and 15)

There is clearly significant dissatisfaction among non-resident parents. As many as 42 per cent of them indicated that they were dissatisfied with arrangements for the children. Only six of the 48 who expressed dissatisfaction indicated that they wanted residence, and only two of these appear to have legally challenged residency arrangements. It seems, however, that the experience embittered them both:

When I went for custody, I was told that I had very little chance of winning, as I was male. The welfare officer did not even see my girls on their own ... The welfare system round here (and no doubt everywhere) is totally overloaded and feeble. If they had time (which they didn't) and knew what I know now, no court in this land would have given her custody of my two girls. Also she was on legal aid and I had to pull out after the totally inept welfare officer's report, and because I simply could not afford it. (non-resident father of children aged 7 and 9)

My ex-wife has been allowed to do as she likes. I was fighting residency, and at court, the barrister that my solicitor appointed persuaded me to drop the residency issue in return for a better contact arrangement. This was not what I wanted but, having just come out of hospital, I was persuaded. Straight after

court, my ex-wife cancelled the contact arrangement. (non-resident father of children aged 3, 9 and 10)

Dissatisfaction among non-resident parents tends, therefore, to be about contact arrangements. More than half of those who told us they were dissatisfied, however, had contact with their children at least once a week, while 19 per cent had monthly contact, 13 per cent had contact less than monthly and 11 per cent claimed to have no contact at all. All of them said they wanted more contact or to change the location of contact visits, notably to their own homes. Non-resident parents often have difficulty maintaining contact directly after separation because of their housing circumstances,²⁰ and this was clearly something that affected the childcare arrangements of some of our respondents:

My children were teenagers. I could not take them out of their home, friends, school etc. just to come with me, with no house, a full-time job to keep so as to have [a] weekly wage to get a house and furnish a house for the children. It meant going to work all day, so who would have the children? I couldn't do that so I had to day-by-day live without my children until I could save enough to get a place to live and furnish it to the standard my children are accustomed to. (non-resident mother of children aged 16 and 19)

My ex-wife came back to the marital home after a few months, and I had to leave the house and children there. It has taken a long time to get my life on track, so she is unhappy that I cannot have them on equal terms until I have a house for them to sleep over in. (non-resident father of children aged 8, 10, 12 and 13)

Thanks to inflated CSA payments and equity tied up in matrimonial home, I cannot afford to buy a house. (non-resident father of children aged 3 and 5)

Their father has been renting rooms since he left, so [their staying with him] is not really an option. (resident mother of children aged 6, 11 and 13)

Although a significant number of non-resident parents wanted more contact with the children their partners tended to doubt the wisdom of this, and voiced concerns about whether their ex-spouse was capable of exercising parental responsibility:

Because of my husband's unpredictable behaviour, and history of drug taking, the possibility of our son living with his father is not an option ... My husband would wish to have contact with his son alone. He is quite unrealistic when confronted with his behaviour, and with the fact that his unpredictable behaviour poses a risk to my son. (resident mother of child aged 12)

He is an alcoholic and very irresponsible. (resident mother of children aged 6, 11 and 13)

Since my ex-wife is an alcoholic with a history of taking overdoses, there was no decision to be made [about arrangements for children]. (resident father of children aged 4, 7 and 8)

He can't handle all three children for very long. (resident mother of children aged 7, 9 and 11)

²⁰ See McCarthy, P. and Simpson, B., *Issues in Post-divorce Housing*, Avebury (1991); Flowerdew, R., Al-Hamaad, A. and Hayes, L., 'The residential mobility of divorced people', in S. McRae (ed.), *Changing Britain: Families and Households in the 1990s*, Oxford University Press (1999).

He says he wants to see more of them, yet never helps financially, never rings when they are in ill. As far as I can see, he is not really interested in them. They come back wild, 'demon-possessed' and it takes me over a week to calm them down (he sees them every week for three hours). (resident mother of children aged 1 and 3)

For non-resident parents in particular, much of the hostility about arrangements for children is generated by resentment connected with their financial obligations. The CSA is a particular target for their opprobrium, but some pejorative remarks were made about ex-spouses:

I saw about three solicitors who told me to give up all rights to my children, give my wife the full equity of the house, and keep her sweet. Hopefully, keeping the CSA off my back. I eventually found a solicitor who was prepared to fight my corner. I have since won about a third of the year staying contact with my boys. The law needs changing. It encourages a woman/mother to go for divorce because of the financial rewards she can gain, using the children as pawns. (non-resident father of children aged 7 and 11)

At the moment, both children want to come and live with me, but their mother is having none of it. She gets too much of a free ride off the state if they live with her, even though potentially she is the higher wage earner, and well capable of working more hours than she is doing. Thanks to the bloody CSA, she has no need to work. (non-resident father of children aged 4 and 6)

The CSA made a pig's ear. I paid over and above since the separation, but the CSA say these are voluntary payments and don't count. No wonder blokes kill themselves. (non-resident father of children aged 3 and 5)

My husband has been happy with the arrangements because they have enabled him to hang on to the marital home. However, his behaviour has indicated that he has not acted in my daughter's best interests. I feel that my daughter has been used as a pawn to further my husband's financial interests, and this has affected her feelings and relationship towards me. (non-resident mother of children aged 16 and 20)

Establishing co-operative parenting

The accounts of separated parents serve to remind us that the establishment of co-operative parenting after divorce is a difficult enterprise. The FLA attempts to facilitate co-operation through telling information-meeting attendees that its absence is likely to be detrimental to the best interests of children. It is clear, however, that the impact of providing such information appears to have been limited. Although 18 per cent of separated parents felt that their attendance at an information meeting had helped to improve communication, some told us that such improvement was short-lived, while others suggested that it had made communication worse. Nevertheless, our findings suggest that the impact of the information meeting in this sense was generally positive. It was more likely to lead to improved communication than to make communication worse.

The remarks of some separated parents question the value of conveying information about parenting to one parent only (although the other parent's attendance will be required if ancillary disputes lead to an application to the court). Post-divorce parenting is an activity that usually involves two parents, who will be expected to engage in continuing

negotiations about childcare arrangements. The key question relates to how to facilitate the negotiation process, and how to help parents to establish the childcare arrangements that are most appropriate for them and for their children. Bradshaw *et al.* recently suggested a need for a service that enables ‘fathers and mothers to work out arrangements for child support, contact and other matters that concern them’.²¹ One might suggest that this is already provided by mediation services, which exist precisely to help couples to negotiate, but our research suggests that most divorcing couples are unlikely to use them. Ten per cent of the separated parents who responded to our time-slice survey had used mediation in an attempt to establish arrangements for children, and less than half of them indicated that they had been successful.

Other jurisdictions have established parenting education programmes that are compulsory for all divorcing parents. It seems self-evident that such programmes will be more likely than those based on provision of guidance about parenting issues to only one party to have an impact on the quality of post-divorce childcare. Nevertheless, telling both parents how they ought to behave is no guarantee that either of them will take notice, but if they are going to co-operate both of them have to. Information meetings alone, as constructed in the FLA, cannot lead to the shaping of more co-operative post-divorce parenting, although they may be a step in the right direction.

The majority of separated parents want to fulfil their parental obligations and most manage to establish childcare arrangements with which both are satisfied. A sizeable minority, however, continue to dispute arrangements until the children are old enough to make their own decisions about where they should live and how much contact they should have with parents. There is clearly a need to enhance understanding of the nature of conflicts that exist beyond separation. It is, however, difficult to see how legislation could serve to establish harmonious relationships in all post-divorce families. The comments of information meeting attendees indicate just what a difficult task this would be.

Revisions to the Information Leaflets for Parents

Giving standardised information to parents is bound to be limiting, and our interviews with parents confirmed that this is indeed the case. The information provided to parents included written materials in addition to the information imparted through the meetings. We were aware that any written information about separation and divorce given through the information meetings would be standardised and therefore unlikely to meet the needs of all attendees. In the information pack given out at information meetings or sent out through the post there were ten leaflets which addressed issues related to children. Five of these leaflets were produced by organisations such as the Department of Health or the Department of Social Security and were widely available and in general circulation outwith the information pack. As such, they did not constitute part of our evaluation (see Annexe 3 for particulars). Other leaflets were produced specifically for the information pack in the pilots by the National Council for Family Proceedings and were therefore evaluated as part of our research. These included three leaflets aimed at parents (Figure 23.3). One offered information to parents who had decided not to separate and was entitled ‘Helping your children when you stay together’. Another was intended for parents who were divorcing and who were involved in court proceedings. It provided information about the family court welfare service and was entitled ‘The role of the family court

²¹ Bradshaw, Stimson, Skinner and Williams (1999), *op. cit.*, p. 230.

welfare services in court proceedings about children'. The third leaflet for parents was entitled 'How can I help my children?' and provided information to parents about how to help their children through separation and divorce. The information included in this leaflet reflected that imparted verbally by presenters at information meetings and through the CD-ROM.

Our data show that parents appreciated having information that they could keep and refer to. Parents of children aged 11 or under were most likely to have read the leaflet 'How can I help my children?'. The evaluation of the information leaflets over the course of the pilots resulted in revisions being made to this leaflet. A new set of four leaflets was produced (the other three being written for children) and evaluated after the pilots closed. They were linked by a colour theme and graphics that matched the parenting plan, which was designed during the course of the pilots. The new leaflet for parents was not included in the information packs given out at pilot information meetings, and we evaluated it separately.

The revised leaflet for parents (Figure 23.4) entitled 'Parents and children: dealing with separation and divorce' is a slim folded sheet divided into six sections consisting of the front cover, four numbered information sections, and a final section listing books, helplines and contact telephone numbers. The colour scheme is the same as that of the parenting plan – blue and purple typeface on white paper – and similar graphics are used. The leaflet aims to help parents to help their children.

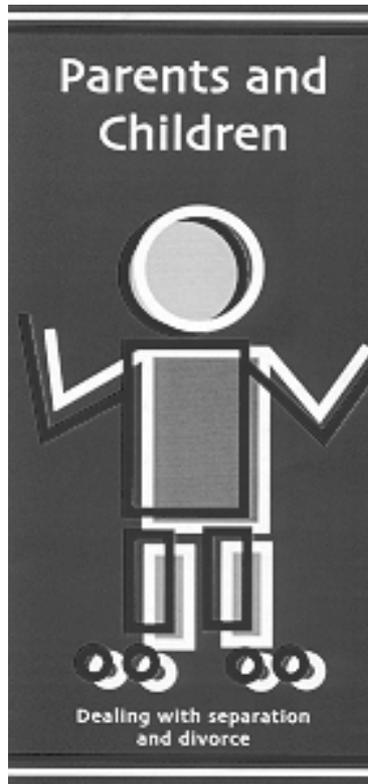
Parents' views of the leaflets were obtained through a postal questionnaire sent to a panel of parents contacted via the Child Support Agency. Forty mothers, all of whom had the care of their children after separation, completed the questionnaire. Two-thirds of the mothers had been separated for more than two years. The number of children in the household ranged from one to five.

The revised leaflet was well-received. All mothers found it easy to understand, and most liked the style, layout, colours and printing. Ninety per cent found the leaflet helpful, and would recommend it to friends. The section 'Useful books, helplines and organisations' scored the most votes in terms of helpfulness. Section 1, which made six general points about 'divorce and your children', was seen as the least helpful section. Although they found the leaflet generally helpful, many parents made suggestions for improvement, such as giving examples of further advice for parents. They also suggested areas that had not been covered in sufficient detail, such as changes in routine, accommodation or level of income following separation; dealing with anger; and dealing with the situation after long-term separation. They also wanted more information on subjects such as the parent's welfare, financial advice, the Child Support Agency, mediation and abusive relationships. There were two suggestions for other suitable books, and several suggestions regarding national organisations it might be helpful for parents to contact.

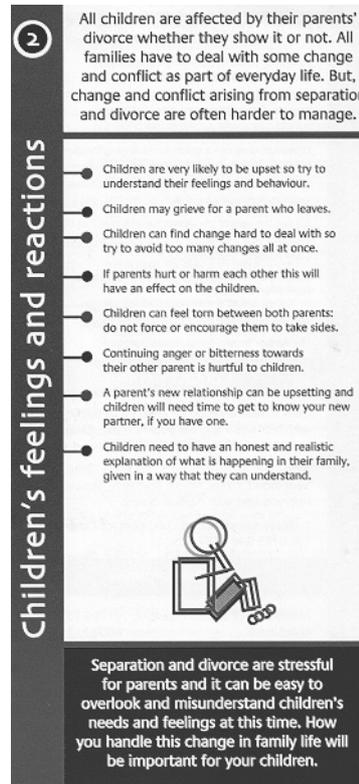
Some mothers felt that the leaflet did not address their particular needs, such as coping after the other parent has abandoned the family without explanation, and helping children with special needs to cope with their situation. Several others felt it failed to support circumstances where separation is beneficial, or give encouragement to the parent who is largely coping alone. A few parents felt it lacked specific suggestions as to how to put into practice the recommended approaches. Some mothers found the tone of the leaflet patronising. Those from long-term separations were more likely to use their experience to disagree with or modify the leaflet's exhortations. One mother wanted the leaflet to encourage couples to stay together, while another suggested separate leaflets for the



Figure 23.3 Leaflets for parents from the information pack



Cover of 'Parents and children'



Section 2, Children's feelings



Section 1, Divorce and your children



Useful books, helplines and contacts

Figure 23.4 The revised leaflet for parents

resident parent and the non-resident parent. Ninety per cent thought it would be useful if the information for parents could be placed on the internet.

Findings from a focus group with parents,²² which included fathers and mothers who were the main carers of their children, suggest a positive response to this leaflet. It was seen as easy to read and helpful. Several parents mentioned the desirability of copies being made available for their ex-partner too. It was suggested there should be more mention of grandparents and the role they may play as mediators and as a neutral point of contact after separation. Overall, the leaflet was well-received.

Giving Standardised Information to Parents

A number of conclusions can be drawn from our analysis of interviews with parents about the information about children. It appears from the evidence that most parents of children under 18 welcomed information. Parents of younger children seemed more likely than other attendees to attend information meetings and, when they did, to get more out of them. More of the information appeared relevant to them, and they were more likely than other attendees to say that they were glad they had gone and that the meeting told them what they needed to know.

The research suggests that, when attendees had children under 18, they were more likely to attend an information meeting as a couple, have regular contact with their partner, and be able to talk to their partner about what was happening. It was also more likely that their partner knew they had attended a meeting, and that they had shown the information pack to their partner. In terms of maintaining the channels of communication it would appear that parents of young children fared better than others.

Within the subsample of 123 parents chosen for detailed analysis, parents on the whole responded positively to the information about children, and many parents mentioned feeling reassured by it. For some it had led to changes in their thinking about their children; in the case of others their thoughts had turned into action, and for others again it had facilitated discussions with children. But it was not always possible for parents to act upon what they had learned. Sometimes difficult circumstances prevented this – for example, when there was no contact or very limited contact with children, or when ex-partners were obstructive or difficult. Where family circumstances were fraught with tensions caused by residency battles and court proceedings, the information was sometimes of limited use, and parents found it difficult to put it into practice. The information meeting assumes a certain level of civility and communication between separating parents which may be lacking at the time of separation and divorce. Activities such as completing the parenting plan, or going to mediation to resolve children's issues, demand a level of interaction which does not always exist.

The research leads us to support the view that while there may be a presumption that continued contact between parents and their children is likely to be in the children's best interests, there are some situations where this is not the case. With the extensive discussion of contact within both the written and oral information, it is not surprising that

²² This focus group was brought together to evaluate the revised leaflets. It included 12 parents (5 fathers and 7 mothers), all of whom were separated or divorced and were resident parents with primary responsibility for their children. The focus group was organised through Gingerbread. Further particulars about this focus group are given in Ch. 24.

some parents felt that they were being told that contact with both parents is always a good thing.

It is important to acknowledge the diversity of family situations and of children's needs. Step-parents and stepfamilies have emerged as an important area with their own particular tensions and difficulties. All family members need help on how to renegotiate family relationships, particularly when stepfamilies separate. There appears to be an assumption in the information that the attendee will be in a first-time marriage with no complex family circumstances, and that children will not have any special needs. It is important to recognise that some children do have special needs, and if the FLA aims to provide information to children to help them through separation and divorce, parents and their children with special needs should be entitled to appropriate help and information. Agencies providing specialised information for the parents of these children need to be well-informed about divorce.

Chapter 24

Providing Information for Children

Cathy Stark and Anne Rowlinson

The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.¹

As we have noted in Chapter 22, there is strong research evidence that parental separation is very distressing for children and that at the time a parent moves out of the matrimonial home, the majority of children have not had a clear explanation of what is happening from either parent. When parents are caught up in their own intense emotions, it is not always easy for them to focus on the needs of their children, although the vast majority express concerns for their welfare when asked what worries them most about the break-up of the family unit. Lacking any explanation, children may fantasise about the reasons for the separation, blaming themselves in some way, and heightening their feelings of rejection.

During the pilots, the Lord Chancellor's Department took the opportunity to develop and test the provision of information written specifically for children. In each information pack used at the information meeting were two leaflets for children, one entitled 'What about me? Help for the younger child', the other entitled 'What about me? Help for the older child' (Figure 24.1), although no clear guidelines were given as to what constituted 'younger' and 'older'. Section 8 of the Family Law Act does not, of course, require that information should be provided for children. The emphasis in the Act is on helping parents to acquire a better understanding of the ways in which children can be helped through the process of marital breakdown, and on the importance to be attached to the welfare, wishes and feelings of children. The leaflets for children are not a requirement, but a response to evidence that children are often poorly informed (if at all) about what is happening in their family. We wanted to know how parents attending information meetings had used these leaflets and whether they had given them to their children. We also wanted to know from children and young people whether the leaflets were relevant and helpful to them.

At the time of our initial telephone interview within six weeks of the information meeting, few parents had actually given the leaflets to their children. The reasons parents gave for giving or not giving the leaflets to their children were explored in our First² and Second³ Interim reports and are summarised here. Many of the parents who passed on the leaflets to their children reported positive results. Children had gained support and reassurance from reading them; the leaflets had stimulated discussion, prompted questioning, and enabled feelings to be discussed. Those parents who did not give leaflets to their children

¹ The United Nations Convention on the Rights of the Child, Part I, Article 13(1).

² Spinks, R., McCarthy, P., Richards, M., Mitchell, S. and Stark, C., 'Reading and seeing the information', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998).

³ Mitchell, S. and Walker, J., 'Sharing information with children', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998).

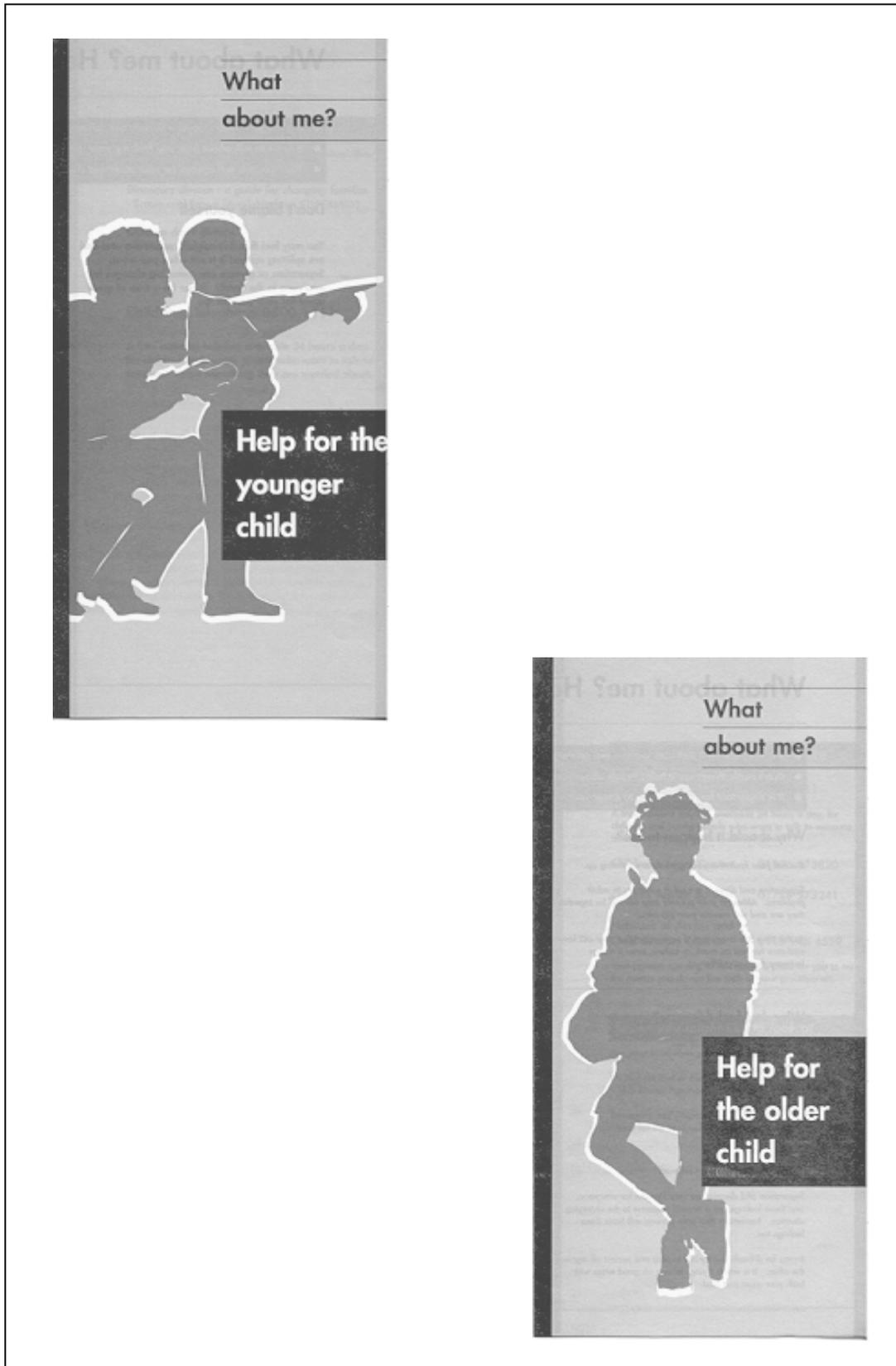


Figure 24.1 The original children's leaflets included in the information pack

gave a variety of reasons for this, including that they thought the child ‘too young’, or that the time was not right, or, in some cases, that they were afraid the leaflets might prove upsetting. However, since the time-interval between the information meeting and our initial interview was short, we examined the follow-up telephone data collected some five to seven months later in order to ascertain how many parents had given the leaflets to their children.

By the time of this second interview, 16 per cent of parents (N = 1,230) had shown the leaflets to their children. We divided these parents into categories on the basis of the age of their youngest child, as follows: parents with children aged 12–17 (31%); parents with children aged 5–11 (18%); parents with children aged under five (4%). Thirty-nine per cent of these parents said that the information they had been given about children, either in the meeting itself or in the information pack, had been useful to their children, and the age of the child did not appear to be a significant indicator of this. This was, however, the perception of the parents, and since we did not interview their children we have no way of knowing what the children themselves might have thought.

In order to look in more depth at the reasons parents gave for deciding whether or not to give the leaflets to their children, we drew on the experiences of a 10 per cent sample of all parents whom we had interviewed some 5–7 months after the information meeting. A total of 1,230 parents were interviewed at follow-up stage and a 10 per cent quota sample of these parents were selected, giving us 123 parents.⁴ Data were available for 117 of these. Of these, 24 (21%) had given the leaflets to their children. Parents offered a number of explanations as to why they did or did not give leaflets to their children.

Not Giving the Leaflets to Children

Leaflets considered inappropriate for the age of the child

Seeing that a group of children of the same age have a wide range of reading abilities and levels of understanding, it was not surprising that many parents simply described their children as being ‘too young’ for the leaflets. However, it was not just pre-school children whom parents considered too young for the leaflets: often it was children of an age at which we might expect they would be capable of reading and making sense of the information. One father considered all three of his children (aged 5, 11 and 14) to be too young. Clearly, parents were making a decision which was not based solely on the age of a child, but involved the parent’s sense of the child’s emotional maturity or psychological state:

The 7 year old was too young and the 11 year old would find them too upsetting. (mother)

The oldest thought it was quite good, the youngest is not old enough yet. (father of children aged 8 and 11)

⁴ Particulars of this 10 per cent sample were given in Ch. 23, n. 6.

By contrast, within our 10 per cent sample we met parents with very young children who could not read or respond to a leaflet, who felt that the current information package lacked information about very young children:

Because my baby is so small I'm worried about how the divorce is affecting him ... I feel quite helpless, obviously you can't talk about things and I would have liked some references on things to read or who to talk to. It has had an impact on him, no doubt about it, but I need to know what signs to look for. It takes for granted that your children are old enough to understand. (mother of 18-month-old baby)

One mother of a 3-year-old felt that her young child was affected by the separation, and she took consolation from the leaflets. She used the information in the leaflets to try to persuade her husband to be more punctual during contact visits:

When we first split up he wasn't coming to see her. I found the best bit of the meeting and the leaflets was the bit on how it affected the children. Lots of people have said to me 'She's too little, it'll be OK, she won't be bothered', but the leaflet put into words that, even as little as she is, she does understand something of what's happening ... the leaflets pointed out how I felt, that was the best part. I tried to get my husband to come on time [to see daughter]. I photocopied the leaflets where this was emphasised. But it hasn't done much good. (mother of child aged 3)

Within our sample we also encountered at least two parents who opined that the information was aimed at a much younger age group than that of their own older children. In one case, the father had given the leaflets to his teenagers (aged 16 and 19) but felt that they had got little out of them. In the other, a mother had not given the leaflets to her two children aged 15 and 18 because she had felt that the leaflets were primarily aimed at the under-10s:

At 15 and 18 I can sit and talk to them as adults, without the use of leaflets and things like that. (mother)

Fear of upsetting the children

A common response of parents when asked why they had not given the leaflets to their children was that they did not wish to rock the boat or cause upset to their children:

I don't want to disturb her more than she is already. (father of child aged 13)

They may not handle it. I want them to handle it in their own good time. (mother of children aged 11 and 14)

It seems that some parents had not given the leaflets to their children because they anticipated they would receive a very negative reaction. Their fear was not so much that they would become upset, but rather that they would become angry or dismissive of the leaflets and the situation. This seemed to be a concern mainly of parents of teenage children:

I think her reaction would have been strongly against and I think she would have put them straight in the bin. She's obviously very hurt by the situation, and very angry. (mother of child aged 16)

One mother felt that her younger children already had enough to cope with, and so she did not feel the leaflets would be beneficial:

They've got too much to cope with as it is without it. They'd probably just say it was a load of rubbish anyway ... I might bring up some of the things that are in the leaflets, rather than show them the leaflets. (mother of children aged 8 and 10)

Another mother explained how her two children (a son aged 15 and a daughter aged 19) refused to talk about the situation. Her son left the room as soon as the subject was raised and her daughter became 'extremely agitated' when discussion turned to her father. The mother, however, had kept the pack 'in case the children ever need to see someone in the future, the counselling service'. This example highlights the fact that parents were often concerned about older children, but the information provided in the meetings was not intended for grown-up children.

Some parents believed that their children had coped well with the situation up until that point, and that the most disruptive time was now past. One mother of a 12-year-old boy commented:

I feel that my son has gone through all the stages and it did not seem appropriate to give him leaflets at this time. (mother of child aged 12)

Another mother commented that 'things had settled down':

It's awkward and it's sensitive. They seem so fine. I wouldn't want to stir things up again at this point. (mother of children aged 8, 10, 13 and 15)

In these cases, the decision related to a perception that giving the leaflets to children would be 'taking a backward step' and 'stirring up the past'. One father, separated for 18 months and awaiting his decree absolute, explained that there was no need for him to give the information to his child, aged 13, because 'we've moved on'. We found, however, that views about the effect of the passage of time also varied. In contrast to the parents mentioned above, some parents felt that giving leaflets to their children would be jumping the gun. These parents felt that there was no need for further information, either because nothing had yet been explained and the children were completely unaware of the situation, or because a minimal explanation of events was adequate. The key factor seemed not to be the length of time since the marriage had got into difficulty, but whether or not the parents had taken the step to live apart. Some parents explained that they did not wish to involve their children until they had decided on all the arrangements for the future:

I haven't spoken to her yet because the time is not right and I will eventually move out of the property, and then there will be a time when I will have to speak to her and it will be difficult. (mother of child aged 3)

I think if I was actively pursuing a divorce I might have shown them, but at the moment it would be making them think things are a step further down the line than they are now. (mother of children aged 10, 12 and 13)

I'm not sure if they know we're completely divorced yet. I haven't talked to them because we still see each other ... I don't really think they need anything at the moment. (mother of children aged 13 and 16)

Research suggests that children are often aware of difficulties long before parents take active steps towards seeking a divorce. This was reflected in the video shown at group presentations, and a clear message was given to parents that, because children can be aware of what is going on before parents say anything, avoiding talking to them until one parent leaves can cause them unnecessary anxiety and stress.

Appropriate timing of information

What the appropriate time for imparting information is is a key issue, and it is evident from our study that parents continually struggle with this problem. Such decisions are difficult for parents as they try to take into account other aspects of their child's life:

She's doing her GCSEs. I don't want to upset her. (mother of daughter aged 15)

He's doing his SATs. It might rock the boat. (father of son aged 8)

One father of a 16-year-old son in our sample explained during our initial interview that he had decided not to give the leaflets to his son since he was doing his GCSEs and he did not wish to upset him. At the follow-up interview several months later, he explained that the boy's examination results had suffered because his mother had moved abroad prior to the exams. He felt his son was in a difficult position since he had limited contact with his mother, but she contradicted what the father said. The son had tried to handle the situation by telling both his parents that he 'did not want to know anything', and hence it became more difficult for the father to talk with his son.

The issue of timing was also a relevant one for parents who were themselves having to deal with difficult transitions and changing emotions. It was clear that some parents did not appear to be ready themselves to tackle an explanation about what was happening. One father, for example, described himself as 'emotionally fragile':

The information the presenters said about how the children would feel was helpful [but] I want to protect the children from all this. I have never gathered the strength to talk to them about it, but I know they know. (father of children aged 10 and 16)

One mother explained that she thought it was too early to give the leaflets to her son, but that she might do so at a later date:

I don't know if I would actually show him the leaflets. I'll have to have a think because I'm still in the middle of it. I think that's something I would look at on the other side of the fence when everything's sorted out and you try and get on with your life ... if there are any scars you go about healing them. (mother of children aged 2 and 5)

Another mother described herself as 'feeling guilty'. In this case, the information meeting served to exacerbate the guilt she already felt because she had not told her children what was happening:

Generally this kind of subject makes you feel very very guilty. Probably this is the one area [in which] I've not done very well because it's going to raise subjects they just don't want to raise. We need a national education

programme because the guilt puts you off mentioning it. (mother of children aged 8, 10, 13 and 15)

One father expressed similar views, remarking that having his attention drawn to the impact of divorce on children made him feel very guilty:

It highlighted another awful aspect of what we were doing. (father of children aged 1, 5 and 7)

These parents, like others with whom we spoke, were struggling over how to help their children. They had the information and had acknowledged the fact that children need support and ought to be kept informed, but found it difficult to bridge the gap between knowing what they ought to do and actually doing it.

Practical limitations to passing leaflets on

Over the course of our research interviews, parents offered us many reasons for their not having given the children's leaflets to their children. Some were unaware that the pack contained leaflets designed for children:

I didn't realise it [the children's leaflet] was in there. I might have to go and have a look. (mother of child aged 4)

One man commented that the provision of leaflets assumed a literate divorcing population. There was also a small proportion of parents who did not have any contact with their children and therefore could not pass the information on – in our 10 per cent sample we had two fathers in this situation.⁵ Other parents had very limited contact with their children and told us that it was difficult to broach such subjects when there was limited time, but also that they did not wish to spend the time they had during contact visits dwelling on the situation:

I don't want to involve them in it. I just want to keep the time with them as happy and as nice as possible. (mother of children aged 13 and 15)

A non-resident father felt that because time spent with his child was so limited, he ought to do things with him, rather than focus on the difficult situation they were in.⁶ He had only three hours' contact per week:

⁵ It is important to remember that not all parents attending an information meetings had contact with their children, and therefore some of the information presented in the meeting may well seem inappropriate for the parent. This was an issue raised in particular by prisoners, who were given an information meeting in prison (see Ch. 28).

⁶ A recent American study by Susan Stewart (1999), using data from the 1997/98 National Survey of Families and Households (13,008 respondents), looked at how non-resident parents in America spent time with their absent children. Stewart stated that most non-resident parents tended to either have no contact with their children or else engaged only in leisure activities with them. Only 33 per cent of non-resident parents mentioned school as an activity that they engaged in with their children. She concluded that the perceptions that non-resident fathers were 'Disneyland dads' whereas non-resident mothers were generally considered to be more involved in children's daily lives did not appear to be the case. The gender of the parents was not as important as residency in determining the types of activities that parents undertook. Non-resident fathers and non-resident mothers exhibited a similar pattern of behaviour as regards activities with their absent children. Stewart, S.D., 'Disneyland dads, Disneyland moms? How non-resident parents spend time with absent children', *Journal of Family Issues*, vol. 20, no. 4 (1999), pp. 539–56.

If fathers are so restricted with the time they have with their child, then it turns into a special time to do special things, which I don't think is very natural. You do need to have a couple of days together every fortnight where you can do normal things – wash the car, flop in front of the TV – so [supervised access] doesn't build a relationship ... these things need to be addressed. (father of child aged 3)

We encountered a father who had not given the leaflets to his children because he feared the reaction of the other parent if he did so:

I've done all the things it [the information meeting] recommended apart from handing the leaflets to the children. I'm concerned about my wife's reaction. She doesn't want them to know anything. She's accused me of manipulation and interference – I don't know how to handle that. (father of children aged 9, 14 and 16)

Other parents told us that because they had managed to overcome their marital difficulties (temporarily at least) the children, they believed, were unaware there had ever been a problem and hence the information was no longer needed. In our 10 per cent sample only one of the 22 parents who described themselves as 'reconciled' or 'still together' had given the leaflet to their children.

Deciding That the Leaflets Are Unnecessary

Whether or not a parent had given the leaflets to their children does not serve as a measure of the quality of communication between the parent and his or her children. Some parents had already talked to their children before going to the information meeting about all of the issues in the leaflets, and in some cases had identified other sources of support for the children such as relatives or friends. In such situations the leaflets were simply not needed because the current way of handling the situation was working well.

Other parents told us that they decided not to give the leaflets to their children because they continually discussed all the aspects of the situation with them:

I talk to the children and explain things to them as a general rule anyway. (mother of children aged 2 and 5)

The children are on the ball. They knew the situation. We both explained it as we went along. They didn't need the leaflets. (mother of children aged 11 and 14)

Some parents described their children as coping well, and as a result they felt that the information aimed at explaining things to and reassuring children was not needed. One father of a 12-year-old boy explained that his son had chosen to live with him and had coped well with the separation of his parents. The upset the son had experienced around the time of the separation was now over and father and son had talked all the way through the process. The father described his son as 'well-adjusted' and felt there was 'no need to show him the leaflets or talk about things again'.

Another mother explained that talking to the children had always been a priority and that both parents played a part in reassuring them. She lamented the fact that she did not talk

to her children after the separation as much as she had done in the past when the situation had been in a state of flux:

We talked to the children, especially when [my husband] moved out. I talked to all of them and I spent lots of time talking to them. That's probably the thing that I regret now, that I don't spend that time with them asking them how they feel about things. But I spent a lot of time talking to them and reassuring them of everything and we got on really well. We get on better in some ways now, than before. (mother of children aged 4, 7 and 9)

Sometimes the information meeting reassured these parents that they were handling the situation well. For example, a mother with four children aged between 3 and 13 had discussed the separation with her children even though her friends had suggested it would be better not to say anything. The information meeting reassured her that talking to her children was indeed the best policy:

The only thing that came out of the meeting ... was the one important thing that I will hold on to ... I will always keep my children informed. That is the one thing the meeting and all the things that I have come across since then have shown me, that most parents don't do and it is such a shock to the children. So although he walked out two weeks ago, I have already got four well-adjusted, happy children and I am sure that is because the atmosphere has changed drastically but [also] they were always aware of what was going to happen so that when it did eventually happen, it wasn't such a shock, and they could adjust literally within days. They changed so drastically. There were no tears, no nothing and I think all along people were saying 'You shouldn't do this, you shouldn't be telling them that' but after the meeting I knew I was doing the right thing. It wasn't adult details, but it was as much as you think they can cope with and as much as they should know. I have been well-justified in doing that because already in a fortnight we are having our own routine, our own life and everything is ticking along smoothly, I mean as a family, it's been the best thing possible. (mother of children aged 3, 9, 11 and 13)

This mother did not give the leaflets to her children, but had discussed the issues with them at length. Other parents had found alternative ways of providing their children with information, which they viewed as better than giving them the leaflets:

It wasn't necessary [to give child the leaflets]. There was a programme on divorce that was talking to children and how they felt about it. I sat and watched it with my [12-year-old] son. I said if there was anything he wanted to ask me he could. He did ask me questions like 'How's it gone at the solicitors?' He seems to be coping, his school work's not suffered. (mother of children aged 3 and 12)

My [eldest] daughter gets books from the library and has got far more information from there and from her friends ... the content of the leaflets is minimal. (mother of children aged 8 and 10)

Giving Leaflets to Children

At follow-up interview, 16 per cent of parents in the interview sample (N = 1,230) had given the leaflets to their children. In an attempt to understand why, we looked at the explanations provided by the 24 parents, out of the 123 parents in our in-depth sample,

who had given their children the leaflets. The majority of these 24 parents had also talked to their children about what was happening, although on occasion they had given their children the leaflets instead of talking. Some said the leaflets added to their children's sense of involvement:

It was useful to show them [the leaflets]. They felt like they were part of it [the separation process]. What they say counts. (mother of children aged 12 and 15)

One mother said that although her eldest daughter knew what the leaflets told her already, being given them

made her feel important, that children do count. She said it was good. (mother of children aged 10 and 15)

By contrast, some parents reported that their children had not commented on the leaflets, though it is not clear whether they had attempted to engage the children in discussion:

I gave them the leaflets but they didn't say very much. (mother of children aged 10 and 15)

I gave them the leaflets but they haven't made any comment yet. (father of children aged 9, 10 and 11)

One of the leaflets was about parents splitting up, about reassuring kids that they'd be alright because they got half of everything and she said 'You can have half the car'. I don't think she was impressed at all. (mother of child aged 13)

The reaction was a grunt, I think. (mother of child aged 16)

One father explained how he had preferred to give his 14-year-old son the leaflets 'rather than having a heavy discussion'. He felt it had not been appropriate to talk at this stage since it was not certain that the separation would occur. He also described his son as argumentative and difficult to sit down and talk with:

He's cheeky, that doesn't help. [I tell him] 'we've got enough problems without you'.

Nevertheless, he believed that giving the leaflets to the boy had been helpful:

He was interested in them. He was aware of the problems in the marriage. He could make a decision about who he could live with ... it was better for him to read rather than get into a discussion. (father of child aged 14)

Talking to Children

We know that at the time of separation and divorce it can be difficult for parents to talk with their children, but we know too that children benefit from clear explanation about what is happening and from having the opportunity to talk about their experiences, hopes and fears. Our research suggests that in some circumstances the leaflets helped to initiate conversations between parents and children. For example, within our in-depth sample of 123 parents, there were 10 parents who told us that the information they had been given in the meeting had facilitated discussions with their children. It is difficult to say for certain

whether these parents were referring to the leaflets or to the verbal information they had been given in the meeting, but certainly the information, in whatever form it was given, had helped the parents talk to their children. It had told them what to say, what to include, and what it was important for the children to know:

Never going through this before I didn't know anything, what you are supposed to do or what you are supposed to tell the kids or anything. So it gave a guideline as to what to say. (father of children aged 11 and 14)

I used them [leaflets] indirectly. It helped me talk to them about it, about other people in their class at school so that they see it's not so abnormal as it seems – other marriages break up. (father of children aged 10 and 16)

In some cases the information had helped parents broach the subject or had given them words to use:

I read them and used the information, for the younger child and how to word it. So I used it to explain it to them better. (mother of children aged 6 and 8)

It gave us a starting point to start talking about things rather than just ignoring it. (mother of child aged 13)

I tried to put in my own words what I had read in the leaflets. (mother of children aged 13, 15 and 16)

The parents themselves told us that they had found the children's leaflets useful. This was because the leaflets reassured them as parents that what their children were feeling was to be expected, or that they were handling the situation in an appropriate way. Some parents who did not pass the leaflets on found them useful as a reminder of the importance of considering their children's welfare, or as a source of reassurance or a confidence builder:

It gave me the confidence to talk to my children, especially the older child. I knew exactly what to tell them and how to tell them and how to reassure them that for them, everything was going to be OK. (mother of children aged 8 and 13)

I think it gave me a vehicle by which I could talk to my children, something that we can read together which is not from your mother or your father, but from someone outside the situation. (father of children aged 9, 12 and 15)

The leaflet helped me broach the subject with the children. (mother of children aged 4 and 8)

Some parents told us that rather than giving the leaflets to their children they had talked to them about the leaflets and the information in them. From looking at all the available data we can conclude that although parents did not always pass on the leaflets, they often used them as a basis for giving their children information. Many parents had talked openly about the situation the family faced. Others had talked about the information in the leaflets which related to their particular situation. Others again based discussion with their children on other parts of the information, such as what they had been told (or had seen on the video) at their meeting. Some parents had supplemented the information meeting materials with books and television programmes. Although we did not question parents in detail concerning how they talked to their children, it seems that 72 per cent of parents in our 10 per cent sample had said something to their children about the separation and divorce by the time of our follow-up interview five to seven months after the information

meeting. It is clear, however, that there was considerable diversity in the amount of information the children had been given:

They know roughly what's happening. They don't need to know anything else now. (father of children aged 11 and 14)

We talk to the children ... I talked to all of them and I spent lots of time talking to them ... (mother of children aged 4, 7 and 9)

Other parents, who had not as yet talked to their children, indicated that they might do so at some future date, perhaps when their circumstances were more settled and future arrangements less uncertain. For some it was a case of waiting until their children were older:

I found the information about the children's counselling services very useful. It was mentioned in the pack. No need for it at present because they're 4 and 7 years and are unaware of the situation. We will tell them when the time comes. (mother of children aged 4 and 7)

A few parents had made sure that the information was readily accessible and that the leaflets had been left out at home so that the children could refer to them as they wished:

I left the leaflets where everybody could see them and I made it clear this is where I had been and if you want to look at them you can do – but I never sat down and read them out. (mother of children aged 14 and 16)

Well I brought the pack home. I told her [his wife] to read it and portions were set aside for the children to read. The pack is still in the kitchen for anyone to pick up if they need it. (father of children aged 3, 8, 11 and 13)

While some parents did not know how their children had reacted to the information, others noted positive changes:

It's very difficult to know what they think – they say what they think you want to hear, so I don't know what they really think. (mother of child aged 12)

I could tell he seemed more settled and happy after reading it. (mother of child aged 13)

Although giving information to parents to enable them to help their children seemed a generally helpful exercise, some parents commented that they would have appreciated more information:

There should have been information about how to tell the children. A couple of sheets on what to say, what not to say when you tell them, case histories, that sort of thing, maybe a little note about counselling directed towards children. (mother of two children aged 12 and 14)

The more information you can give to parents to give to children the better. What to say, at what time, whether to involve them, whether not to ... they do tend to get forgotten because you're upset. (mother of children aged 8, 13 and 14)

This is an important point, and one which we believe needs serious consideration. It cannot be assumed that parents know how or when to talk to children about difficult,

sensitive and emotional issues. Often, parents' avoiding saying anything appeared to result from lack of knowledge or confidence about how to put what they know into action. They may have benefited from more support in their task. It seems the information itself was not enough to enable them to broach the subject with their children or talk to them about what was happening. They would perhaps have benefited from talking with someone specifically about how best to help their children:

I read them but have since got rid of them. I'm very bad at talking to the children about it. It's because my own parents never talked to me about anything. I've got my own pain to deal with. The 20-year-old is the worst of all. She won't talk about it ... I think if I gave her a leaflet it would upset her even more. (mother of child aged 9 and a 20-year-old)

One of the things I've been concerned about relates to the responsibility of helping them at a time when I'm feeling emotionally fragile and upset, overloading them with awkward adult business. What information is reasonable to tell them without them being burdened with worry? (father of children aged 10 and 16)

I suppose I felt I could have done with a lot more. It just touched on it. If there's one need I do have now, it's to talk to someone about my daughter. I'm not quite sure what to do about it ... I don't know how to get her to talk. She won't talk about the situation. She clams up immediately ... my daughter could do with someone to talk to. I don't even think she talks to her friends much about it. (mother of children aged 15 and 16)

Drawing the Evidence Together

Our in-depth interviews with parents, together with the data gleaned from 1,230 follow-up interviews, have indicated that parents take a host of factors into account when deciding whether or not to pass leaflets on to their children. It is evident that the information meetings operated on the basis of the parent being the gatekeeper of information. If information aimed at children is imparted via parents, there will inevitably be a filtering process and not all the leaflets will be passed on as intended. Parents make judgements about the appropriateness of the materials for the age of their child, and, as we have seen, this does not relate only to reading ability. Parents also judge whether or not their child will cope with the leaflet or be upset by it.

Parents also made judgements about the progress of their children through the separation process and decided how to use materials accordingly. For example, one mother told us that her children were very upset when their father left and 'couldn't understand why Daddy couldn't live with them'. She commented that her husband did not explain to the children what was happening and felt she was being painted as 'the bad person'. Yet this mother did not give the children's leaflets to her children, because she preferred to make her own judgements about the timeliness of imparting information:

I didn't want to do too much too soon. I'll tell them as and when they ask.

She went on to describe the video shown in the group presentation as

very good, especially the children talking. You are wrapped up in yourself. It's easy to feel the less children know the better but they need to know more.

I didn't want the children to feel it was something they had done. (mother of children aged 7 and 9)

Some parents found the information patronising and felt that their authority as parents was being questioned by it:

The information meeting comes across as politically correct – put the child first – the information is given in such a way it assumes you've never thought of the issue yourself. I've thought about nothing but my child, several times a day, for the past year. (father of child aged 1)

Others found it difficult to put what the leaflets were telling them into practice:

The eldest boy gets upset if he feels he's being pushed into being 'piggy in the middle', or if I make comments about his father. So it's very difficult. The information session advised us to tell schools and so on – that's the last thing the lads want. They don't want people to know. They certainly don't want the schools involved. It's not appropriate in our case. (mother of children aged 5, 10 and 14)

I've been forced to agree not to (talk to children about the divorce). I had to sign a paper from her solicitor that I would not talk about the divorce in front of the children. The information leaflets have informed my thinking about the children but I have not used the leaflets as such with them. (father of children aged 8 and 9)

For some parents the leaflets had a deeply symbolic significance. For example, one mother felt that giving the leaflets to the children would signal the end of hope:

By showing them the pamphlets you are destroying that hope that everything will get better. I don't know whether it's a good or a bad thing. (mother of children aged 9 and 11)

Parents decided what they felt was best for their own child, particularly if they perceived their children to be very confused:

My oldest ... is one of these who reacts to a situation, and to analyse it for him doesn't seem to help, to be honest. I've just let him rage, he's gradually coming round. I don't know, it's difficult to know what's going on for him. Then one time he did say 'It's all my fault' and I said 'No, it isn't'. He says peculiar things like 'when Daddy's not married to you he won't be my Daddy anymore', things like that. He knows his Daddy is getting married again and he said 'he'll be my step-dad ...' but as long as he knows we're there for him, that's the main thing. (mother of children aged 3 and 7)

During our direct work with children we found that the phrase 'Your parents are not divorcing you' was poorly understood. The word 'divorce' may, in fact, be less familiar to children than 'splitting up', or even 'separating'. Parents often struggle with terminology. One mother tried to explain to her children that since they had survived the 'separation' of their parents the 'divorce' was nothing to worry about and would be easier. She noted that it was the word 'divorce' which scared them:

I've tried to explain what separation is and how it's worse than divorce – like 'cancer' the word 'divorce' is scary. (mother of children aged 8, 12 and 13)

In another instance, a father assumed that his son would be upset by the word 'divorce', which he and his wife had avoided using. When his son did not seem upset, the father initially interpreted this as his son not caring that the family unit was dissolving, but later he accepted that after a separation divorce may not be as traumatic:

I can't remember now exactly what the leaflets said ... I just told him that we didn't love each other in the way we did when we got married. I told him we were going to live in separate houses. Later that day I said, 'If you've got any questions, you will ask, won't you?' And he mentioned something about how my wife doesn't wear her wedding ring. And I said, 'No, because she lost it about a year ago, but she probably wouldn't wear it anyway, once we get divorced.' 'Oh, you're getting divorced, are you?' he asked. I said, 'Yes, is that okay?' and he said, 'Yes, didn't realise, that's all.' When I told him we were going to separate, he thought it would be a case that we would still be a family unit. I had wanted to tell him we were getting divorced, but my wife didn't want to. She wanted to put it in terms he could understand and liken it to one of his other friend's parents who have separated, so we did. But obviously the actual word 'divorce' – he knew what it meant, and because I didn't use it in the first instance, he thought we were just going to have a trial separation. He didn't understand it fully until we said 'divorce', but I think he did know something. It does, in my mind, explain a lot. He didn't start crying when I told him, like I thought he would. And that upset me. I didn't want him to be upset, but I expected him to be upset, which would have shown how much he cared about us as a family unit. He didn't show any emotion, and it made me upset that he didn't care that I was going to disappear. Now I think it was more a matter that he already knew what was going on and he had got accustomed in his own mind that that was going to happen. (father of son aged 9)

The confusion some children experience is evident from the above quotations. Separation represents a time when parents are experiencing a range of emotions and communication between parents and children may not be all it could be. The following stories of four parents tell how they attempted, with varying degrees of success, to keep their children informed about what was happening. The stories explore the use the parents made of the information provided to them directly and whether it was of help to them. They also examine the use, if any, that they made of the leaflets designed to be given to their children.

Alison – feeling reassured⁷

Alison's story was not unusual and reflects many of the themes raised in this and the previous chapter. Alison gained reassurance from the information she received at the meeting, but did not describe it as having any major impact. She had found the information useful in that it helped her explain what was happening to the children. She gave the children's leaflets to her elder child in addition to talking with her, not as an alternative to discussing issues. Her separation was straightforward, and although she did not find the situation ideal she was making the best of it and was determined to put her children's interests first.

Alison was a mother of two children aged 8 and 9 who lived with her. At the time of the in-depth interview she had been separated from her husband for fifteen months but was not involved in divorce proceedings. Her ex-partner saw the children every Saturday

⁷ All the names used in this chapter have been changed to protect confidentiality.

morning when Alison went to work. This was an informal arrangement negotiated between the two of them. She would have preferred her husband to have seen the children for a longer period of time than just a Saturday morning. They occasionally stayed over at their father's, and Alison would have liked this to have become part of the regular arrangements. However, she had anticipated that her husband's contact with the children would diminish over time and had not envisaged that it would be as regular as it had been to date. She claimed state benefits and so the CSA had become involved in the case and formal maintenance arrangements were in place.

Alison and her husband had been still living together at the time of the information meeting. Alison's main concern when she went to the information meeting was how to tell her children about the forthcoming separation. She was attracted to the information meeting by an advert in the local paper which focused on the needs of children whose parents were going through separation and divorce. She felt the information was useful to her and provided a good starting-point. *It was nice to have something that had been prepared by somebody else, even if you just picked out bits and pieces – it's somewhere to start.* Alison, like many other parents with whom we have spoken, found the information reassuring in that it made her realise *these things do happen to other people.* The message she took from the information she was given was that it was important to keep children informed about what was happening and to talk to them. She remarked that she would *always put the children first*, but, she said, *different things were pointed out at the meeting* which reinforced the importance of communication. The couple told the children about the forthcoming separation together, but following this Alison believed that the children were more inclined to approach her than her husband with any questions about the separation. She commented that the concerns the children had voiced centred on *little everyday things* like *who the dog would live with.* The children were not involved in decision making about arrangements, although they were kept informed. Alison felt them to be too young to be involved in making decisions.

The school was informed when the parents split up and Alison described it as very helpful in keeping her informed about what was happening at school. Her daughter, the elder child, appeared to be coping well, but she reported that her son became *more clingy*, though she was unsure whether that was a result of the separation or a phase he would have gone through anyway.

Alison had given the children's leaflet to her daughter, but not to her son, who she felt was *too young* for them. However, her giving the leaflet to her child was very much an additional measure, and not a substitute for talking to the child. She was happy with the content of the leaflet. She did not feel that changing the children's leaflets in any way would have made her more likely to have given it to her son. She preferred to talk with him and did not feel that giving him a leaflet would have been beneficial. Alison was clear that her children had responded to the situation in different ways, and therefore the way in which she handled things with each child varied. Her giving the leaflets to one child and not the other was an example of this. She felt that reading the children's leaflet as a parent had been a useful exercise since it had made her more aware of what her children might be feeling. She felt that the information for parents was helpful, particularly since telling children about separation was something *that you don't know how to handle yourself – you've never been in that position before.* The information was something she had used by rephrasing it and *putting it across in my own way.* Other parents have told us that the information gives them the words to use with their children, or tells them what to cover or how to put things, and that this is invaluable, even though they may never actually pass on a leaflet to their child.

Alison could recall being given a parenting plan after the meeting and described it as generally helpful. *It highlighted issues that occur and things that you think may well be a problem later on, and it highlights potential problems.* She specifically mentioned two sections as being particularly helpful, those on school and holidays. These were two areas which she described as being *a bone of contention* between herself and her husband at the time she got the plan. She filled in the section about school because parents' evenings had arisen as a sticking point between the couple, but she did not complete any other sections of the plan. She had not shown her husband or the children the plan. She discussed it with a close friend who had accompanied her to the information meeting and whom she found supportive. Alison felt her children were too young to be burdened with finalising arrangements, but felt that as the children got older they would become more involved in decision making. In such situations, especially where there are teenagers, she felt the plan could be particularly useful as a guide to making arrangements with children.

Like many parents to whom we spoke, Alison described her role as a parent as having changed since separation, in that she felt her responsibility for the children had increased. She commented that she now had *almost total responsibility for them, not shared responsibility. I now take 99 per cent of the responsibility, the house, the children, and everything that goes with it.* Alison, like other single resident parents we have interviewed, saw parenting following separation as an increasingly individualised business. She felt that although communication with her husband was *improving*, it was she who made the decisions and then negotiated with her husband about how to put them into practice, rather than the two of them talking extensively and reaching joint decisions.

For Alison, the most important thing about being a parent was *being there* for her children. *Being there, guiding them through the maze of life, picking up the pieces when things go wrong, being there with homework, being there for the good and bad things, being there for them and helping them have a good start in life.*

Derek – negotiating through a relative

Derek was a non-resident father with a 13-year-old son. He had been separated for 18 months and was still involved in divorce proceedings at the time of the in-depth interview. His divorce was being handled through a solicitor, although the existing contact arrangements had been arranged informally through Derek's mother. His mother lived very close to his son and ex-wife and so her home was frequently used as a dropping-off and picking-up point. Also, because of the close proximity in which the family all lived, the boy had frequently visited his grandmother and continued to do so after his parents separated. Derek knew when his son would be at the grandmother's home and could drop round and see him there. He felt that the informal arrangements worked reasonably well. *I see plenty of him.*

Direct communication between Derek and his ex-wife was non-existent, as it had been since they separated, so his mother played an important role in passing messages between the two parents. *We haven't been able to have any mutual discussion except through a third party.* He did not see that mediation would be worth pursuing since he felt his mother provided a similar role. Derek wrote to his ex-wife when an issue arose that needed to be addressed and the reply often came back via Derek's mother. At the time of the in-depth interview there was an unresolved issue about holidays. Derek's son was currently staying with him while his ex-wife was on holiday, but she had issued an order

preventing the boy going on holiday with his father and his new partner. Derek said he was careful not to use his son as a go-between to take messages back and forth, unless it was a simple case of informing his ex-wife of something which was a neutral event that did not involve the son making a decision. If any matter arose which involved the parents holding two different opinions or the son making a decision, Derek was careful to use his mother to relay messages, and not his son. He mentioned whether or not his son should give up his music lessons as an issue about which he would not relay messages via his son, since the boy obviously had his own opinions on this matter. In such cases, the grandmother was used as the go-between.

In retrospect, Derek felt that talking to his son about the separation was something that happened quite late on. Derek had been living at his mother's for a fortnight when the couple told their son of their decision to separate. He described his son's reaction as follows: *I think he was shocked, but he didn't say much at the time and the only thing he did say was 'You're not going away?' and I was able to reassure him immediately that I wasn't ... I think he actually started to handle it pretty well from quite early on. I've actually been impressed as to how well he has coped.*

Derek did not give his son either of the children's leaflets, but he described how he used them himself and took ideas from them and then used what he had read to talk to his son. *I actually used the information from those leaflets. For me it was a better way to do it. I'm fairly articulate, I'm fairly emotionally open, so even if you're going through a bewildering time or a pressurised time yourself, it's helpful to get bits of information. Like many other parents Derek described the information as reassuring. It made him realise that he was not the only person to have felt as he did. This is par for the course – you're not unique, this is how it is. Derek described how he wrote his own notes about what he would tell his son, drawing upon what he had read. *Although I did it informally, I sat him down and told him about it. It was actually something I'd written myself, notes and points so that I knew that I was saying all the things that needed to be said but so that I wasn't reading him a manifesto.* His desire to use his own words and tailor what he said to his son to make it relevant to their situation also played a part in why he decided not to give the leaflet to his son. He did not want to give his son something which was prescriptive. *I didn't want to hand him a leaflet and say look, here's a leaflet that says you're allowed to be upset, but I could make him see and let him know in my own light [way] and his own light that he was allowed to feel upset, to feel angry, to feel bewildered.**

Despite his not giving the leaflet to his son Derek felt that having information for parents about the needs of children was extremely important. He remarked that in cases like his, where the acrimony was such that it prevented any direct communication, it was important to have the child's needs pointed out so that the adults remember to consider children too. *I just think that seeing something written down for a child, treating the child as an individual and not as the pawn in the battle, is actually quite like a bucket of cold water over two fighting dogs, and I think it is probably to the good.*

Derek described the first year following the separation as unsettling for his son since they did not manage to establish a routine straightaway because his wife was ill. After a time things settled down and although at the time of interview the divorce was not yet finalised, his son appeared more settled. Financial matters were dragging on through the solicitor's. Derek felt that the information he had got from the meeting and pack had come at an ideal time for him, since he had not fully considered all the ramifications of the separation from his son's point of view and the information made him very aware of

this. He found the parenting plan particularly helpful in drawing his attention to many areas which he had not thought about at the time, but which he realised would be very important to settle. He filled in the plan on his own and did not discuss it with his ex-wife or his son. He explained how he felt the plan could be filled out in two ways – what the situation was like at that time, or what you would like the situation to be: *That points out the gaps between what there is and what you'd like there to be.* He suggested that having two columns in the plan to enable the present situation and future hopes to be logged would be an improvement.

Like Alison, Derek described his functioning as a parent in terms of his *being there* for his son. However, as a non-resident parent he sometimes found this difficult and lamented the fact that he missed out on the day-to-day events in his son's life. For example, he had no knowledge that his son had been producing incomplete homework until some time after the event. *Part of the problem as an absent parent is that you are by definition not there all the time, and not there as much as you should [be], and not there when things blow up unexpectedly, which is often when you're most needed ... we've always been very close and I had a lot to do with his very early upbringing as I worked a lot from home and we need time together to have fun. I miss that not always happening. [My son] being the age he is, it tends to come in rather disguised form, like unexpected wrestling matches.*

Derek hoped that the relationship between himself and his ex-wife would improve. He wondered, as his son got older, what changes that might bring to the relationship. He described it as *a situation which remains very difficult to judge.* He told us that he planned to marry his new partner as soon as his divorce came through.

Nicola – unhappy with arrangements

At the time we spoke with Nicola she was very unhappy with the arrangements for her two boys, aged 14 and 15. The arrangements were informal and had not involved any professional input. However, despite the informality, she felt the arrangements were being dictated by her ex-partner. She had been separated for two years, but was not involved in divorce proceedings.

When the couple first separated, the boys stayed with Nicola and saw their father every other weekend. This situation persisted for six months until her husband announced that he wanted the boys to stay with him every other week, so in effect the arrangement became one of shared care. She believed that he suggested this arrangement so that he did not have to pay her any maintenance. She did not feel that this arrangement was in the children's best interests, particularly not those of the younger boy, whom she described as *permanently fed up at picking his wardrobe up every week ... he's at the age where he wants to spend time with his friends.* The older boy appeared happy with the arrangement and the younger went along with his older brother. However, Nicola also felt that the boys did not want to end up taking sides. *They felt OK about it. I think they were in the situation where they didn't want to take sides with parents, and even though I didn't think the living arrangements were very good, they were prepared to do that.* She had broached the subject with the boys and reassured them that they could change the arrangements if ever they wanted to. *I know they wouldn't say no to him [their father], so I just made it clear that any time they wanted to change it [the arrangement] back to staying here then that would be OK.*

Nicola had been to see four different solicitors for an initial interview but had not taken matters any further. She had been told that because the children were older their wishes would be taken into account and would be considered in any arrangements that were made about where they lived. Nicola believed that they would probably say they were happy with the current arrangements. *The impression I got from the solicitor, well I didn't particularly want to put them through the process of going for a court order ... at the end of the day, because of their ages I've been informed that they get a chance anyway, so if they were asked 'So you want to stay with your dad one week and your mum the next?' I think the answer would be 'Yes'.*

Nicola felt that the whole situation was bound up with financial matters which the couple had also settled informally but which she also found to be unsatisfactory. She felt her husband was annoyed that she got Child Benefit for the boys and he did not. He had originally agreed to pay half the mortgage when he first moved out, since it was a joint mortgage. However, he had started buying the boys expensive clothes and deducting it from the money that he gave to her for the mortgage. At the time of interview she was receiving no money from him for the mortgage and was worried about how she would manage. *He's never bought them clothes in his life and I look for value for money clothes because we've never been well off financially but now he's buying the best clothes ... at the moment I'm not getting anything and I'm realising that it is going to be very difficult for me to manage and I've got to find some other way of making the money.* She had contacted the CSA in the hope that they might be able to offer some assistance.

The relationship between Nicola and her husband had been poor for some time. They had lived separately in the same house for some months before he had moved out. She explained that both she and her husband talked to the boys about the fact that their dad would be moving out, but they did this separately with the children since they found it too difficult to talk to each other. She commented that the children had said very little about the situation, but she felt that the relationship between herself and her husband was so bad that it must have impacted on them. She found it difficult to talk to the boys since she was afraid that this would exacerbate the situation and come across as *your dad does this and it's not right*. She also felt that the boys were not particularly interested in talking about the situation, and she did not give them the leaflets because she did not believe they would want to see them. *From what I remember they were for young children and I knew mine didn't really want to go through leaflets.* She did not consider that anything could have been in the information pack which would have been helpful for her children.

Nicola was one of those parents who could see the benefit of information leaflets for other children, but did not feel that in her particular case they were of any use. For her, the situation would only be resolved were she to get residency of the boys, but did not see this as likely to happen. *I took it [information] on board ... I feel children should stay in one house, but had I gone for residency I don't feel it would have any effect.* She had not filled in the parenting plan and did not intend to do so because *it wouldn't alter anything ... my husband has decided he's having them and there's nothing I can do. I didn't have a decision or a choice to make.* Once again, she felt that the plan might be helpful to others.

The interview with Nicola was very much dominated by her desire to have her sons living with her. In the immediate future she did not see this happening and felt it could only happen if her husband decided it should. She appeared to feel powerless in the situation. She spoke of the way in which she felt her own role as a mother had changed since the separation and how she felt her role was being usurped by her husband. *I'm still a mum, but like I said, he'd never bought clothes for them and when he did I thought he took part*

of my duties away. That's one thing I used to do. Whereas before the separation Nicola would spend a great deal of time with her mother-in-law, since the separation she had refused to speak to Nicola. Her mother-in-law cooked the boys' tea when her husband was at work, and Nicola found this situation difficult to accept.

Nicola's hopes for the future were that the boys would come back to live with her, and for her being a parent meant *having the children's best interests at heart.*

Andy – complex families

At the time of the interview Andy was separated from his wife and involved in divorce proceedings. He had been married previously and had two teenage children from his first marriage who had lived with him for several years. These children saw their natural mother when they wanted to. He also had a 7-year-old child from his second marriage and while married to his second wife he was stepfather to her twins, who were aged 10. When they first split up, Andy's two stepchildren and his youngest child lived with their mother and Andy did not see them since his ex-wife refused him contact. However, he described a big row which had taken place between one of the 10-year-old children and the mother and her new boyfriend, and as a result the child had come to live with her stepfather and the youngest child had come to live with him too. His other stepchild remained with her mother. Therefore, at the time of the in-depth interview Andy's three biological children lived with him, as did one of the stepchildren. He had no contact with the second stepchild (i.e. one of the twins). He was concerned that the children did not see each other except at school, and this was a situation he hoped to resolve since it was upsetting the children. *They miss each other,* he said.

The arrangements were informal, although Andy had been to the solicitor with suggestions about how he could get all the children together and how he could encourage the stepchild that lived with him to see their mother. However, his ex-wife would not speak to Andy at all, and he described the various communication problems as *difficult for the kids. I feel for them.* He commented that a family court welfare officer was involved in the case since he had approached one for help, but that progress with his ex-wife was slow. *The impression that I got was that she was giving her [the family court welfare officer] the cold shoulder as well.* He felt the situation would end up in court, although he wished to avoid involving the children in any court proceedings. He reported that he tried to keep the children informed about what was happening. *If I didn't tell them they'd pick up bits and pieces and jump to the wrong conclusion all the time, so I'd rather give them the whole story without the gory details and let them make their own mind up.*

Andy described how at the time he and his wife split up everything happened within the space of a couple of weeks and in retrospect he did not feel that they talked enough to the children. *We spent about half an hour during that time and that was it.* The reaction of the children had *been a lot of tears, a lot of confused looks. They didn't really get a chance to think about it. We spoke to them on the Thursday night and she moved out on the Saturday.* He reckoned that the oldest two children coped better than the younger ones. He did not consider the impact on the stepchildren as any different from the impact on his natural children. *It's always very difficult. I never saw them as my stepchildren anyway. I just saw them as my kids and they called me 'Dad' from day one.*

Talking with the children was something which Andy had tried to encourage over the course of time. He also tried to encourage the children to make contact with their mother,

but this had met with varying degrees of success. He saw communicating about what was happening as important. *Just being there for them, if they want to talk, trying to encourage them to talk, trying to encourage them to have contact, I suppose trying not to keep them in the dark about anything. We've had a couple of court dates come through and I've told them about them each time.*

Andy had shown the children's leaflets to his children but did not get much feedback on what the children thought of them. The leaflets were kept in a drawer in the kitchen and the children knew they were there if ever they wished to refer to them. Andy himself felt that the leaflets were pitched at the right level for children. *I thought they were very good. They were informing, rather than talking down to children. They were easy to understand and not too long-winded. I think especially with some kids it's very useful not to be long-winded.* He thought the idea of having literature aimed at children was helpful. *It helps explain and tell them it's not their fault. It shows them they're not alone and they can see there's somebody there for them and where to get some help and advice if they want it.* He did not think that the leaflets had a dramatic impact on the children, but that giving them the leaflets *may have generated a few questions sooner rather than later, but I think all the questions that came out would have to come out eventually.* He wondered whether a video aimed specifically at children would be a useful medium to consider.

Andy had found the parenting plan useful – *it's given me food for thought.* He had filled in sections of the plan, but could not remember which ones. He mentioned school holidays, Christmas and birthdays as occasions which might require a little more thought. *It gives you the opportunity to think about and make arrangements for the future.* He felt that putting two copies of the plan in the pack would have been useful. He had sent the plan to his wife in the hope of building up communication, but this had not worked. However, despite the fact he had found both the leaflets and the plan useful, in common with others, he felt that information about stepfamilies was lacking. *I know when my wife first stopped letting me see the kids I couldn't get any information anywhere on the legal rights a step-parent might have to see their children.*

The financial matters relating to maintenance of the children had been settled informally and had changed as the situation has changed. When his stepchildren and youngest daughter lived with their mother, he used to pay maintenance to her monthly. However, when most of the children moved back in with him he stopped paying maintenance but did send pocket money and presents to the one child who did not live with him.

Andy commented that the changes brought about by this separation were not as dramatic for him this time round as they had been when his first marriage ended. He reflected that then he had had to get used to washing and ironing, but he was well used to that now and the children were all good at helping out. However, having four lots of homework to help out with demanded quite a bit of his time.

For Andy, as for the other parents, parenting was about *being there. Being there for the kids. Advise them as good as you can, be a friend to them. They all know if they want to talk about something they can do.*

Children's Views about the Leaflets

Although we obtained a good deal of information from parents about the use of the leaflets written for children, we believed it important to obtain the views of children

themselves and to give them a voice. In order to do this, in December 1997 we set up focus groups with 25 children aged between 7 and 16 who had experienced their parents' divorce. We believed that consulting children in this way about how information about separation and divorce might best be provided was a novel approach, and this exercise formed only the beginning of our research in this area. While such a small number of children cannot be seen as a representative sample, the detailed information they provided was valuable for the process of revising the leaflets. The focus groups were set up and conducted by Erica De'Ath (Chief Executive of the National Council for Voluntary Child Care Organisations), and consisted of children each with a parent who was a member of Gingerbread, a single-parent support organisation. We provided a detailed discussion of these focus groups in our First Interim Evaluation Report.⁸ Although only 25 children were questioned at this stage, the comments they made about the separation and divorce process reflected findings from other research. They told us:

1. Children usually want their parents to talk to them about the situation, but most parents do not.
2. Raising the subject with parents is difficult for children.
3. Friends and other family members may be important sources of support for children.
4. Children want to know why their parents are splitting up.
5. Children want to know about practical arrangements for the short- and longer-term future.

They made a number of specific comments about the leaflets:

1. Information leaflets for children need to be visually attractive, easy to understand and jargon-free. (Most of the children felt the leaflets looked very 'adult'. They thought the colours were dull and would not attract children.)
2. The inclusion of helpline numbers for children is helpful.
3. Some children prefer to read books and leaflets alone, rather than with their parents; others think it better to talk things through with one or both parents.
4. Children may prefer to keep the knowledge about their parents' separation very private, so they may not readily access information materials in school, libraries or other public locations.

⁸ Spinks, McCarthy, Richards, Mitchell and Stark (1998), *op. cit.*

On the basis of these and other comments children had made, we made a number of suggestions about the ways in which the leaflets might be modified and presented:

1. The section about children in the information meetings should stress that there are leaflets intended for children in the pack, and parents should be made aware of the reasons for offering these to their children.
2. The appearance of the leaflets is important. Illustrations in leaflets should depict parents and children. Bright primary colours are preferred.
3. The language used in leaflets should reflect the collective family experience of divorce as children perceive it. This should be reflected in the titles of the leaflets.
4. Despite the tentative way in which the leaflets suggest how children might feel at separation, many children, especially the older ones, felt that mentioning particular feelings in this way was too prescriptive. Instead, they suggested that a leaflet for older children might use first-hand accounts of what children feel. These would provide opportunities for children to identify or not with feelings other children may describe. Such accounts by children have proved popular and effective in other contexts. Presenting this information in a small diary format, with spaces for them to write in their own feelings, might be particularly effective for teenagers.
5. For children in middle childhood, information should be designed so that it can be read or worked through either with or without the assistance of a parent or other adult.
6. Children expressed a need for information which reflects their changing circumstances in the future. The contents of the leaflets should avoid any emphasis on divorce as a crisis. Instead the focus should be upon the longer-term transitions, including information about remarriage, living in stepfamilies, and how to maintain contact with absent parents in the years following divorce.
7. For the youngest age group it was suggested that a workbook format, such as is used by some organisations offering counselling to young children, might be most effective.

In the light of these suggestions, an Advisory Group was established by the Lord Chancellor's Department in February 1999 under the direction of Erica De'Ath, to review and redraft the leaflets originally produced for the information meeting pilots. It was agreed that the group should comprise a range of people and organisations with acknowledged expertise and experience in addressing the needs of children of separating/separated and divorced/divorcing parents. This would include practitioners working with children in a counselling role (face to face and by telephone), researchers and voluntary organisations whose primary focus was to provide advice, information and support to children, and young people and parents going through such family change. The

group reviewed the previous set of leaflets (two for children, one for parents) and recommended a number of revisions:

1. The number of leaflets should be extended to cover three age bands instead of two in order to cover the wide age range (0–18 years). This was subsequently agreed with the Lord Chancellor's Department (LCD). It was agreed to work to a brief of under eight years, nine to twelve years, and thirteen and over.
2. The leaflets should be appropriately sized for the different age groups (i.e. A4 for the under-8s, hip-pocket size for teenagers).
3. The leaflets should be more colourful. The brief was to build a corporate package of leaflets around the parenting plan, using the same colours and similar layout as far as possible.
4. The leaflets should be interactive in a way that is appropriate for the different age groups.
5. Revisions should build as much as possible on already existing material rather than start without any reference to other known and respected information already available.

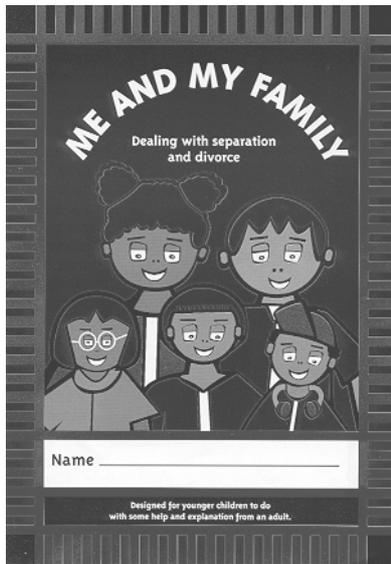
Four leaflets were designed as a result of these discussions. Three of these were written for children (Figure 24.2):

- 'Me and my family', for children aged eight years and under. This leaflet was designed to be used by a child and an adult together.
- 'What's going on?', for children aged nine to twelve. This leaflet was designed for children to work through on their own or with a friend or family member if they wished.
- 'Working it out', for teenage children.

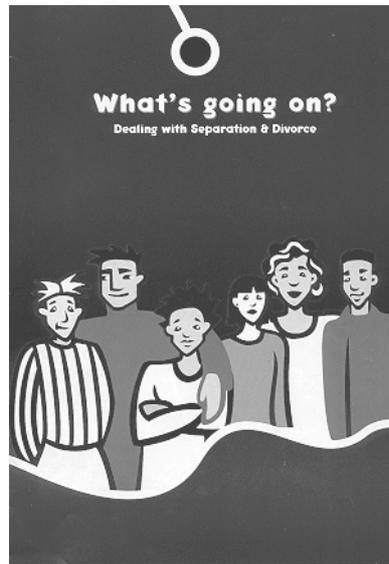
We have tested these leaflets in a number of different ways (see Annexe 4):

1. Through a small focus group of twelve parents who had themselves experienced separation or divorce.⁹ The group was arranged through Gingerbread. Five fathers and seven mothers, their ages ranging from around 25 to around 50, took part in the discussion. They varied in respect of the number of children they had, the age range of their children, the length of time they had been separated or divorced, and the age of the children when the family had broken up. They were all resident parents with primary responsibility for their children. Many had also repartnered and were living with stepchildren.

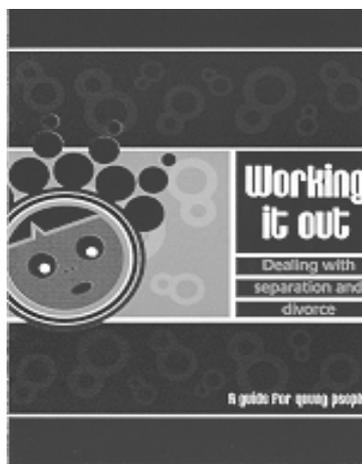
⁹ De'Ath, E., *Family Law Implementation Pilot Project: Children's and Parent's Leaflets for Information Meetings*, National Council of Voluntary Child Care Organisations Report to the Lord Chancellor's Department (September 1999).



'Me and my family', for children 8 years and under



'What's going on?', for children 9 to 12



'Working it out', for teenagers

Figure 24.2 The covers of the three revised leaflets for children

2. A classroom evaluation of the revised children's leaflets.¹⁰ Five co-educational schools, three in Newcastle, one in Mid-Glamorgan and one in Suffolk, agreed to provide mixed ability groups of 20 to 25 boys and girls for sessions of approximately one hour. Altogether, 301 children evaluated the leaflets in 14 classes. The ages of the schoolchildren ranged from 8 to 18 and each class was given the leaflet appropriate for the age of the children. Where the children were around a transition age from one leaflet to another, classes were given both relevant leaflets. We promised that no child would be identified in the research, and that no child would be asked about their own family experiences of divorce or separation, or indeed if they had any such experiences, but would simply be asked their views on the leaflets.
3. The leaflet for the youngest age group ('Me and my family') and the parents' leaflet were sent with postal questionnaires to a panel of parents recruited by the Child Support Agency. We received completed questionnaires from 40 mothers who were previously separated or divorced. The mothers offered their own opinion of the leaflet, and reported the views of their child.¹¹

The detailed findings from these three investigations have already been made available to the Lord Chancellor's Department and to the Advisory Group charged with making further revisions. Here we summarise the research findings for each of the leaflets for children.

'Me and my family'

'Me and my family' is an A4-size workbook mostly containing drawing activities (Figure 23.3). Children are asked to draw pictures of their family both before and after it changed, and what they might like to happen if their parents decide to stay apart. They are also invited to draw pictures of their favourite things, including people, pets and toys. Large spaces surrounded by attractive borders are provided for these illustrations. There are also pages containing circles and squares on which children can draw pictures about how they are feeling, the people they like to talk to and the things they like to talk about.

Views on this leaflet were collected from all three investigations: the parents' focus group, the classroom evaluation (using children aged 8–10) and the CSA panel questionnaires. This leaflet was well-received by the children. In the CSA panel study the majority of the children were described as interested in the material. In the classroom evaluation, children of eight to ten were happy to use this leaflet, and most of them enjoyed completing it once they had found pens and crayons that would work on the shiny paper surface; only a few children disliked drawing. One Muslim child felt unable for religious reasons to draw faces or people. The schoolchildren found the booklet attractive, and were generally happy about its size, design and colour. The concerns of the

¹⁰ Rowlinson, A. and Stark, C., *A Classroom-based Evaluation of the Revised Children's Leaflets*, Preliminary Draft Report to the Lord Chancellor's Department, Newcastle Centre for Family Studies (March 2000).

¹¹ Rowlinson, A. and Stark, C., *Leaflets for Parents and Children: the CSA Panel Study*, Preliminary Draft Report to the Lord Chancellor's Department, Newcastle Centre for Family Studies (April 2000).

parents' focus group that the colours were too strong or might be unsuitable for boys proved unfounded. When asked, the schoolchildren tended to say they preferred red and yellow, but accepted the present colour scheme. The children in the panel study were also reported as making positive comments about the colour, style and layout.

The filling in of the drawings and labels on the leaflets by the children showed that they were able to express their feelings in this way. The children found drawing pictures of themselves, family and pets easier than drawing faces with expressions. As the parents' focus group predicted, not all children understood the word 'confused', and some found it difficult to draw such states of mind. Some parents and children found it difficult to interpret the emotion shown in the 'circle the face' activity (Figure 24.3). There was a tendency to limit the drawing response to copying the leaflet graphics in the sections 'Feelings on different days' and 'People/pets/toys'. When asked to 'draw or write two things you would like to talk about', half the children chose emotive subjects connected with the separation, and half chose more general subjects. More girls than boys completed this section, and more girls than boys gave emotional responses. This was the only gendered reaction we noted.

The mothers in the CSA panel study reported that the leaflet most commonly took 30 minutes to complete. Over half were completed in one go; others took two or three goes. The schoolchildren had been happy to talk about their drawings, and in the great majority of cases in the panel study the leaflet provoked discussion between the child and the mother just as the designers of the leaflet had intended. In a few cases this was simply an explanation of what to do, but mostly it was about the situation or the feelings of the child.

In the CSA panel study, one third of the children were described by their parents as being upset by some of the material in this leaflet. Children from long-term separations of over two years were just as likely to be upset by the material as children from separations of two years or less. Nevertheless, many mothers were enthusiastic about the leaflet, and others spoke of it as a worthwhile exercise even where upset had been caused; nine out of ten would recommend the leaflet to other parents. Some mothers who used the material even though they thought it might upset their child were surprised that the child coped; others who thought the situation had been dealt with in the past were surprised that the issues the leaflet raised could still upset their child. It might be expected that children would show signs of upset when dealing with such emotionally-charged material. Indeed, it would be odd if no emotional reaction was shown.

Several mothers thought that the leaflet was most suitable in situations where separation had recently occurred. The leaflet was not thought suitable for children who could not remember the separation of their parents or where their parents had lived, or for children with special needs who could not access the material.

We have seen earlier in this chapter that parents' perceptions about a leaflet may dictate whether they choose to give it to their child. The parents in the focus group had misgivings about the back page of the leaflet, on which the children were invited to draw their wish for the future, since they assumed that children would draw a picture of their parents together. The parents were uncomfortable at the thought of this, and felt that it might make the child think there was a possibility of the parents getting back together again. Indeed, one third of the children in the CSA panel study who completed the back page did draw such a picture. The aim of the leaflets was to encourage children to

Circle the face which shows how you feel about what is happening.

Draw some faces which show how you are feeling on different days.

Happy day	Sad day
Confused day	Angry day

‘Circle the face’ activity

People/Pets/Toys

‘People/pets/toys’ activity

Sometimes it helps to talk about how you feel.

Draw pictures of the three people you like to talk to.	Draw or write two things you would like to talk about.
--	--

‘How do you feel?’ activity

If mummy and daddy are apart or decide to stay apart, what would you like to happen?
Draw a picture in the oval below.

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Back page of ‘Me and my family’

Figure 24.3 Pages from ‘Me and my family’

express their hopes for the future. If their hope was that their parents would get back together, using the leaflet would provide the parent with an opportunity to discuss this and explain to their child why it would not happen. This suggests that the leaflet should be accompanied by some more detailed explanation of how it may be used, and the kinds of responses it may evoke from children and how parents talk about these responses. Four mothers told us that they had chosen not to give the leaflet to their child because they felt the child was too young to complete it, could not remember the separation, or might become upset using it. It seems that parents require some reassurance and some contextual information about when and how this leaflet might be used: parents did not see the leaflet as facilitating their talking with a child of this age. Some parents felt that it would be useful to be forewarned that children might say the things they thought parents wanted to hear rather than what they really felt.

'What's going on?'

'What's going on?' is an A4-size folded pamphlet which opens to reveal a double page spread containing a mixture of facts about separating families and activities to help children explore some key issues. For example, there is a word search containing words, like 'sad', 'worried' or 'confused', which may reflect what a child is feeling, and a word maze intending a reassuring message (Figure 24.4). The leaflet folds out to reveal a large A2-size board game entitled 'The road ahead' (Figure 24.5). As children move round the game they are presented with situations and dilemmas they may meet, as well as statements from other children who have experienced separation and divorce. The back page of the leaflet suggests people with whom children may like to talk and lists some resources.

Views on this leaflet were collected via the parent's focus group and the classroom evaluation (using children aged eight to thirteen). Although this leaflet met with a positive response from the parents in the focus group, it had a very mixed reception from schoolchildren. It seemed to catch the eye of most children and, as the parents predicted, some children were greatly excited on finding the game activities. The word search, word maze and 'Road ahead' game activities, balanced with the 'Filling in lines' activities, were well-received and broadly popular with children aged eight to thirteen. However, there was a mismatch between these game activities and the comprehensibility of the accompanying text that prevented children from accessing all the information in the leaflet. The children themselves had criticisms and made suggestions for improvement.

The overall design of 'What's going on?' was not acceptable to many children. No one was enthusiastic about the title or the picture on the front cover. The children had difficulty writing on the heavy ink colours, especially in the word maze and word search. The colours were disliked, by parents as well as children, and were felt to be dark and depressing, and likely to cause these feelings in children who used the leaflet. Parents and teachers made suggestions for improving the layout of the text and game activities. The size of the leaflet was liked, but some children suggested a booklet style, since the leaflet was too big to open up easily in classroom conditions.

Why families change

There are lots of reasons why marriages don't always work out and family arrangements have to change.

Here are some of the most common reasons:

- growing or drifting apart
- seeing things differently
- unable to agree
- wanting different things
- spending less time together
- wanting to be with someone else
- wanting to go in different directions

When adults make the decision to separate or divorce it is usually because one or both of them is unhappy and they believe that if things are to get better they will need to live apart.

Can you think of the reasons why your parents might want to separate or divorce? Write them in the space below.

.....

.....

.....

Always remember - never forget

It is not your fault that this is happening.

Your parents may decide to separate from each other but they are not divorcing you.

You have the right to say how you are feeling and what you think about decisions that will affect you.

Your parents will always be your mum and dad even if they separate or divorce.

You may feel - angry, helpless, upset, relieved or your feelings may be all mixed up.

It's Okay

- to feel confused or scared about what might happen in the future.
- to feel sad or angry.
- to feel different things at different times.
- to talk to your friends - other people at school will have been through this too.
- to tell your parents how you feel.

It's Not Okay

- to blame yourself for what is happening.
- to keep all those feelings inside you.

All families are different, that's what makes them special. Everyone in your family has feelings too.

List the people in your family who are closest to you.

.....

.....

.....

.....

Which feelings from the word search below do you feel sometimes?

do you think the people you have listed above feel sometimes?

Name	Feeling
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

WORD MAZE

Follow the letters and write down what you find.

.....

.....

.....

WORDS SEARCH

Confused, scared, angry, upset, sad, guilty, happy, lonely, bad, frightened, loved, ok, stress, alone, good and worried.

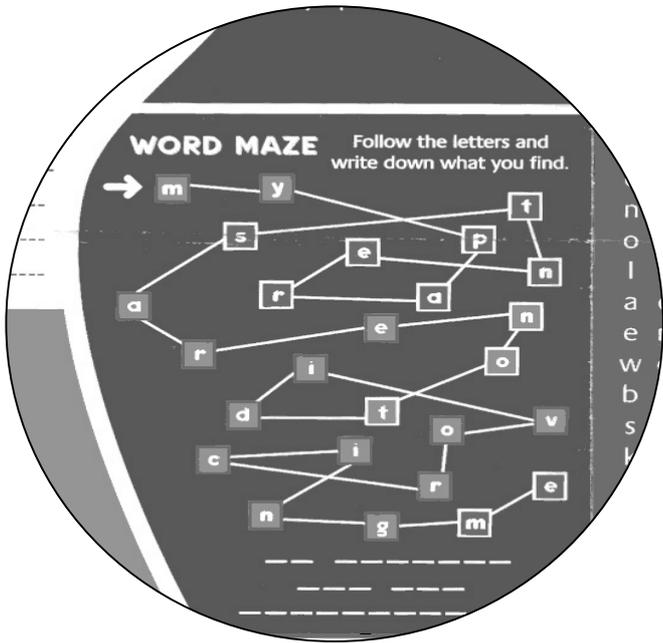
How many words can you find? Draw a circle around the words you can find.

ex c o n f u s e d v
n u s c y r g n a q q
o y p o j i d a g y r
l l s s n g r y o t e
a e c s e h u e o k d
e n a t e t o i d i a
w o r r i e d y l u s
b l e e k n e l s t v
s a d s d e v o l a y
k t d s t d h a p p y

Circle the feelings above that you share with others.

Open the leaflet up to see what's on 'The Road Ahead'

Activity pages



Detail of word maze

Figure 24.4 Pages from 'What's going on?'

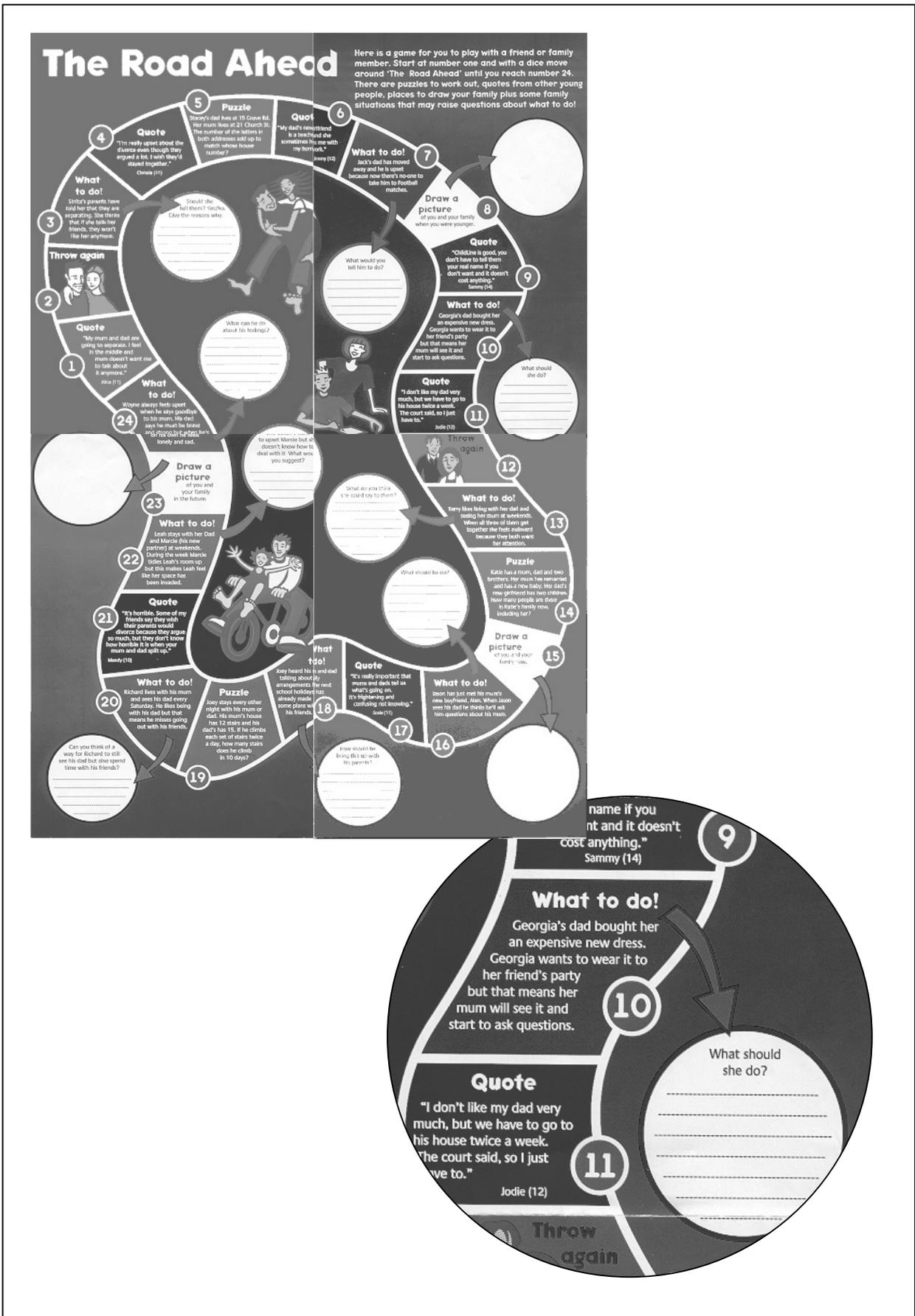


Figure 24.5 'The road ahead' game from 'What's going on?'

The written material in the main body of the text, and in the 'Road ahead' game, was too advanced for many 8–12-year-old children to read easily on their own. However, for children of thirteen and fourteen, who are able to cope with the language, the appeal of the games and the leaflet format had decreased, and these children considered the leaflet too young. The net result is to leave the average 9–11-year-old child without access to information. Also, although the large writing and games in this leaflet were good at enticing the children not normally attracted by leaflets, these were usually, whatever their age, the children with weaker reading skills, and any hope of communicating with them other than through the games will depend on simple language being used. Understanding the current text depends on a level of reading ability above the average capability of the children attracted by the games.

Those children who understood the text, or had it explained to them, were stimulated to discuss and to think about the situations described, since these were within their comprehension. However, the choice of sentence for the word maze, 'My parents are not divorcing me', was liable to be misunderstood by 8–10-year-olds, who could interpret it as saying that the parents were not divorcing. Children enjoyed the word search, but found faults in it. Many of the children who were able to read the text found the overall tone of the leaflet depressing. Opinion was divided as to the extent to which this leaflet would help children whose parents had separated or divorced. Eight-to-twelve-year-old children wanted to recommend that a leaflet should make others happy. Only 13- and 14-year-olds began to see any benefit in thinking or writing about events even if this made them feel unhappy.

Children were attracted to playing the games as an enjoyable thing to do, and not by any thought of getting support during situations of separation or divorce. Many children in the classroom evaluation thought that this aspect of taking their mind off things was the main benefit of doing the games. Consequently, they commented that many of the games had a sombre undertone. It may be that the games were deliberately designed to confront children with difficult situations for some cathartic or psychological reason, but the children in the classroom situation found them depressing, and worried about their effect on children in situations of separation or divorce. It was not that they felt that the bad things should not be mentioned, but that the overall balance was too negative.

'What's going on?' seemed to appeal most strongly to the children who liked to do games, and saw the benefit in doing this as taking their mind off things. For the same reason, they felt that the leaflet should be brightly coloured, and not contain depressing information. Other children, able to read the text and often older, could see intrinsic benefits in the help and emotional support offered in this leaflet. They recommended it for other, younger children, but they themselves preferred the teenage booklet. The overwhelming majority of the 12–13-year-olds who were shown both 'What's going on?' and 'Working it out' preferred the latter. As regards those classes shown both 'What's going on?' and 'Me and my family', all the class of 8- and 9-year-olds and half the classes of 9- and 10-year-olds preferred 'Me and my family'.

Despite the negative response from many of the children, parents indicated overall support for this leaflet. In particular, the message 'It's not your fault' was felt to be especially important.

'Working it out'

'Working it out' is a small pocket-size booklet which tells the stories of several teenagers whose parents have separated (Figure 24.6). It also contains sections about feelings, changes that happen following separation, and the importance of talking. An explanatory section on the legal system and legal terminology is also included, as is a page of contacts and resources. A few of the pages contain spaces for the young person to fill in their thoughts and feelings (Figure 24.7) and one page includes a 'True or false?' quiz (Figure 24.8). The pages include graphics which run throughout the booklet and are designed to appeal to teenagers.

The views we received about this leaflet came from the focus group of parents and the classroom evaluation (which used students aged fourteen to eighteen). The leaflet appears to be in an approved format, especially for the age range twelve to sixteen. Older children of seventeen and eighteen perceived the leaflet in its current form as not being targeted at them, but found some sections valuable.

All the children in the classroom evaluation generally saw the leaflet as attractive and did not echo the parents' concerns that the colours were too violent, or that the booklet looked too 'official'. The colours were generally acceptable to the children, but the heavy ink colouring transferred the imprint of writing on to other pages. The size was well liked by all ages. The geometric graphics were liked, but the face graphics met with a mixed reception and were one of the aspects of the booklet which suggested that it had been designed for younger teenagers. Some thought that the face graphic on the front cover did not give a clear picture of the nature of the leaflet, and older children thought it looked babyish. The idea of faces itself was not disliked, only the particular faces chosen.

Twelve- to-sixteen-year-olds regarded the contents as interesting, but 17- and 18-year-olds found that some of the interactive activities were childish, although the factual sections were greatly appreciated. Seventeen- and eighteen-year-olds wanted additional information about how parents feel during separation or divorce. Children of all ages would recommend this leaflet to 12–16-year-olds.

Parents considered the section on feelings to be especially important. Some children liked this, but overall the favourite section with all age groups was 'It's not just you' with its story scenarios. The factual section was especially popular with the children aged sixteen and over. The 'True or false?' section was also a popular activity, but misgivings were voiced about the suitability of the material used for it. In particular, some of the children, and some of the parents, misread the highlighted statements as statements of fact rather than statements for consideration. This is likely to happen when the leaflet is scanned for information rather than read through in sequence like a book. Regarding other sections of the booklet, the schoolchildren made suggestions for improving the layout and the clarity of the instructions. Contact numbers on the back page may be overlooked, and more details were requested of the organisations whose telephone numbers were listed.

The linguistic content of 'Working it out' was accessible to all the teenagers in the classroom evaluation and may be appreciated by younger children who enjoy reading, although this was not tested in the evaluation. Most of the children who also evaluated 'What's going on?' preferred the leaflet 'Working it out'.

It's not just you **Talk about it**

Tom's story	Lee's story	Emmie's story	Charlotte's story
<p>Age: 14 years</p> <p>Family details: Tom's parents divorced 3 years ago. Tom lives with his Mum and sees his Dad and his new partner every week.</p>	<p>Age: 16 years</p> <p>Family details: Lee's Mum left home two years ago to live with her new partner. Lee lives with his Dad and sees Mum some weekends.</p>	<p>Age: 13 years</p> <p>Family details: Emmie's Dad left home three years ago. Emmie lives with her Mum and Brother. Her Brother sees their Dad but Emmie hasn't seen him since he left.</p>	<p>Age: 14 years</p> <p>Family details: Charlotte's Dad left home four years ago. Charlotte lives with her younger Brother, Mum, her new partner (Matt) and his two younger children (Cate and Liam).</p>
<p>I hated it at first. Dad went and there was just this big hole in our lives. It's taken time to adjust but I get on much better with Dad now. He's much more interested in what I'm doing at school and Mum's much more like her old self now. I often email my Dad at work between visits but I still wish they'd get back together sometimes.</p>	<p>I got really sick of talking about it. Mum and Dad were always asking me how I felt and everyone was waiting for some big reaction. I like listening to music so I would just go to my room, lie on the bed and just relax, no big deal. It is good to talk sometimes but only when you want to - everyone handles things in their own way.</p>	<p>I was glad when my Dad left. I didn't want to see him again. Then he asked the court if I could visit him on weekends. I didn't feel there was anyone that I could talk to so I rang ChildLine and told them why. They listened to me and helped me to think who else I could talk to. I spoke to my Auntie who talked to my Mum. She now knows everything. I'm glad I talked to someone.</p>	<p>Before, there was just Mum, Dad, me and my Brother but now there's seven of us. I hate it, it feels like we've been invaded. I get really angry when Mum hasn't time to listen to me. I wish Matt would go away, he's not my Dad and I don't think he should tell me what to do. Now we all have to get together once a week for a 'family' meeting to talk things through, my Brother thinks it's really useful but I just think it's a way for Matt to lay the law down.</p>

Stories from other teenagers

Legal system	Legal terms
<p>What if your parents can't agree on future arrangements for you?</p> <ul style="list-style-type: none"> The Judge can make decisions for them, under the 'Children Act', and these are called 'Court Orders'. There might be a Residence Order - which relates to who you will live with, or it might be a Contact Order - which concerns the arrangements for visiting, phoning and having contact with the parent who doesn't live with you anymore. If the Judge is asked to make decisions about residence or contact, they may ask a Welfare Officer to talk to your parents or you and then advise the court on the best arrangements. When the Judge has all the information to make a decision, a Court Hearing may be called to discuss the arrangements. Children and Young People are not usually called to the court because it is the job of the Welfare Officer to make sure that their views are passed on to the Judge. 	<p>County Court: A Court for your local area, quite separate from the Courts which deal with crime.</p> <p>Divorce proceedings: The different steps over a certain time which people have to follow in order to obtain a legal divorce.</p> <p>Divorce Order: Legal permission to end a marriage leaving both parents free to marry again if they choose.</p> <p>Statement of Marital Breakdown: A statement by either or both parents that they wish to apply for a divorce because they do not feel that their marriage can continue.</p> <p>Lawyers: Specialists on the law who may help a parent to make arrangements and speak for a parent in court if there is a dispute.</p> <p>Mediators: people who are trained in helping parents to reach an agreement about future arrangements.</p> <p>District Judge: The judge who usually deals with all the orders.</p> <p>Court Order/Residence/Contact Order: Legal orders made by the Judge in court.</p> <p>Welfare Officer: A court social worker who reports to the court.</p> <p>Court Hearing: meeting between the judge and your parents to hear what everyone has to say.</p>

Pages explaining the legal system and legal terms

Figure 24.6 Pages from 'Working it out'

Where it's at

Separation and divorce are stressful times for everyone - one minute you are feeling alright and the next minute confused and upset.

It helps to talk your feelings through with someone. Remember that the way you feel now probably won't be the way you will feel forever.

Think about some situations or events in the past when you felt confused or upset and compare these feelings with your feelings now. For example:

EVENT	Going to Secondary school.
FEELINGS THEN	Scared of getting lost.
FEELINGS NOW	Fine, I know my way around now.
EVENT	_____
FEELINGS THEN	_____
FEELINGS NOW	_____
EVENT	_____
FEELINGS THEN	_____
FEELINGS NOW	_____

Figure 24.7 Page from 'Working it out', exploring thoughts and feelings

Figure 24.8 'True or false?' quiz

True or False?

Only one of the statements below is true. Put a "T" or an "F" in the circles below, next to each statement.

It's your fault that your parents are divorcing or separating.

F. Your parents are divorcing or separating from each other not you.

If your parents separate or divorce, you will have to choose which one you live with.

F. If your parents cannot agree, a decision will be made for them. However your views and wishes should be considered.

Everything is going to change.

F. Some things will change but that doesn't mean everything will.

If your parents split up, they will still be your parents.

T. Even if your parents end their marriage, nothing can alter the fact that they are still your parents.

If you ignore your bad feelings they are more likely to go away.

F. Bad feelings are unlikely to go away. It is better to face your feelings than to bottle them up.

We know from our research to date that parents of children over the age of sixteen want help for their children. The 'Working it out' leaflet would probably be offered, but it is difficult to produce one leaflet for younger and older teenagers because of the huge change in personal development in this period. Nevertheless, it might be possible to broaden the appeal of 'Working it out' by small changes, such as expanding the ages in the story section or using slightly different face graphics, or expanding the information section.

Summary of Findings about the Revised Leaflets

The key findings from the revised children's leaflets are given below.

1. The leaflets attracted children's attention, but both children and parents made suggestions about how the designs could be improved. Children become more sensitive to design as they get older.
2. Children like bright primary colours, but the design brief was matched to the parenting plan, which is blue and purple. The extent of the blue colour used in 'What's going on?' was seen as depressing.
3. Language needs to be appropriate for the age of the child and should employ the words which children use to describe their situation and feelings. The language in 'Me and my family' and 'Working it out' was accessible to the appropriate age groups, but the language in 'What's going on?' was not.
4. Children understand the issues covered in the leaflets and are able to think about and discuss them.
5. Game-based activities are a well-liked attraction for many children aged twelve and under, but begin to be seen as babyish when children reach the teenage years.
6. Children are willing to think about their feelings, but from the age of approximately twelve and maybe earlier they increasingly want practical information about their situation and about how other people are affected.
7. All but the youngest children see a need for balance in the general picture given by the leaflets. Very young children want to read only happy things, but older children, especially teenagers, feel it is important that difficult areas are included and not glossed over.
8. Children often do not read the leaflets as a whole, or go through them like a book. Their attention is drawn to games and to areas highlighted by the layout. Large areas of text are often ignored.

9. Children vary in the way they use the information in the leaflets. Some use it to take their mind off the situation. Some use it as a checklist. Some use it as a prescription for what they should be feeling or doing.
10. The point at which children receive the information will depend on their parents, but it may well be after the time of the original separation. Some parents felt that the leaflets were less suitable where the separation had occurred in the past, yet there were indications that some children still have a need to discuss the situation when the separation had occurred more than two years previously.
11. Parents may need encouragement and guidance to give the leaflets to their child and work through them. Research suggests that parents also need to talk to their children as well as giving them the leaflets, but it may not be clear to parents that the children's leaflets can be used as a trigger for talking to children and that they can suggest areas to be covered. More explanation of how the leaflets (especially those for the youngest children) can be used with children would be helpful.
12. For some people the leaflets are not accessible. Some Muslim children may not feel able to complete sections where people and faces have to be drawn. Parents of children with special needs may not be able to use the information with their children.

The new leaflet for teenagers ('Working it out'), and that for the youngest child ('Me and my family'), were on the whole well-received by children and parents and seem to attain their objectives. Of course, these leaflets, unlike the original versions, have not been tested in the information meetings pilot project, and so we cannot say how likely it is that parents will pass them on to their children. Evidence suggests that 'Me and my family' should be accompanied by a note for parents setting out the ways in which the leaflet might be used and the intentions behind its design. In the case of 'Working it out' there may be an argument that, as well as it being given to parents to pass on to their children, mediation officials should distribute it directly to teenagers. This is a policy issue which requires further consideration. While some young people expressed reservations about receiving such information in schools and other public places, some said they would access it in this way. Other routes might be youth clubs and voluntary organisations that work with young people.

Clearly, the evidence for the utility of 'What's going on?' was very mixed and does not support the use of this leaflet in its present form. All the leaflets are being further revised in the light of the findings from the evaluation. The changes to the leaflet for the youngest age group and to that for teenagers are minor in comparison with the extensive changes being made to the leaflet for middle childhood. This leaflet is being completely redesigned and the revised version is very similar to a leaflet already developed and distributed through Parentline Plus. Careful thought will need to be given to how the leaflets are distributed: whether this will be limited to distribution via parents or whether attempts will be made to get them directly to children and, if so, how this may be done. Given children's increasing use of the World Wide Web, consideration needs to be given

to distribution by this method, either by using one of the existing sites for children or by using the LCD site to signpost appropriate children's sites.

Giving Information Directly to Children

During the pilot information meetings, information was provided to parents with the intention that their being informed about the welfare and wishes of children would lead them to behave in ways which would minimise upset and disruption for children. It appears that the emphasis the FLA places on helping parents to help their children through separation and divorce is seen by most parents as desirable. The information aimed at parents was different from the other information in the meetings and the pack. It was not just information about options and services available. It was much more directive in telling parents what they ought to be doing and what is considered best practice. It was explicit in trying to change parents' behaviour in order to promote the best interest of the child. Protecting the interests of children, like conciliatory divorce, is a non-contentious principle. It is how this should be achieved which provokes debate.

Section 8 of the FLA requires that parents are helped to acquire a better understanding about the ways in which children may be helped throughout the process of the separation or divorce of their parents. Many media for imparting information were tested during the information meetings. There was no requirement within the FLA to provide information for children, but providing it represented an experiment. Two leaflets aimed at children were included in the information pack for parents to pass on to their children, but in reality very few did so. In the light of this evidence, is there an argument for providing information directly to children? This would mean bypassing parents as the gatekeepers of information, which may be contentious. Some of the parents we spoke with offered valid reasons for not having passed on the leaflets to their children. We have no idea how they would feel if their children were handed information about separation and divorce from another source. Under Part I, Article 17 of the United Nations Convention on the Rights of the Child all children have the right to information from a variety of sources, especially to information aimed at

the promotion of his or her social, spiritual and moral well-being and physical and mental health.

The provision of information to children is a human rights issue. Provision of information to children whose parents are separating or divorcing is rapidly climbing up the family policy agenda.

Chapter 25

Developing and Using a Parenting Plan

Cathy Stark, Karen Laing and Martin Richards

...the very term 'parenting' is a relatively recent invention, helping to constitute what it now describes.¹

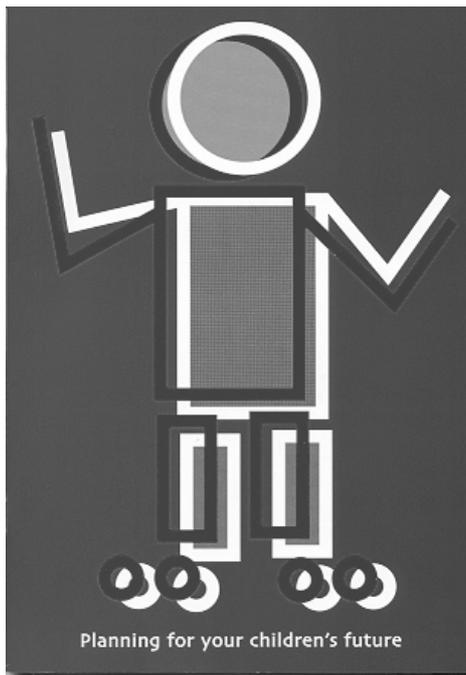
The parenting plan, while not specified in the Family Law Act, was introduced in the context of information meetings to encourage parents to focus on the needs of their children and to plan for their future in practical everyday ways, involving children in discussion where appropriate. The plan consists of a slim A4 booklet, 'Planning for your children's future', which contains information about the needs of children along with a pro-forma plan in which parents can enter the arrangements they are making for their children, under nine broad headings. The plan can be used by separating parents, on their own or together, and with a friend or professional (a mediator, counsellor, or lawyer), to assist them in making plans for the future of their children. The completed document may be signed by both parents (and perhaps older children) to signify agreement, but it is not as such enforceable by the court, nor indeed formally a part of the legal process of divorce. It is quite separate from the form setting out future arrangements for children which must be filed at court as part of the divorce or separation process.

The parenting plan was produced by Martin Richards and Erica De'Ath, building upon experiences of parenting plans in other jurisdictions, particularly the USA and Australia, where they have been used for a decade or more. The plan is also being evaluated with divorcing parents in New Zealand and in Alberta, Canada.

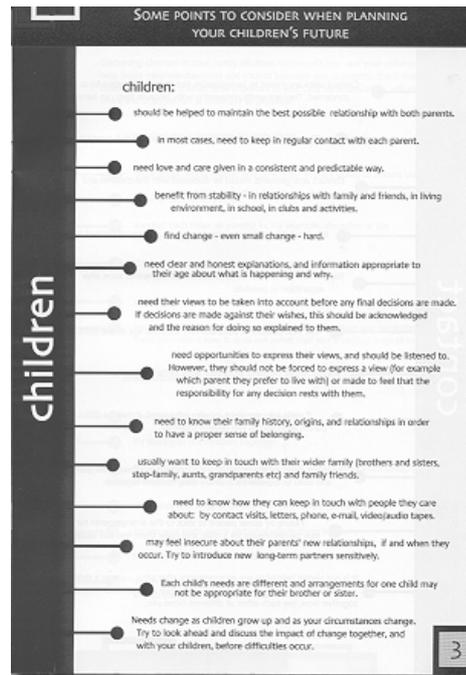
At its simplest a plan is a set of headings which parents can use as an agenda or checklist for discussions with each other, perhaps with the assistance of others, to ensure that they have covered the various issues that need to be decided upon in relation to the care of their children after separation. However, some plans may be much more elaborate and detailed than this, striving to include every possible situation that might arise. Plans of varying degrees of complexity have been in use in various contexts in other English-speaking jurisdictions for a decade or more. The document that was used for the information meeting pilots was designed to be self-contained, with notes on its use included, together with a list of points about various issues that parents might wish to consider in relation to their children's future, and a series of headings under which parents might need to construct plans (Figure 25.1). These sections each include a series of questions with spaces for parents' proposals. The headings are living arrangements, holidays, special days, staying in contact, school and out-of-school activities, health, religious and cultural upbringing, other arrangements, and future changes. There is also a money checklist, but the plan is not designed for detailed financial planning.

The parenting plan was introduced into information meetings during the latter stages of the pilots. A total of 1,643 parenting plans were given out to attendees at information

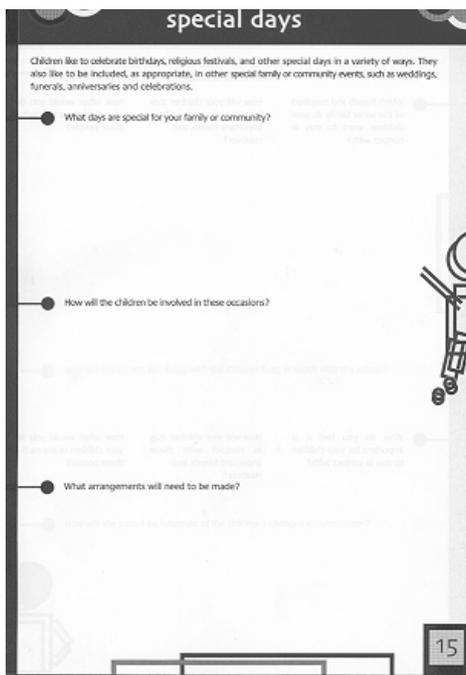
¹ Giddens, A., *Modernity and Self-identity: Self and Society in the Late Modern Age*, Polity Press (1991), p. 33.



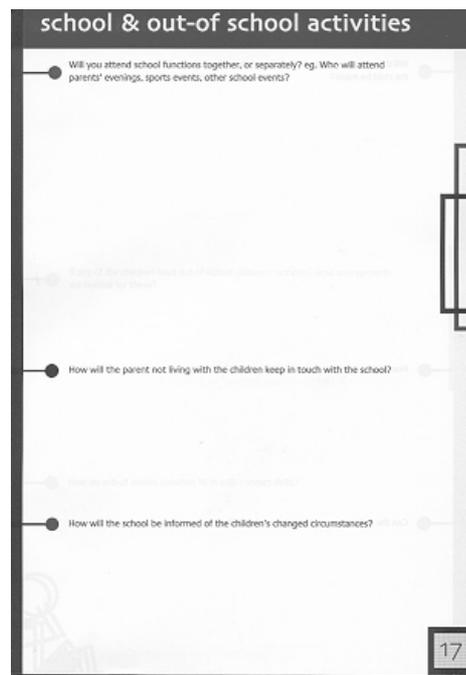
Cover of parenting plan



An information page



Page for planning special days



Page for planning schooling

Figure 25.1 Pages from the parenting plan

meetings, and in addition, approximately 970 people were sent parenting plans with postal packs.² Not all of these attendees were interviewed, but we do have various sources of data concerning the uses that were made of the plans. We have conducted over 1,200 telephone interviews with over 800 different attendees who have been given a parenting plan. Some attendees will have been interviewed on two occasions, and a few for a third time. We also have responses from 141 ‘time-slice’ postal survey respondents.³

The findings are consistent across the data sets: most people chose not complete the plan, but a significant proportion made use of it in other ways, and the majority of people who made some use of it found it helpful. ‘Completing’ and ‘using’ the parenting plan are terms which need further explanation. During the in-depth interviews it became clear that not everyone who said they had completed the plan had filled in the whole of the plan. Some had completed sections which they felt were particularly pertinent to their situation or which had raised new issues which they might not have considered before. Some had omitted sections which they did not feel applied to them. For the purposes of analysis, people who told us that they had put pen to paper and completed the plan, whether in whole or in part, were classed as having completed it. It seems that people with children in the younger age groups were more likely to complete the plan and were more likely to consider using it in the future.

At the time of the initial telephone interview, which took place within six weeks of the information meeting, only 8 per cent of parents had used the plan in some way and only 5 per cent (25 attendees) had actually completed it (N = 584). However, a further 60 per cent of parents said they would consider using the plan to make arrangements for their children, and this was particularly the case among parents with children under 5 (Table 25.1).

Table 25.1 Responses to the question ‘Would you consider using the parenting plan to make arrangements for your children?’ (by age of youngest child)

	Children aged 0–4 %	Children aged 5–11 %	Children aged 12–17 %	Total %
Yes, have used it	8	10	4	8
Would consider using it	73	59	40	60
No intention of using it	12	19	47	22
Don’t know	7	12	9	10
Total (100%)	189	243	104	536

Source: Initial telephone interview.
Chi-squared = 57.53; p<0.001.

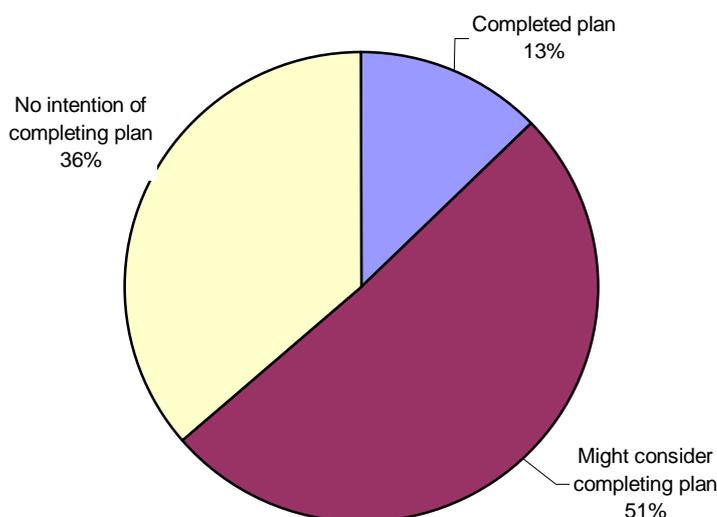
² See Ch. 10.

³ The number of parents who told us that they had received a parenting plan was lower than we had expected. Follow-up telephone interviews were undertaken with 376 parents who attended an information meeting in the pilots where the parenting plan was being tested. Of these, 256 (68%) were able to provide information about their use of the plan. The other 120 parents (32%) were unable to answer any questions about it. Of these, three-quarters told us they could not remember having been given a plan. The postal pack recipients echoed this finding. At initial telephone interview, 377 parents who received a postal pack were asked questions about the plan; 80% could remember being given the plan and were able to answer questions about it. The time-slice postal survey found that approximately three-quarters of parents who should have received a parenting plan could remember getting one. The same proportion of people at telephone follow-up and in the time-slice postal survey remembered getting the plan.

Parents interviewed at follow-up some 5 to 7 months after attending an information meeting were asked whether they had completed the plan or, if not, whether they might consider doing so. Of the 256 parents who responded, 13 per cent had filled in the plan (Figure 25.2). In order to conduct our analysis, we coded the responses into three main categories. These were:

1. Parents who completed a plan (i.e. had filled in all or part of the plan).
2. Parents who indicated that they might consider completing the plan in the future.
3. Parents who showed little interest in completing the plan.

We concluded that the assessment of completion of the plan was not a measure of whether people had used it or of how helpful people had found it to be. Many parents told us that, although they had not actually filled it in, they had nevertheless found the plan a valuable tool, and others had said they might use it in the future. It should therefore be noted that there were parents in both the second and third category who, although they had not completed the plan in any way, had already found it useful. The ways in which attendees found the plan useful are discussed in more detail below.



Source: follow-up telephone interview (N = 256).

Figure 25.2 Use of parenting plan by parents with children under 18

If we look at the data by focusing on use of the plan, we find there were 79 attendees (31%) who, at the time of follow-up interview, had already found the plan helpful or useful in some way, despite the fact they had not filled it in. Of these 79 attendees, 55 told us they might consider completing the plan, and 24 told us they had no intention of doing so. In addition, 33 attendees (13%) had already completed the plan by the time of the follow-up interview. Thus, at follow-up interview, we found 44 per cent of respondents

had made some use of the plan. The vast majority of those who had made use of the plan were positive about it. A further 75 people (29%) told us that they might consider completing the parenting plan at some point in the future.

Data from postal pack recipients suggest that the plan is most appreciated by parents with younger children. At follow-up interview with postal pack recipients, 143 parents who had received a parenting plan were interviewed.⁴ Of these, 21 (15%) had completed the plan. Of those who had completed it, about half had children under 5. Nobody whose youngest child was aged 12 to 17 completed the plan. Twenty-five per cent of parents with children under 5 and 50 per cent of parents with children over 5 told us they had no intention of completing the plan. Hence, Table 25.2 shows that parents with children under 5 were significantly less likely to say they had no intention of completing the plan.

Table 25.2 Use of parenting plan by postal pack recipients (by age of youngest child)

	Child aged 0–4 %	Child aged 5–11 %	Child aged 12–17 %	All parents %
Completed plan	19	16	–	15
Might use plan	56	33	48	43
No intention of using plan	25	51	52	42
Total (100%)	52	70	21	143

Source: follow-up telephone interviews with postal pack recipients.
Chi-squared = 13.19; $p < 0.01$.

Findings from the follow-up time-slice postal survey with 141 attendees who indicated that they had received a parenting plan were similar to those from the other data sets. Data indicated that very few respondents had completed the plan (13%), but a further 16 per cent had used it in some way. Hence, just under a third of the 141 survey respondents had used the plan and the vast majority of these had found it useful. One of the reasons some parents gave for not using the plan was that they already had arrangements in place for their children. It is to be expected that, in a fully implemented system, parents would receive the information, including the parenting plan, at a much earlier point in the process of divorce, before proceedings are commenced. If that were the case, a much greater number of parents would have the plan at the time when they begin making arrangements for their children. However, our small subsample of in-depth interviews revealed that, even among attendees who said that they already had arrangements for their children, the parenting plan was seen as valuable and alerted them to a whole range of issues which they needed to consider. Some of these parents remarked that, although they already had some arrangements in place, they had not considered what would happen if, for example, their child were off school sick. Therefore, even where parents had made some arrangements already the parenting plan was useful.

⁴ The 143 postal pack recipients who were interviewed at follow-up represent 15 per cent of the sample of 970 parents who were sent the plan through the post.

Completing the Parenting Plan

An analysis of the information collected from the follow-up telephone interviews shows that there were no significant⁵ differences between men and women concerning completion of the parenting plan (namely, filling in all or some sections of it). Nor were there any significant differences between those who said they completed the plan and those who did not in terms of length of marriage, age of parent, ethnicity, stage of separation, residence, socio-economic status, or use of other services.

By contrast, the age of the youngest child was a statistically significant factor ($p < 0.05$) in whether or not the plan was completed. Parents whose youngest child was aged 0–4 were almost four times more likely to complete a plan than those whose youngest child was over eleven. Parents whose youngest child was over 11 were more likely than other parents to say that they had no intention of using the plan in any way. It could be hypothesised that as children get older they may actively participate in making their own contact arrangements on a more informal basis and so there is less need for a plan to be completed.

Parents were asked in the follow-up interview whether they had shown the leaflets to their children and talked to their children about the information. Those parents who said they had completed a parenting plan were more likely to have shared information with their children in the sense of giving leaflets to them and talking to them. In cases where this had not yet happened, parents who had completed a plan were more likely to say they would consider sharing information in the future than were those parents who had not completed a parenting plan. However, parents who filled in the plan tended to have younger children. It was, then, not surprising that a number of these parents told us that their children were too young to be given a leaflet.

Over the course of the research, we conducted 101 telephone interviews with 80 parents who told us they had filled in the parenting plan.⁶ Of these, 77 parents gave us further information. The interviewees were asked the same questions about the parenting plan at both initial and follow-up interviews,⁷ enabling us to determine:

1. Who was involved in completing the plan and whether parents filled it in alone or involved others in the process.
2. Whether parents involved their children in the process in any way.

⁵ No significance indicates a probability of more than 0.05.

⁶ At initial telephone interview 36 respondents told us they had filled in a parenting plan (25 information meeting attendees and 11 postal pack recipients). At follow-up interview some five to seven months later, 54 respondents told us that they had completed a plan (33 information meeting attendees and 21 postal pack recipients). Hence we have 90 telephone interviews with parents who completed the parenting plan. In addition, a small sample of 11 attendees were interviewed for a third time about completing the plan as part of our in-depth interviews, bringing the total number of interviews to 101.

⁷ It was envisaged that the first telephone interview at around six weeks after an information meeting would only yield a small sample of people who had completed the plan within that short time-scale. Hence the questions were repeated at follow-up some five to seven months after the meeting. The questions asked at third interview with a quota sample of 11 people who had completed the plan were very much more in-depth and exploratory.

3. Whether the plan made a difference to the arrangements made by parents.

Completing the plan with someone else

Seventy-six parents indicated that they had completed the plan themselves. In one case, the husband of the attendee had filled in the plan. Half the parents had filled it in by themselves and half stated that they had filled it in with someone else, often the other parent. Of the 50 per cent of parents who said they had filled it in themselves, half said that they had not discussed the plan with anyone at all. Overall, therefore, 25 per cent of parents filled in the plan on their own without discussing it with anyone else, while 25 per cent had filled it in themselves but had discussed it with someone else, and 50 per cent filled it in jointly with someone else, usually the other parent.

In about half of the 77 interviews with parents who had filled in a parenting plan, there was evidence that the other parent was involved in some way in the process. This took the form of either jointly completing the plan (27 cases), or being involved in a discussion prior to its completion, or being informed about or shown the plan afterwards (11 cases). However, in the latter cases, how well the other parent responded to being shown the plan varied, parents ranging from being interested and taking part in a discussion to being dismissive and failing to return the plan to the attendee.

The significant others whom attendees mentioned as having been involved in some way in the process of completing the plan, usually involving discussion rather than writing, included: children; close friends; the attendee's parents; other relatives; new partners; solicitors; mediators; a Family Court Welfare Officer and a schoolteacher. In a handful of cases, completion of the plan had involved both parents and a 'significant other', but this was unusual.

Some of the parents who had jointly filled in the plan with the other parent had found it a useful exercise:

My wife and I sat down and talked about all the considerations in the plan. We also agreed to review it every year ... we've been able to plan ahead using the plan. Easy to follow and asked lots of sensible, practical questions, most of which we hadn't thought of. (father of children aged 10, 13 and 15)

We sat and went through each bit, talked to each other about what we wanted for them. And while we were getting on well, which was the main point, we sat and agreed. And then, when things did get heated and we fell out, we knew we could look back at the book and say, this is what we agreed when we were rational and thinking straight. (mother of children aged 1, 3 and 7)

By contrast, a few who completed the parenting plan as a joint enterprise found that it identified particular sticking points on which parents could not agree. Disagreements over one part of the plan could mean that the plan as a whole was not then filled in:

It wasn't that we disagreed, but basically, it all comes down to money in the end and we ended up arguing. (postal pack recipient, mother of child aged 4)

[I] sat down with [my] partner and went through it but stopped at [the] 'school' [section] because we couldn't agree. I don't see why he would want to be so involved in their school afterwards when he isn't now. I want the

children to be with me for stability and he agrees with that. But when it came to school arrangements we couldn't agree and stopped filling it in. (mother of children aged 11 and 13)

While some parents had filled in the plan themselves, they had involved others in the discussion process, often the other parent:

I filled it in but we went through it together. Because everything was written down we could agree to stick to what we had committed ourselves to. It was written down 'officially'. I didn't have a clue what to do about arrangements for children. It gave us guidelines. (mother of children aged 9 and 12)

A father explained that he had filled in the plan, but his wife came round to

discuss it, read it and agree to it. (father of children aged 4 and 6)

Another mother explained :

I filled it in, but he was there and we had a discussion. (postal pack recipient, mother of child aged 6)

Our in-depth interviews⁸ give us more information about the complexities involved in the process of completing the plan. One mother who hoped for, but did not get, input from her ex-partner described parenting as an increasingly individualised business. Another mother described her ex-partner as having a less active role than before the separation, and thought he may well have thrown away the parenting plan that she had sent him. By contrast, a third mother did not attempt to discuss the plan with her ex-partner, commenting 'I have to deal with it myself', and used the plan as 'a way forward, to see how I could do it'. Once again this mother viewed parenting as an increasingly individualised business. She told us:

I feel now totally responsible for [my child]. I don't feel it is a shared responsibility any more. (mother of child aged 1)

By contrast, another mother spoke of her commitment to joint parenting and how this may be an ideal which may be difficult to achieve. The parenting plan had made her more aware that parenting after separation should be a joint venture:

The parenting booklet helped, it brought up issues such as who should care for the children when they're sick during the holidays. It made me aware that in fact it didn't have to be me, that it's something that should be shared. (mother of children aged 6 and 10)

Putting shared parenting into practice, however, was not always easy:

In terms of things like the parenting plan, you can only get it if you ask for it. I would have liked that information pack to be given to my husband. The time that I went, if someone had said to me 'Do you think your partner would like one?' I would have said 'Yes'. I think if it had been sent to him it would have made him open it up and look at the parenting plan, make both parents think

⁸ We interviewed for a third time a sample of 42 parents. The parents were quota-sampled from the follow-up telephone interview database and were selected from pilot sites which offered the parenting plan to attendees. Eleven of the 42 attendees had completed the parenting plan.

about it, write it down and think about it in a reasonable way. (mother of child aged 1)

The idea of both parents having a plan that they can read through and use was raised several times by both male and female attendees:

I would even go so far as to say you should put two copies in the pack, each partner could fill in a copy and exchange them and come up with common ground. (father of children aged 6, 10, 10, 12 and 15)

Another man described his arrangements for seeing the children as 'quite informal' and told us that the parenting plan was part of this informal contract. He and his wife filled it in together:

It was a very good idea and it laid out things quite clearly and it was precise so both parents knew if we wrote it down, where we stand and it was like an informal contract. (father of children aged 1 and 5)

This activity did not help improve communication between himself and his wife since their relationship was quite good anyway. He suggested that each parent should have a copy of the plan and commented that even if arrangements changed, the format of the plan was useful to help with the changes. As a non-resident parent hoping to secure a mortgage and find himself better accommodation, he did not see the arrangements he had made by using the plan as fixed, but felt rather that they were flexible.

The idea of the plan as a means of encouraging communication was echoed in many interviews. When communication between the parents was good, the parenting plan was a useful tool in recording the discussions, or a helpful way of making an informal agreement about childcare arrangements. However, when communication was already difficult, it did not seem as though the parenting plan could do much to ameliorate the situation. We have examples of parents sending a plan to their ex-partner who ignored it, or in one case returned it, torn in half. If a parenting plan is to be completed as a joint venture by two parents, there needs to be some level of civility and shared objectives between the parents to make this possible.

Many of the parents who completed the plan commented on its clarity, and on how easy it was to follow and to fill in. They appreciated the fact that it raised issues that had not been thought about – holidays, education and health have been identified as being particularly useful reminders. The plan was also important for setting agendas. Parents praised the plans for providing another perspective and alerting them to the fact that it was important to consider everyone's needs, especially the needs of their children, when planning for the future:

I certainly remember as I was filling it in I was answering questions that were dealing with issues I hadn't fully considered before ... several times I thought 'Oh, and there's that to consider as well'. (father of children aged 6, 10 and 11)

For me, it made me aware of issues and made me have goals and aims [which] I wanted to achieve. (mother of children aged 6 and 10)

It was all there and I could fill it in and it recorded everything I should be thinking about for the children's welfare. (father of children aged 2 and 6)

It's partly like one of those diagnostic health check ups on one of those lists in *Cosmopolitan*: 'Are you ...?' So from that point of view it's very, very helpful. (father of child aged 11)

That the parenting plan is used to set goals and hopes for the future has been clearly illustrated. Looking to the future is bound up with notions that the situation will have calmed and will be better than at present:

The plan was constructive. It was looking forward to the future, so I thought, if we could get with that, things might settle down and even out a little bit. (mother of child aged 1)

In relation to this, one parent commented that it might be useful to have two columns relating to each section of the plan – one for current arrangements and one for how parents would like the arrangements to be in the future. Some may fill in the plan as a record of what is currently happening, but for others it is a plan for the future. One father stated this explicitly when he remarked that he and his ex-wife would go back and revisit the plan each year in order to renegotiate arrangements in the light of the fact that their children are growing up and circumstances rarely stay the same. The plan emphasises that as circumstances change and children grow up, it will be necessary from time to time to think of how to modify the plan.

One of the reasons parents gave for completing the plan was that it was an authoritative source of knowledge and designed by experts:

I need to dig it out and reread it. I've got to look it up again and make sure I'm using all the ideas, because they've been put together by people who know. (father of children aged 2 and 6)

Involving Children

Parents with younger children were more likely to fill in the plan than those with older children. Not surprisingly, when asked whether their children were involved in the process of completing the plan, many parents responded that their children were 'too young'. Some parents told us that it had not occurred to them to involve the children when completing the plan, suggesting that more explicit advice about the possible benefits of their involvement may be useful.

Nineteen of the 77 parents who completed a plan said that their children had been involved in the process in some way. A closer examination of this involvement shows that it spans a continuum, from active involvement with the plan itself to a more indirect involvement through having their opinions taken into account while arrangements were being made:

We had crisps and drinks and sat down on the sofa. The kids had a pen each. It was useful for the children. When I first left I had nothing to explain the situation to the children but the parenting plan provided this. If I'd had this 18 months ago it might have made a difference ... we have a good relationship and have maintained this for the sake of the kids, not ourselves. One happy parent in the house is better than two unhappy parents. (postal pack recipient, father of children aged 6 and 8)

My son said how he wanted things to evolve ... We went though things together, and made sure he was happy with the things that had been arranged. (mother of child aged 16)

They filled in sections themselves on issues they were most concerned with – where they would spend most time and when. They both do lots of activities and were concerned they would be disrupted. (mother of children aged 7 and 11)

They were asked what they wanted to do in the six week summer holiday. (postal pack recipient, mother of children aged 9 and 11)

They have not seen the plan itself, but the arrangements were made with them. (postal pack recipient, father of children aged 6 and 12)

Parents sometimes used the plan to confirm to their children that they were doing things correctly. Parents felt that they and their children might feel reassured:

It confirmed the sorts of things I should be looking for ... but more confirmed that I was on the right lines. (father of children aged 2 and 6)

For this father, the parenting plan was ‘proof’ of his concern for his child’s welfare ‘when all these awful things were happening around them’. The plan had served to confirm the legitimacy of his parenting role after separation. In another case, the father wanted shared care and saw the parenting plan as important evidence of his concern to be involved. This father commented that filling in the plan would help reassure his children:

[When the children] see more things I have written down, it may reassure them that I have been thinking of them and thinking about their future. (father of children aged 3, 7, 11 and 13)

One mother also used the plan to register concern for her child:

I wanted everything down in black and white. I wanted to reassure myself I was providing a balanced life for my daughter ... In the future I will show her the plan and say ‘This is what I did, the choice was yours’. I wanted to give my daughter options and choice. (mother of child aged 6)

In demonstrating their concern to their children these parents evidenced a desire to be seen to be doing the right thing. It may be that, following the changes in circumstances brought about by separation, they have become more conscious of their parenting role.

Influencing Arrangements

In a handful of cases the parenting plan had been used extensively when making arrangements for children. It had been a starting-off point, and had enabled a few people to move forward, such as the following mother:

Didn’t have arrangements before getting the plan – [the] plan was very useful in providing a focus, [it] gave straightforward information about what we all needed to think about. (mother of children aged 7 and 11)

In the majority of cases, however, the effect upon arrangements had been more subtle, and had taken the form of the plan encouraging parents to consider certain issues they had

not previously addressed, or to reconsider one or two points, rather than use the plan as the basis for making the arrangements:

We already had arrangements, but looked again at travel arrangements and money for clothes. (mother of child aged 2)

Around two-thirds of the parents who had completed the plan had already made some sort of arrangements for their children, but the other third had not yet finalised their arrangements or had not yet made any. Some parents remarked that the plan raised many issues that they had not thought about, despite their already having made some arrangements. Parents may not have settled all arrangements, such as those for Christmas and summer holidays, seeing extended families, health and school issues:

We already had arrangements but it made us think about the big issues we hadn't really thought about like Christmas, holidays and grandparents. Very good, thought it was excellent, exactly what we needed. (mother of twins aged 4)

Thinking about passports was useful. (father of child aged 4)

It helped me think about potential issues that might arise, so that birthday presents are not duplicated. (mother of children aged 2 and 7)

Parents who told us they did not have arrangements before they filled in the plan were either still living together under the same roof and had not yet reached the point of separation, or may have been attempting a reconciliation. Others were in the early days of separating and arrangements were still evolving or were being finalised. At this early stage, the parenting plan was useful as checklist for all the things that needed to be considered:

We're still together in the same house but we appreciated the plan as it made us think of lots of things we hadn't considered. (mother of children aged 7 and 10)

We're in the process of making them [arrangements]. Everything was up in the air in relation to children at first. When we got the plan we started making more concrete plans for the children. (mother of children aged 9 and 12)

No arrangements yet, not yet in divorce proceedings. It influenced us to make sure everyone's feelings would be taken into account. (mother of children aged 4 and 7)

The plan is very parent friendly. We haven't finalised arrangements but it made us discuss it now rather than get round to it later – what to do in an emergency, holidays. (mother of children aged 11, 13 and 16)

The plan was also regarded as useful and helpful in a much more general way by parents in alerting them to a whole range of issues that they should consider. It was used as a checklist and as a measure that parents were 'doing the right thing'. Three parents told us that the fact that it was a written document was helpful to them, since it stated arrangements in black and white, helped to formalise and order their thoughts, and could be referred back to in times of disagreement or uncertainty. Some parents commented that their filling it in when they were rational and getting along with each other meant they had a record to work from when they fell out and things got heated.

Other people rethought some of the strategies that were already in place. One set of parents reconsidered the issue of their son having overnight stays with his father, his mother commenting:

You can lose touch with the everyday reality if the child doesn't stay. (mother of child aged 16)

The plan served to jolt two fathers into action, albeit for rather different reasons. One commented that when he looked at the plan he realised how many things the children did with his wife. The other was given the plan by his wife, who commented:

It made my husband think about what was at stake. Made him want to stop drinking. He's a good father when he's sober. (mother of children aged 3 and 12)

For some parents the parenting plan was a log of what had already been decided, perhaps with a few additions regarding issues that had not arisen previously:

Our arrangements are satisfactory, the plan was used to log what is already happening. (mother of children aged 3 and 8)

For other attendees, perhaps those without firm arrangements, it was a plan for the future, a plan setting out what the parent would like to see happen. One father commented that he had already made arrangements and that filling in the parenting plan had not changed them. He stated that he had filled in the plan 'for himself', and that it was:

A planner of my hopes, rather than [of] what is happening ... a record of what I want to be involved in. (father of children aged 3, 7, 11 and 13)

In summary, the vast majority of those who had completed the plan responded positively to it and told us that they had found it valuable and helpful. The plan had been used in a number of ways for making, refining or recording arrangements for children. It had been used to make arrangements for the future, to log what was currently happening and to refine existing arrangements.

Using the Parenting Plan

At follow-up telephone interview, 31 per cent of attendees who received a plan (N = 256) said they had already found it helpful in some way, despite the fact that they had not filled it in. A further 29 per cent said they may consider filling in the plan in the future. As part of our third-stage in-depth interviews⁹ with 42 parents, we spoke to 31 attendees who had not filled in the plan. At least half told us that they had found the plan helpful. Some of the parents who had not filled the plan in told us that they had 'mentally filled it in'. Others had read though the plan and addressed the relevant sections but had not actually written in it. Other parents did not feel a need to commit their arrangements to paper and were quite happy discussing aspects of the plan or reading through it for ideas. People had used the plan as a 'checklist' or an '*aide-mémoire*', and it had raised issues for them that they might not have previously considered. Once again, the points about birthdays,

⁹ See n. 8. Of the 42 parents interviewed for a third time, 11 had completed the parenting plan and 31 had not.

Christmas, holidays, seeing the extended family, and education and health were highlighted as being particularly helpful:

I didn't actually use it with my husband. I just looked through it really. It gave me things to bear in mind like birthdays, special occasions, so that I could just think about it. (mother of baby and child aged 2)

It made me think about issues such as access for grandparents which was something I hadn't thought much about. (mother of children aged 8 and 11)

Comments relating to the format of the plan were positive and the plan was praised for being 'an orderly document', 'a useful checklist of all the points' and 'a useful guide to things you need to consider'. One mother compared the ease with which she was able to use the plan with the difficulties she had encountered in using the leaflets in the information pack:

You get these leaflets, you have got to wade through them. Oh my God – it [the parenting plan] wasn't like that. (mother of child aged 11)

Some parents who had read through the plan had been reminded of the importance of considering their children's welfare and wishes:

It helps you understand that children aren't just the property of parents ... children are individuals in their own right. (mother of child aged 1)

Another mother described how she wanted to

get the offending partner out of my life. That was my first response, but it's dangerous for the children and selfish. The parenting plan showed that ... children are not the pawns of marriage. Children have rights and that came across with the parenting plan and the whole pack. (mother of children aged 10 and 14)

Parents who had not filled in the plan themselves but who had appreciated its usefulness often remarked that it may be helpful for other people. For example, one father commented that he had received the plan two years after separating and so for him 'the horse had already bolted'. He commented that he thought the plan would make 'a good point of reference for others' and could be used as 'a template for making plans'. Another parent remarked that although he did not wish to fill it in, since this would be too prescriptive, other people might appreciate the step-by-step approach:

I still wanted to make my own decisions about how to go about things ... the parenting plan is a good idea and in some instances people will follow it step by step. (father of children aged 4 and 9)

Other parents told us that they had no need of the plan. They had arrangements that were working well, and although they could appreciate the possible benefit of the plan it was of no direct use to them:

We don't intend to use the parenting plan because we thought we would make our own arrangements and they seem to be working OK. (mother of children aged 11 and 13).

Some attendees said that they might consider filling in the plan in the future:

I might use it in the future if my husband got awkward. (mother of child aged 11)

[I might look at it] if there was a problem. (father of children aged 12 and 17)

However, the data strongly suggest that the parenting plan works best when it is completed by two parents who see eye to eye on parenting issues. This is unlikely to be the case where arrangements between parents have broken down. In situations where the parents do not get on with each other, the plan is unlikely to contribute to increased co-operation in parenting. In such circumstances it is much more likely to be used by one of the parents as a checklist.

Obstacles to Using the Parenting Plan

Even though the majority of parents were positive about the parenting plan, irrespective of how they used it, it did not meet the needs of all parents. We explore below the factors which rendered it less appropriate for some parents than for others.

Varying situations

Parents whose situations made joint parenting difficult were less able to make use of the plan: for example, parents whose partners were in the armed forces and away from the family home for months at a time, and parents who worked unsociable shifts. Two fathers told us that the arrangements they had for seeing their children were temporary, and were dictated by the fact that they were not in appropriate accommodation. Poor housing following a separation acts as a barrier to parents having children stay overnight, or even visit their father's home, as has been described in earlier research.¹⁰

Moreover, much of the parenting plan will not be applicable in certain types of post-separation relationships. Some parents may not have any contact with their children or else may have only very limited contact. Some of the attendees we spoke to questioned the extent to which their partners were willing to be involved in the care of their children. Like so many things, using the plan as a guide to the future requires two willing parents:

If I had a different sort of husband who was interested in what was going to happen to his children ... I mean the questions in it are brilliant and there are many you need to think about and address, but you need a willing partner. (mother of children aged 7, 9 and 10)

I filled in the plan and gave it to my husband and I haven't seen it since. I haven't had any feedback and we still don't have any concrete arrangements for the children. I don't think my husband is interested. Nothing can be achieved until my husband takes an interest. (mother of children aged 13 and 16 plus three older children)

Two mothers commented that they had sole responsibility for the care of the children and that this had been the case also when they were married. These mothers described how they 'organised everything' and 'did everything' as far as the children were concerned. They were doubtful as to whether this situation would change after divorce:

¹⁰ McCarthy, P. and Simpson, B., *Issues in Post-divorce Housing*, Avebury (1991).

I remember going through it and thinking, 'I do this anyway and he's never done it – how's he going to do it when we're divorced?' (mother of children aged 10 and 13)

Using the parenting plan as a joint document assumes at least a minimal level of civility and trust between the parents. As we have already seen in the case of mediation, some interventions require both parties to take part in order to stand a chance of success. This may be particularly difficult at a time when couples are separating, trust is lacking, emotions are often running high, and thinking about the future is painful.

Uncooperative partners

There were parents in our in-depth interview sample who had filled in the plan with their ex-spouse, but the arrangements had not been adhered to. We talked with people who were using the plan on their own or not using at all because their ex-partner was uninterested, dismissive or uncooperative. There were parents who had simply not considered using the plan because their ex-partner was not willing to negotiate arrangements. Some parents described the other parent as abusive. Parents who found the plan of limited use offered a variety of explanations for this:

He's not keeping to it. It's been a total waste of time as far as my husband is concerned. (mother of children aged 3 and 12)

It's useful if both parents are willing to do what's best for the children, but when it's just one, I don't think it makes much difference. (mother of children aged 6 and 10)

Good if parents could sit down and do it separately and then come to some agreement, it's a great idea. Probably some parents could do it. I feel we are at the extreme end of not being able to settle anything. If you've got to the stage when you can't speak to each other, nothing's going to make it work properly. (mother of children aged 5 and 9)

My husband wouldn't have been interested. I knew that without even asking. (mother of child aged 7)

Although I consider I'm parenting and he considers he's parenting, they don't meet up, and in situations where I do feel strongly enough to say something, things end up in an argument. (mother of children aged 6 and 10)

One mother described the parenting plan as 'a lost cause'. Her children made their own arrangements to see their father. She told us that before the separation her husband and children shouted at her, but that since the separation it was only the children who shouted:

I cannot discuss with the elder son because he is verbally abusive. He asks why I can't leave the family home. He has been brainwashed by his father who is very controlling. He [her husband] used to put me down constantly so that is what the child has learned ... if I could have brought up the children in the way I wanted, I would not be having the problems. There is nothing I can do. The foundation has been laid. (mother of children aged 12 and 16)

One father in a conflictual divorce process commented that his solicitor had said that the parenting plan was irrelevant during the legal process. In situations where the parents

cannot communicate and wish to fight the other partner through solicitors and the legal system, the plan is unlikely to be used as a co-operative tool:

... if I'd given him something like that he would have thrown it back in my face. I don't think I needed the parenting plan ... I might use it in the future if my husband got awkward. (mother of child aged 11)

Drawbacks to using the plan

Two parents commented that they were cautious about the use of the plan, fearing that it might cause them more problems, although both had actually filled it in. In the first case the mother commented:

I thought it was good. I put it away and it hasn't been necessary to get it out. We don't want to get it out and look at it and follow it to the letter. It's not the way our relationship is. Following it to the letter could damage the trust between us and there's no need for that. (mother of children aged 11, 13 and 16)

One father explained that both he and his partner had completed a parenting plan and the intention was to exchange them at some point, but he admitted that he was reluctant to do so. He was concerned that he might have missed something out that he should have covered:

I don't want it being used in evidence against me. (father of children aged 2 and 8)

We were told by some parents that they had shown the parenting plan to their solicitor or mediator but had got little support for using it. One solicitor had apparently told a father that the plan was irrelevant during the legal process. Another father had filled in his plan and had tried to discuss it with the Family Court Welfare Officer, but to his dismay it was apparently dismissed:

They weren't interested in all those details ... it may be that they're not trained to use it yet. (father of children aged 7 and 11)

The issue of the timing of information has arisen many times over the course of the research, and timing was also an issue in relation to the parenting plans. Many parents told us that the various pieces of information they had been given would have been more use to them earlier on. It seems that the point of separation is a critical time, when people are making choices, and it is at this point that information may be most useful:

When someone leaves it's a frightening, daunting thing and you don't want to go out and ask questions until you've actually thought about it. You don't know what to ask. The leaflets and plan help you do that. (mother of child aged 1)

I did go through it but things were already set up. It came too late for me. I'd already moved on. (father of children aged 12 and 17)

Improving the Parenting Plan

Some parents made very specific suggestions for improving the parenting plan. One parent with three children aged 2, 4 and 7 told us that she thought the plan was more appropriate for people with older children. Issues such as smoking and at what time a child should be home were concerns for children of older parents. One father was critical that the plan was not more specific about details such as what time children of particular ages had to be in, and up to what age a babysitter was needed. One mother suggested that including something on illness was appropriate. In her family, the depression of the father had led to long-standing problems and the parenting plan, with its notion of joint parenting, was of limited use. One father commented that

ticking boxes is difficult for dyslexics ... I'm a bit dyslexic myself. (postal pack recipient, father of children aged 8 and 10)

Indeed, like the leaflets, the parenting plan requires parents to be literate and to have adequate reading and writing skills.

Personal Stories

The following personal stories¹¹ look at how two parents responded to the parenting plan. They clearly illustrate how use of the plan involves a range of other factors and how a number of factors need to apply before information can be used to any effect. As the first story shows, certain situations can militate against the parenting plan being used to make arrangements jointly.

*Veronica – using the plan on her own*¹²

At the time we spoke with Veronica for our third in-depth interview she was already divorced from her husband. This was Veronica's second divorce and she had four children living with her, three from her first marriage (aged 11, 13 and 16) and a son from her second marriage (aged 7). She told us that her second husband was keen on maintaining contact with his son. When they first separated, he picked the boy up from school every fortnight, but this caused a lot of problems since the 11-year-old child was also at the school and *there was always friction between them and it was very upsetting*. Attempting to resolve the issue by negotiating via solicitors ended with a pre-court hearing. The couple were unable to move forward themselves as *there was so much bad feeling*. At the stage of the pre-court hearing, the couple were sent to mediation by the court in order to work out their differences. *The judge said, go to mediation and we'll fix a hearing and we'll see by the time the hearing comes up whether it's working, whether you want to carry on with that, or if it's not working we'll make arrangements through the court*. Veronica did not feel that mediation had achieved very much, despite having had six sessions. She felt that the session was used as *an occasion for my husband to complain about me and bring up the old history, and it wasn't moving on anywhere*. After six sessions she commented *all we achieved in these six sessions was finally just to talk in a civilised way, but not to come to any agreement. I thought after six sessions it was pretty pathetic*.

¹¹ These two personal stories have been selected from the 42 in-depth interviews with parents.

¹² All the names used in this chapter have been changed to protect confidentiality.

The couple went back to court and it was arranged that the child would stay with his father every Friday night and stay over the weekend once a fortnight. A family court welfare officer (FCWO) was involved and had talked with the child. Veronica felt that the involvement of the FCWO was important since it ensured that her son's wishes were listened to. At the time of interview these arrangements had been in place for about a year. Veronica was satisfied with the arrangements, but could see a time when they might need to be changed *as he grows up, and when children have more social commitments, more friends ...*

It was Veronica who had spoken with the children about the separation, rather than both parents together. She felt it was important that children were kept informed of arrangements but she did not go into too much detail, particularly with the youngest child, since she felt he was too young. *He knew my husband was going to move out, but I didn't go into any details.* Veronica could remember looking through the children's leaflets, but she did not recall them in any detail. She had not given them to the children, and commented that in some cases giving literature to children might have adverse affects and cause more anxiety. *For those children who may not be so affected, having literature saying you might feel like this, you might feel like that, might make them feel worried. It's like reading a medical dictionary.* Therefore, although she could see some benefits in having information for children, she felt that giving such information to children involved a judgement by the parent *depending on how the child feels.* However, like many other parents, Veronica told us that the information given to parents about children acted as a reminder. *It makes you aware you're not the only one going through a divorce – it affects children too. They remind you that children are central.*

Veronica clearly remembered the parenting plan and had read it, but felt that it had come too late for her since she had already begun to make arrangements for the children with the help of solicitors. At the time she went to the information meeting she had already been separated for a year. She also explained that she and her husband were on such bad terms at that time that there was no way she could have considered discussing the issues in the plan with him. She felt that making arrangements through the court had been her only option at that time. She commented that the plan had been of little use in actually making the arrangements since the courts had done this formally, but she had nevertheless used it to bring up some additional issues which she had overlooked. It made her aware that there were 'special days' to consider, like children's birthdays and Mother's Day, and she had asked for these occasions to be considered in the arrangements the court made. *It makes you aware of some good points you might not have thought of when you draw up the court order.* Though she felt unable to use the plan with her husband, it had alerted her to areas she had not considered and enabled her to add them into the Statement of Arrangements for the court.

Veronica also stated that she was aware of the message of the plan – that there needed to be communication and flexibility between parents in order for arrangements to be made with which both parties can be satisfied. However, in her own case this was very difficult to achieve.

David – hopes for the future

At the time of the third interview, David was separated and in the process of divorce. David had regular contact with his solicitor and had been to court several times over contact with his children. He was father to four children, aged 3, 8, 12 and 14. Two of the

children were stepchildren whom he had adopted while he was married to his wife. David's wish was to establish contact arrangements with his children since this had dominated his life for some time. He and his wife *haven't been on speaking terms for a long time*, and this lack of direct communication had been the reason the situation had ended up in court on more than one occasion. He would have liked to have tried mediation *to sort out our differences for the children's sake*, but his wife would not entertain the idea.

After the first court hearing David was allowed six hours' contact with the children per week. At the second hearing a FCWO was involved, and he felt this had had a positive effect. *She [his wife] was saying that the children didn't want to be with me but she [the FCWO] said they had said they did want to be with me*. At the most recent hearing he had been awarded contact during Saturday and Sunday daytime every other weekend, but was still not allowed to have the children to stay overnight. Ultimately, he wished to have his children staying with him overnight and could see this involving more court appearances. He looked forward to a time when the relationship between himself and his wife would improve sufficiently to enable them to make informal arrangements: *I'd like to get back on to speaking terms where she can ring and say 'Can you have the kids for the evening?' or I can contact her and say 'Can we swap this weekend?' I would like more contact and more flexible contact*. He accepted, however, that this was an issue for the future.

David felt it was important to keep the children informed about what was happening and he has talked to them about the situation. However, he told us that the court had stated that neither he nor his ex-wife should discuss the marital problems with the children. When he was asked directly by one of the children 'Why don't you love Mummy any more?' he had replied *sometimes at school you have fall-outs, and sometimes mummies and daddies fall out as well*. David felt his children had coped with the separation in different ways. For example, the elder boy was very loyal to his mother, whereas the elder girl had asked a lot of questions and had visited her father in secret. However, she had been found out and had got into trouble, and so David had asked her not to come any more, *so that things might be easier for her at home*. David, like some other parents we have met, was anxious to *prove* his concern for his children. *I say to them 'If I'm doing something you're not happy with, please tell me', and also look at it from the other side and say to them 'If there's something you'd like me to do that I'm not doing, let me know'*.

David was also concerned with offering reassurance to his children, and this was why he had given the children's leaflets to them. *I was trying to show them 'it's not your fault', to try and reassure them it wasn't their fault about the separation, about why me and their mum weren't speaking – just to reassure them that they weren't to blame for any part of it*. The children had looked through the leaflets but had not made any comment to him about them. He felt that the idea of having information for children about separation and divorce was a good one *because maybe they feel it's their fault at times*.

David had filled in parts of the parenting plan, in order to log his hopes for the future. Although the contact arrangements he had with his children were much improved, they were still not as he wished. *I filled in my hopes for the future with the children – holidays, Christmas, birthdays, confirmation, things like that I want to be involved in, things like school, going along to parents' evenings, like I've always done before*. David felt that going through the plan and filling it in had been helpful. *It gave me hope that one day things would come true ... to put pen to paper, it actually helps get rid of frustration*. The plan was something he described as being *for himself*. He had not shown it to his wife, or

the children, or any professional. However, he thought that since contact with the children had settled down somewhat he would *take it out and go through it with them, rather than on my own*. He thought if the children saw that he was using the plan it would *prove* to them that he was concerned for the future. *They want to be involved, they want to see me more, and maybe if they see these things I have written down it might reassure them that I have been thinking of them and thinking about their future.*

Like other non-resident fathers to whom we have spoken, David was concerned about losing touch with the everyday events in his children's lives. He explained how, before separation, he had been very much involved with the children's school life and their home life. He was anxious to maintain contact with the school, had asked for copies of school reports, and had asked to be kept informed about any event that required parents to attend. *It shows them that I'm interested in their school life as well, and it made me feel better – getting a little bit back to being involved.*

David hoped that in the future he would get along better with his ex-wife *for the sake of the children*. He still believed mediation would be worth pursuing, but his wife remained adamant she did not wish to go. *The ideal situation would be that parents could sort out things between themselves – but that does not always happen.*

An Overview of the Evidence

From the evidence presented, it would seem that the parenting plan works best as a co-operative tool when parents are able to communicate directly with each other. A certain level of co-operation is required to use the plan jointly, and this can be lacking when parents are first separating and emotions are running high. It may be that the parents who would benefit most from using the plan and resolving arrangements are those who cannot do so by communicating with their partner since the poor quality of their relationship prevents this. It is unlikely that parents in highly conflictual relationships would be able to use the plan jointly as a negotiating tool. However, the plan can be used by one parent, and can be referred to continually as circumstances change.

The data suggest that the parenting plan was not widely filled in. About half of those who did fill it in involved their partner, and in such cases the plan may assist with the continuity of joint parenting. In other cases only one parent filled it in, as a log of what was currently happening or as a plan of what they would like to see happen. A much larger group of parents did not fill the plan in but found it useful in other ways, as an *aide-mémoire*, as a reminder of specific issues they had not addressed, as an agenda for discussion with their partners, as a basis for talking with their children, or as a source of reassurance that they were doing the right thing. Some were frustrated in their attempts to use the plan because their partner was uninterested, unwilling or uncooperative. A number of parents felt that it would be useful if copies of the plan were provided for both parents, not only the one attending the information meeting. This seems a sensible suggestion. However, a minimum level of co-operation and collaboration (and of literacy) is required to make effective use of the parenting plan.

We noted that reactions from the 230 professionals consulted about the plan during consultation briefings were largely positive (see Chapter 32). Ninety-two per cent felt that the plan would be useful to divorcing parents, and 80 per cent suggested that they would find it useful in their professional role. There is, it seems, a positive response to the notion of a parenting plan from parents and professionals alike, but expectations that it will be

used as the basis for promoting co-operative parenting should not be unrealistic. During the pilots, the plan was used largely as a checklist. Completing it was less usual. In the future, if the plan were to become a more standard tool, and if its use were to be encouraged by solicitors, mediators, courts and family court welfare officers (under the auspices of the Children and Family Court Advisory and Support Service, CAFCASS), more parents might complete it and use it with each other and with their children, both during and beyond the separation and the divorce process. The idea of planning parenting is probably new for most parents who are separating. Indeed, separation is probably the first occasion on which parents are expected to consider the day-to-day issues of parenting. Parents living together are not likely to plan their parenting in the way they are required to think about it when they split up. The divorce process has traditionally placed emphasis on making arrangements concerning where children will live and how they will maintain contact with each parent. The parenting plan goes well beyond this requirement, and prompts parents to think about many more aspects of their children's everyday lives.

Volume

3

**Information Meetings and Associated Provisions
within the Family Law Act 1996**

**Final Evaluation Report
Volume 3**

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Newcastle Centre for Family Studies

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6

Ensuring Access to Justice

6. Ensuring Access to Justice

There was much discussion in Parliament about the importance of ensuring that the provisions in the Family Law Act must be suitable for and available to people from all walks of life, races, cultures and religious persuasions. Furthermore, it was stressed that there must be arrangements in place for ensuring the safety of those subject to abuse and violence. Protection from violence is, of course, one of the fundamental principles underlying the Act, and is the subject of Part IV which is already enacted.

The Lord Chancellor's Department has publicly acknowledged that it serves a diverse society 'made up of men and women; of people of different races, cultures and religions; of people with and without disabilities; of young people and older people; of straight and gay people; of people with and without caring responsibilities; and of people with many other differences'.¹ Respecting and valuing that diversity means striving to serve the many interests of people in differing circumstances.

Lord Woolf's fundamental review² of the civil justice system recommended changes that would result in a new culture and approach to civil litigation with the overriding objective of dealing with cases 'fairly' and 'justly'. A central tenet of these changes, embodied in the Access to Justice Act 1999, is the promotion of alternative dispute resolution, diverting as many cases as possible from the courts while nevertheless ensuring protection of human and legal rights.

Concerns to respect diverse needs and to promote access to justice were reflected in the information meeting pilots. We undertook special studies to understand the needs of minority ethnic groups, those in fear of abuse and violence and people in prisons. We also became aware of the specific needs resulting from ill health, disability and old age, and from one or both spouses being a member of the Armed Forces. We were also concerned to develop understanding of the importance of gender in the field of law reform, and of the extent to which legislative processes and policy reforms are themselves gendered.

In Chapters 26–30 we present the evidence from these special studies and our consideration of a range of special needs, and indicate the extent to which exemption from attendance at a information meeting might be necessary.

¹ Lord Chancellor's Department, *Equality and Diversity Action Plan* (2000), p. 2.

² Lord Chancellor's Department, *Access to Justice: Final Report* (1996).

Chapter 26

Respecting Cultural Diversity

Caroline Bridge

If the Bill is to be successful, provisions must be made for those different cultures to have a voice at information meetings, and for the information to be relevant ...

It is not merely a question of language and translation, important as that is. We must also respect different cultures and traditions.¹

Ensuring equal access to justice is a central plank of the Government's objectives as set out in the White Paper. Information must be available and relevant to people from all backgrounds, walks of life, cultures and religions. The dictates of availability, appropriateness and relevance in relation to information meetings form the basis of the study into the differential needs of those from a range of cultural, religious and ethnic backgrounds.

Because it is both inappropriate and impossible to consult with all minority ethnic groups living in this country we have, in the first instance, addressed the nature of ethnicity and then considered the theoretical/conceptual approach to the issues of ethnicity and information meetings. In this respect we have explored the concept of cultural pluralism and its limitations, and have considered the nature and concept of the family, the role of women and attitudes towards divorce from a broadly ethnic perspective. Additionally we have given consideration to the major conflicts-of-law issues presented to us during our consultations. In relation to the provision of information meetings, we have addressed issues pertaining to the cultural appropriateness of the venue, the gender, ethnic background, cultural awareness and training of presenters, the cultural appropriateness of the style and content of the information itself, and the question of exemption from attendance. Our findings stem both from our routine research and from individual and group consultations with members of ethnic minority communities.

Defining Ethnicity

The British are 'clearly among the most ethnically composite of the Europeans'.² 'Post-war immigration, particularly from the Indian sub-continent and the West Indies, has made us a more heterogeneous people than we have ever been.'³ We live in a multicultural, pluralistic society, and the term 'ethnic minority' is here used to denote a recognisably distinct group of people with shared historical experiences who adhere to certain significant cultural traditions and traits which are different from those of the majority of the population. Colour, race or national origin are less significant than culture in identifying ethnic groups living in this society. Culture may be broadly defined as

¹ Mrs Barbara Roche MP (Hornsey and Wood Green), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 164.

² Giepel, J., *The Europeans: An Ethnohistorical Survey*, Grepel (1969).

³ Bingham, C.J., *The European Convention on Human Rights: Time To Incorporate* (1993), 109 LQR 390, p. 391.

including a community's religious beliefs, rituals, values, language, customs, manners, family structure and social organisation.⁴ The term 'ethnicity' is of more recent origin, appearing in the English language in the 1950s. Its precise meaning is problematic, defying simple definition and explanation. Academic commentators declare that there is little consensus about its meaning.⁵ However, adopting the approach of Poulter,⁶ who attempts a definition based on its *legal*, *dictionary* and *census* meanings, is a useful starting point. In addition, we consider core *sociological* markers in an attempt to define the concept.

Legal definition

The only occasion on which the English courts have determined the meaning of ethnicity has occurred within the context of race relations legislation. In *Mandla v Dowell Lee*⁷ the House of Lords was called upon to decide what is meant by 'ethnic origins' in the Race Relations Act 1976. Their Lordships determined that 'ethnic' should be interpreted in a broad and popular sense and that an 'ethnic group' must 'regard itself, and be regarded by others, as a distinct community by virtue of certain characteristics' and must have a 'long shared history of which the group is conscious as distinguishing it from other groups, and the memory of which it keeps alive'. Such a group must have a 'cultural tradition of its own, including family and social customs and manners'. Lords Fraser and Templeman adopted a wide inclusive definitional paradigm, considering that ethnicity should be interpreted widely in a cultural and historical sense.

Dictionary definition

The 1972 *Supplement* to the *Oxford English Dictionary* referred to the 'common racial, cultural, religious or linguistic characteristics designating a racial or other group within a larger system'. The 1989 *OED* focuses on a broad, culturally-oriented concept of ethnicity and refers to an ethnic minority group as 'a group of people differentiated from the rest of the community by racial origins or cultural background'.

Census

According to Poulter⁸ the 1991 national census is of limited value for ethnicity purposes, as its questions focused on colour, race and national origins rather than on culture, tradition or religious affiliation. Respondents were asked to identify their 'ethnic group' by reference to a list of nine possible categories, but these were so widely drawn that, for example, the category 'Indian' gave no scope for internal differentiation. Nevertheless, the major ethnic minority communities identified were Indian, Pakistani and Black Caribbean.

⁴ Poulter, S.M., *English Law and Ethnic Minority Customs*, Butterworths (1986).

⁵ Jones, R. and Gnanapala, W., *Ethnic Minorities in English Law*, Trentham Books (2000), p. 28.

⁶ Poulter, S.M., *Ethnicity, Law and Human Rights*, Butterworths (1998), pp. 4–12.

⁷ [1983] 1 All ER 106.

⁸ *ibid.* at 8–9.

Sociological theories

Sociological rather than legal writings on theories and concepts of ethnicity stress a 'trinity of markers' which signify the basic structure of ethnicity and ethnic group differentiation. These are:

- (a) kinship or blood – the presumed biological and descent unity of the group – each member has it, outsiders do not;
- (b) commensality or substance – the propriety of eating together, indicating equality and peership;
- (c) common cult or religion – implying a value system or religious cult. Emphasis here may vary according to the ethnic custom. Religion and law are inseparable for Muslims, for example, whereas many long-standing African customs are backed by tradition rather than religion. This does not necessarily lessen the strength or the duty to comply with the custom. Added to these 'core (sociological) markers' are the secondary markers of language, dress codes, physical characteristics, ritual calendars, specific taboos in joint social participation, special medical practices and special economic practices. A third category of factors is more readily described as 'ethnic symbols', indicating group participation and identification. These include religious holidays, consumer goods (notably food), identification with national politicians and international issues; all symbols which, themselves, form part of the cultural pattern. It is claimed that these latter factors, constituting symbolic ethnicity, are set to become the dominant way of being ethnic as assimilation in a country such as Britain continues.⁹

Giving the concept of ethnicity a tangible meaning and one that can be useful in English family law requires a further consideration of other characteristics such as geographical origin or descent, language, literature, religion and size of group.¹⁰ It is clear that the most important characteristics of ethnic minority groups from a legal perspective are the adherence of many to certain 'customs, traditions, religious beliefs and value systems which are greatly at variance from those of the majority community'.¹¹ Recognition and acceptance of different ethnic minority customs and value systems lie at the heart of a just and equitable legal process. This is the definition of ethnic group adopted in this research. The term 'ethnicity' is used today to signify the essence of an ethnic group or the quality one must possess in order to belong to an ethnic group. As such, ethnicity has always been experienced as a kinship phenomenon, described as a 'sense of being',¹² a sense of ethnic identity. It is therefore concerned with interaction rather than separatism, and with matters of recognition and identity. A useful working definition of ethnicity for the

⁹ Gans, H., 'Symbolic ethnicity', in J. Hutchinson and A.D. Smith (eds), *Ethnicity*, Oxford University Press (1996), p. 15.

¹⁰ Banton, M., 'The actor's model of ethnic relations', in J. Hutchinson and A.D. Smith (eds), *Ethnicity*, Oxford University Press (1996), p. 103.

¹¹ Gans (1996), *op. cit.*

¹² Fishman, J., 'Ethnicity as being, doing and knowing', in J. Hutchinson and A.D. Smith (eds), *op. cit.*, p. 63.

purposes of addressing issues that arise for different ethnic groups in relation to information meetings must embrace both legal and sociological attributes. Acknowledging the sense of kinship, as portrayed in family structures and the role of women, for example, is as important as identifying those principles of religious and civil law that come into conflict where marriage and divorce are concerned. We recognise the fundamental importance of family forms and structures, traditions and rituals and religious beliefs as core markers of ethnicity. Additionally, we recognise the importance of language as a tangible marker of ethnicity within the legal framework of the Family Law Act 1996 and acknowledge the importance of special rituals and taboos (secondary markers). We have also paid heed to those aspects of 'symbolic ethnicity', such as religious holidays, which impact upon the appropriateness, availability and relevance of information meetings.

Moving towards Cultural Pluralism

In Britain today there appears to be an increasing desire, among ethnic groups, to preserve their own traditions of language, custom and religion, more than their predecessors had done. There is a recognised re-emphasis on maintaining distinctive religious and cultural identities. Poulter concludes that over the next few years ethnic and cultural diversity can be expected to set the political agenda in relation to ethnic minority communities just as forcefully as discrimination on the basis of race or colour. Clearly, then, British institutions, the law and legal processes must develop policies that take account of the implications of an ethnically diverse population. Policymakers have moved away from an 'assimilationist' approach and have moved steadily towards a philosophy of 'cultural pluralism'. This emphasises the importance of according respect to the distinctive cultures and identities of ethnic communities whilst acknowledging the existence of some conflict in values. According to Freeman, it is the incompatibility of values that causes a stumbling block, but this can be resolved by appealing to 'some reasonable ranking of the values in question'.¹³ Cultural pluralism accords minority cultures, traditions and values equal respect and recognition to those of the majority.¹⁴ Respect for and tolerance of diversity constitute the hallmark of cultural pluralism. We approached the issue of ethnicity and information meetings from a cultural pluralist's perspective, seeking to accord recognition and respect to the traditions of ethnic minority groups. This approach nevertheless has its limits.

Limits of cultural pluralism

Though a culturally diverse society, Britain seeks also to retain its social cohesion. This is particularly significant in terms of legal processes which apply to all people living under English law. Consequently, ethnic communities may not necessarily be able to retain their own cultural traditions unchanged within the context of English law. A sharing of fundamental values and a need to retain cohesiveness in society as a whole remain of uppermost concern. The values and traditions of ethnic groups cannot be accorded equal weight in a legal process to be imposed on all members of the divorcing public. At best we must follow a policy of what Poulter calls 'cultural pluralism within limits' and, in relation to information meetings, we have sought to incorporate those areas of ethnic and

¹³ Freeman, M., 'Cultural pluralism and the rights of the child', in J. Eekelaar and T. Nhlapo (eds), *The Changing Family: International Perspectives on the Family and Family Law*, Hart (1998), p. 295.

¹⁴ See Poulter (1998) and Freeman (1998), *op. cit.*

religious tradition which ethnic communities themselves regard as vital, yet have attempted to do this within a context in which the same law and procedures are applicable to everyone.

Ethnicity and the Family

Before examining the practical issues involved in issues of ethnicity and information meetings it is important to highlight the central position of the family, and often the husband, in different ethnic groups. Whilst it is impossible to ascribe the same specific characteristics to all ethnic families it is feasible to identify certain patterns of family structure found among ethnic minority communities in this country which diverge from those of the white majority. Now, however, there is a growing population of people from ethnic minorities who have been born and brought up in this country. Nevertheless, the most common contemporary white family is the 'nuclear' or 'conjugal' one while the norm for Asian families, for example, is an 'extended' one in which the lives of children and parents are closely integrated with those of their wider kin, although they may not be resident in the same household. Kinship groups and extended families still constitute an important focus for the majority of Asians in this country. Different cultures, religions and family structures create perceptions of the family that may be at variance with the norm of the white majority in this country. The impact of this variance can be addressed by structuring the information meeting in a way that recognises cultural differences – within limits. For example, the Muslim husband may be perceived within his ethnic community as the head of the family, yet the FLA does not accord him that superiority. If he wishes to divorce his wife, he must comply with the divorce law of this country and attend an information meeting. In that sense, his ethnicity is not given special recognition. Given the objective of enabling all attendees to receive, understand and benefit from the statutory information the information meeting must take account of his ethnicity within the confines of what is feasible.

The meaning of family

Although the term 'family' carries different connotations for different ethnic groups it is important to stress the importance of what it means to belong to a family. For example, to traditional Indian or Chinese people living in this country the term 'family' may extend to a large familial group within which there may be a pooling of resources and financial obligations. The demands and duties of kinship may be greater within Asian families, for example, than within traditional Anglo-Saxon families and may involve the support of family members still living in the country of origin. Family brings a sense of belonging and a sense of community, with family members carrying a deep sense of the significance of the family name and the concept of family honour. Perceptions of what 'family' means permeate attitudes towards marriage and divorce and, consequently, may influence attitudes towards information meetings. One male attendee from the Birmingham and Coventry pilot was asked: 'Do you feel better informed about making future arrangements for children as a result of the meeting?' He responded, 'We're Asian, so we have a lot of close family support. We're looking after him [his son] well and a lot of family help is coming as well.' However, one Indian male attendee revealed in a telephone interview that it is 'difficult to talk to friends and family because divorce is a shame for the family and friends don't want to discuss such personal matters'. The Asian

attendee went on to express his view that the more traditional way of family life might be changing for younger generations:

Being an Asian the reaction is quite anti-divorce. There's been a lot of pressure not to divorce ... a lot of cultural and family pressures to stay together ... The information meeting was really helpful to me ... I've helped a lot more other people in this situation ... everything seems to be falling apart anyway in the Asian community family life ... cultural and generation gaps and things like that.

The family structure of many ethnic groups tends to be both hierarchical and patriarchal. In Jewish families, the more traditional or orthodox the adherence to the religion, the more pronounced is the emphasis on the husband's role as the head of the household. Orthodox tradition is strongly male-oriented.¹⁵ In the South Asian family, for example, the man is the head of the household, controls the family finances and negotiates major family decisions. This structure has been transferred into the British setting.¹⁶ Family life in England's Afro-Caribbean community, however, is strikingly different. It is clear that the construction and maintenance of support networks within ethnic communities is significant for information meetings in that immediate families are perceived as a dominant resource. Ethnic communities, for example, may perceive that their own members should take the role of information presenter, although they may think differently when issues of gender are taken into account. The diverse nature of family forms must inform decisions relating to accessibility and confidentiality of information meetings as well as to the relevance of the substantive information.

The position of women

The position of many women in ethnic minority families living in Britain today is dissimilar to that of their white Anglo-Saxon counterparts. For Pakistani women, for example, marriage may confer a social status unattainable in other ways. Respectability and personal honour may be almost entirely dependent upon marital status. It has been noted that via marriage a wife gains 'honour' and 'glory', but that in order to uphold this 'honour' an Asian wife may be expected to endure oppression in silence, regarding her husband as her 'God', and 'compelled to view the fulfilling of his every desire as her "religious" duty'.¹⁷ A woman's position in relation to her husband may thus result in a downgrading of her view of herself and her own needs and a heightened focus on the family. Personal satisfaction and fulfilment are likely to give way to intense family involvement and obligation. This is particularly so in families striving to uphold traditional Asian values but less so among Asian women born in the UK. A consequence of the unique position that many women from ethnic minorities hold within the family and particularly within marriage is that relationship breakdown or, even worse, divorce is an event of tragic proportions. This clearly has significance for the information content, presenter style and expectations generated by information meetings.

In general, women are more likely than men to initiate divorce. Yet taking the initial step, that is attending an information meeting, is likely to be more traumatic and the consequences of divorce vastly more grave for women from ethnic communities. For

¹⁵ Levy, D., 'You don't have to be Jewish', *Family Law*, vol. 258 (1999).

¹⁶ Wilson, A., *Family Forms*, Tavistock (1985).

¹⁷ Kennedy, H., *Eve Was Freed: Women and British Justice*, Chatto & Windus (1992).

Asian women, for example, divorce is almost taboo, unheard of and unspoken of. Divorce may bring rejection and isolation from the ethnic community. A daughter's chances of marriage may be jeopardised and the family dishonoured, and the woman may find herself without means of financial support. Because of the enormous cultural constraints on the very notion of divorce it is likely that domestic violence of an extreme kind is the precipitating factor. The impact of divorce on a Jewish wife is such that she may be prevented from remarrying because of her husband's refusal to consent to a religious divorce, even where a civil divorce has been granted. Similarly, the husband of a Muslim wife who has obtained a divorce from the English court may refuse to release her from the Muslim religious marriage.

Divorce in ethnic communities

Relationship breakdown and divorce are likely to be regarded as events of enormous proportion in many ethnic communities living in the UK today. In the Sikh family, for example, the stigma of divorce is such that daughters are encouraged by their families to put up with the husband, and possibly his demands for money, or dowry, from them. The act of attending an information meeting and initiating the divorce process must be regarded as carrying immense significance for the whole family.

Relationship breakdown and divorce are frowned upon within the Jewish community, with divorce being generally discouraged. The Rabbi has a duty to try to effect a reconciliation. Consequently, orthodox Jews may fear identification at an information meeting and fear the dissemination of the fact of their attendance. This was discussed in the Manchester pilot, and issues were raised about the identity of the presenter and whether this person should come from the Jewish community. Further legal issues arise in relation to a Jewish consensual divorce. The *get*, or bill of divorce, is the procedure which takes place in the Jewish Rabbinical Court and can only be granted by the husband to the wife. Even if a civil divorce under English law is obtained the Jewish couple are not considered divorced until they have been through the procedure to obtain the *get*. A party to divorce may refuse to accept or to grant the *get*, thus using it against the other to punish or seek revenge.¹⁸ If a wife is refused a *get* she is forbidden by religious law to contract a second Jewish marriage and may feel very uncomfortable entering another relationship.

The plight of the Jewish 'chained' wife has been the subject of several recent court cases. In *N v N (Jurisdiction: Pre-Nuptial Agreement)*,¹⁹ Wall highlighted the injustice which Jewish spouses, particularly women, suffer as a result of a husband's refusal to grant a *get*. This issue has been tackled by Parliament, and the problems that arise when one party refuses to co-operate are addressed in Section 9(3) and (4) of the FLA 1996. David Pearl has described these provisions as moving 'a little further towards a better understanding of the socio-legal needs of certain ethnic minority communities' and 'showing the way towards official legal acceptance of ethnic minority cultural practice'.²⁰ He suggests that Section 9 might eventually be taken to cover Muslim divorces as well and that, at its most basic, it provides a model for the incorporation of ethnic minority practices into the statutory framework of the law. It should be noted that the provisions of Section 9 have now effectively been replicated by the Divorce (Religious Marriages) Bill

¹⁸ Katzenberg, S.E. and Rosenblatt, J., 'Getting the "get"', *Family Law*, vol. 29 (1999), pp. 165, 166.

¹⁹ [1999] 2 FLR 745.

²⁰ Pearl, D. and Menski, W., *Muslim Family Law*, Sweet & Maxwell (1998), p. 104.

which was introduced in the House of Lords on 18 May 2000. That Bill, enabling the court to require the dissolution of a religious marriage before granting a civil divorce, adds Section 10A after Section 10 of the Matrimonial Causes Act 1973. The clear inference to be drawn from the introduction of the Bill is that delay in implementation of Part II of the Family Law Act should not impact adversely on ethnic minorities. This suggests that respect for ethnic traditions and religious practices is increasingly being manifested in a more tangible way.

Domestic violence

Consultations with members of ethnic minorities have highlighted the extent to which it is believed that many divorce proceedings are prompted by domestic violence. One spokeswoman for a South Asian Women's Group claimed that divorce proceedings taken by South Asian women were invariably initiated from within a women's refuge. The set of issues and problems pertaining to domestic violence are linked with those pertaining to ethnicity. The safety concerns highlighted in the research on domestic violence underlie many of the specific problems highlighted here. A cultural belief in the subservience of women, for example, may lead to relatives ignoring violence against a young wife. A female attendee from Leicester and East Midlands observed that 'there should be more support groups, [violence] is very common in any relationship'. The need to preserve traditional ways of life may also lead to members of an ethnic community, including other women, refusing to condone the initiation of divorce even in the face of violence. Nevertheless, men too may suffer from violence within a specifically ethnic context. When asked about the domestic violence information he received in the Leicester and East Midlands pilot, a male attendee replied that his wife was violent towards him. 'Hairbrushes, projectiles etc. Needed to separate because of this.' The location and venue of information meetings as well as the identity of the presenter and content of information are all important issues in relation to ethnicity and safety.

Addressing Cultural Diversity in Information Meetings

The various factors outlined above are important not simply as an introduction to our study of the needs of ethnic minorities, but as guidance on the tangible ways in which ethnicity might be addressed in information meetings or in the provision of information more generally. The above factors inform both the approach we adopted in the ethnicity study and our interpretation and categorisation of the findings from the routine research. While recognising that divorce can only be given legal effect in this country when it complies with the provisions of English law – and in that sense, every person is subject to the same law – we believe that respect for ethnic minority communities and regard for equality before the law demand that information meetings meet the needs of people of all cultures, religions and traditions. Consequently, different minority needs must be catered for, so far as is possible and desirable, within the generalised provision of information meetings.

Conflict-of-laws Issues

Consultation with members of ethnic minority communities has highlighted conflict-of-laws problems as being of the utmost importance. These concerns centre on the

relationship between religious marriage and the English civil marriage laws and the degree to which overseas marriages and religious divorces are recognised in English law.

The ethnicity consultations have highlighted the following concerns:

1. To what extent are both parties free to remarry?
2. Will the original religious marriage and subsequent divorce be recognised in English law?
3. Will ancillary relief provisions come into effect?
4. How will a spouse know whether or not his or her religious marriage is recognised and whether a civil divorce process will be necessary?
5. Will an Islamic spouse know whether or not it is necessary to attend an information meeting in order to initiate the divorce process?

As Jones and Gnanapala state, 'it is evident that some ethnic minorities, especially Muslims, have for a long time assumed that they could continue their customary divorce practices in Britain'.²¹ There is clearly an identifiable issue within this area of law which is likely to be a problem in relation to attendance at an information meeting. When, for example, will an Islamic (or Jewish) spouse be certain that, despite a religious divorce, he or she must also gain a civil divorce and consequently begin the civil process by attending an information meeting? How can a Muslim who has undergone a religious marriage in Pakistan be sure that the marriage is recognised in the UK and that a civil divorce is therefore necessary? Concerns of this nature were expressed by a Pakistani female attendee in a telephone interview:

... going to an information meeting will make no difference to my use of marriage support services ... in-laws refuse to allow divorce. I came to Britain to live with my husband, but there was always someone else. Most Muslim women would just have to suffer ... My husband didn't believe he was married.

Taking an Islamic marriage and divorce as an example, a couple may get married in Pakistan before coming to live in England. One or both may have lived in England prior to the marriage. The marriage is contracted according to Islamic law and a religious ceremony, the *nikah*, is carried out. On returning to England the couple may be told by the Home Office that there is no need to register the marriage in this country. Under Islamic law the husband may divorce his wife by a Muslim *talak*, freeing himself to marry another woman in a civil ceremony. The *talak* is available exclusively to the husband and may be pronounced in one of a number of ways. In some forms, a bare utterance, such as 'I divorce you', becomes immediately final. From this moment, the woman starts the waiting period, which lasts for three months. She must stay at home during this time and both parties should reflect on their situation. If they are not reunited when the waiting period is over then the divorce process is complete, according to Islamic law. This is strikingly similar to the new divorce process, but without the waiting after the initial period for reflection.

²¹ Jones, R. and Gnanapala, W., *Ethnic Minorities in English Law*, Trentham Books (2000), p. 125.

Muslim, Hindu and Jewish divorces are the most significant in the context of the English jurisdiction, although other ethnic divorces, for example Thai divorce, have been considered by the courts. There are no reliable figures as to the number of religious divorces, but what is clear is that such divorces effected in the UK have no legal effect. Where a civil divorce is obtained in the English jurisdiction the parties are free to remarry notwithstanding that they have not obtained a religious divorce according to the customs of their community. Recognition of all foreign divorces is governed by the Family Law Act 1986. Case law has given helpful guidance and it is clear that a Pakistani Muslim Family Ordinance *talak*, and a Jewish *get*, for example, obtained in an overseas jurisdiction, are likely to be recognised. Recognition of foreign marriage is more complex and also more relevant to information meetings. If a person's marriage is not recognised in this country is there a need to obtain a divorce and therefore attend a meeting? At its most simplistic this requires consideration of whether the marriage is valid according to *lex loci celebrationis* (the law of the country in which it was contracted) and of whether the parties each had capacity according to their *leges domicilii* (the law of their antenuptial domicile). These concerns can be difficult if the marriage was contracted according to religious rites. As a general rule, foreign marriages contracted according to religious law in an overseas jurisdiction will be recognised in this country. Therefore, if divorce is desired it will need to be sought in accordance with English law. It is clear that there is concern, at least among some Muslims, as to the status of those who have been married according to the religious ceremony (*nikah*) in Pakistan. The Manchester Pakistani Welfare Centre, for example, confirmed this and suggested that the Home Office should clarify the position, since such people are unsure of whether their marriage is recognised and, therefore, of whether they need to obtain a civil divorce.

The broad implications of the conflicts-of-law issues are beyond the scope of this evaluation research. They are also beyond the scope of the substantive information given at the information meeting to address such complex legal issues. Nevertheless, information presenters may well be questioned by an ethnic minority attendee as to whether or not civil divorce is needed. Although they cannot answer such a question they need to be able to advise as to where specialist help may be sought. In this respect we suggest that the information pack should include appropriate addresses and telephone numbers of specialist advisors.

Attendance at an Information Meeting

The vast majority of those attending information meetings have been white – the non-English language information packs have rarely been taken. The total number of attendees from ethnic backgrounds amounted to 419 or 5.5 per cent of the total, which, as was indicated in Chapter 5, is not far short of mirroring the proportion of people from ethnic minority groups in the general population.

Forty per cent of the 419 attendees from ethnic backgrounds were male. Although the number of attendees from ethnic backgrounds was low, as Table 26.1 shows there was a considerable ethnic spread, with representation from a range of different ethnic backgrounds. The most common ethnic group, including both male and female attendees, consisted of people who defined themselves as Indian. This group, however, included a higher proportion of male attendees: a third of men and 22 per cent of women described themselves as Indian. There were also more men than women among those who described themselves as either Pakistani or Bangladeshi, while women were more

prominent among Black attendees. Of those who described themselves as Black, 64 per cent were female, as against 48 per cent of those who described themselves as Indian, Pakistani or Bangladeshi. The distribution of ethnic groups is similar to that of the general population, but we cannot be sure that the ethnic composition of attendees is representative of the wider ethnic community. Nevertheless, interviews with attendees from ethnic minorities have generated important data that facilitate our understanding of ethnic issues relating to provision of information.

Table 26.1 Distribution of non-white attendees by ethnic group and gender

Ethnic group	Male	Female
Black-African	24	45
Black-Caribbean	30	46
Black-other	9	22
Indian	56	56
Pakistani	15	10
Bangladeshi	3	2
Chinese	2	8
Latin American	19	35
Arab	2	0
Sri Lankan	1	2
Persian	0	1
Turkish	1	1
Japanese	0	1
Burmese	0	1
Mauritian	0	1
Malaysian	0	2
Asian	0	2
Anglo-Asian	0	3
Thai	0	2
Jewish	0	1
Mixed race	1	0
Other/unspecified	5	10

Although we are confident that the experiences of those members of ethnic minorities who attended an information meeting are relevant to an understanding of ethnic issues, our primary research methodology has been the holding of focus groups and consultations with members of ethnic communities. The primary area targeted was the Leicester and East Midlands pilot, although consultation also took place in Manchester. In particular, a consultation with ethnic minorities was held in January 1999 in Leicester and a structured questionnaire was subsequently sent to those who could not remain for the entire period of the meeting. The numbers attending were small, despite intensive publicity and

personal approaches to religious leaders by the ethnicity consultant in Leicester. The reasons for the very low participation rate appear to be: unwillingness to attend a meeting, a lack of understanding of the role of the information meeting pilots, a perception that the new divorce law will not impact on specific ethnic groups, a lack of understanding of the need to 'consult today' given that the new law is not destined for immediate implementation, and a reluctance on the part of religious leaders to be seen to be involved with anything to do with divorce. We have maintained communication with interested individuals and they have assisted by putting their views in writing. Additionally, we have contacted certain individuals directly in the knowledge that they have a particular interest in ethnic issues in relation to family law and matters of marriage and divorce. This has enabled certain issues to be discussed knowledgeably and has assisted in informing our findings. Ultimately, we have relied on an examination of the literature in order to understand the issues confronting ethnic minorities trying to retain their own customary religious practices in relation to marriage and divorce whilst at the same time conceding their governance by English law. An extrapolation of the general problems to information meetings in particular has helped to shape the issues which we are addressing.

The Major Issues

We have identified six major issues relating to ethnicity and information meetings:

1. The appropriateness of the venue, and the need to consider culturally specific venues.
2. The extent to which presenters should be selected from a wide range of ethnic origins.
3. The training of presenters in cultural awareness and understanding.
4. The cultural appropriateness and usefulness of the information given by the presenter and contained in the leaflets.
5. The style and mode of information delivery, including the style of language, in the video, the CD-ROM, and the individual and group presentations.
6. The extent to which the parenting plan and offer of a meeting with a marriage counsellor are both culturally appropriate and useful.

We consider each of these issues in turn.

The venue

Our consultations have revealed that the issues surrounding venue are similar to those discussed in relation to domestic violence. Fears about being traced and identified are uppermost. This is particularly so in close-knit Asian communities where, for example,

an Asian male taxi driver may feel compelled to reveal the identity of an Asian woman he drove to a particular venue. Consequently, the location and the venue need to be safe, accessible, well-populated and neutral – places where a woman could safely be seen doing everyday things. The community centre or health centre met these criteria and appeared to be the preferred option. Suggestions from members of ethnic minority groups included the following:

Community centre is appropriate – an independent area so no religious or other community can dominate.

[Community centre is] accessible; has community ownership; is appropriate in cultural and socio-political [ways].

Community centres promote advice and support people in all aspects of life.

A health centre is appropriate – because meetings require a degree of confidentiality. Asian people do not like it if others know about their marital problems.

A place of worship and community centre would be inappropriate because there would be no confidentiality.

A doctor's surgery – all members of the community use and know the doctor's surgery. This place would also provide a degree of order and sense of the seriousness of the matter.

Place of worship is inappropriate – pressure might be placed on an individual to seek spiritual help and not legal advice.

Council and social service offices should not be used – [they are] overbearing, official, symbols of authority.

Mosques and temples had been suggested by women associated with an Asian women's refuge as appropriate, safe venues. Women considered that men would be less likely to behave inappropriately in a religious place. The male Asian view, presented to us during consultations, is that any information associated with divorce would be unacceptable in a mosque or temple. The advertising of information meetings in such a place is unlikely to be possible although offering information about assistance with relationships is considered to be appropriate. Discussions revealed a very gendered view of the issue.

Ethnic origin of presenters

Discussion of whether presenters should be drawn from the same or from a different ethnic background revealed deeply gendered views, although everyone consulted expressed the need for cultural knowledge and awareness on the part of presenters. Asian women expressed a desire for *cultural awareness* on the part of the presenter, but did not want presenters from the same cultural group, particularly if the person was from the same community. Confidentiality is crucial because of fear of discovery and its possible aftermath. The Manchester Pakistani Welfare Centre does not believe that fears about confidentiality will be an issue if presenters are from outside the specific community. Nevertheless, cultural awareness and confidentiality must go hand in hand. In particular, presenters need to know that Asian women, for example, who initiate divorce may face

exclusion from their community. Marriage breakdown may be blamed on the woman whatever the cause, and presenters must understand her special needs and the enormity of the step she is taking. Consequently, some Asian women would prefer a white European presenter because such a person is often accorded greater authority and offers greater confidentiality. The Asian male view is that presenters of the same ethnic origin should be used. The confidentiality issue is one in which there is an opportunity for the couple's relationship to be identified as in trouble and help given by the community. One Afro-Caribbean male expressed the view that presenters of the same ethnic group would be preferable. The presenter must be able to speak the relevant language. Some attendees are likely to reject the offer of a non-English speaker as a presenter because they may feel alienated from the nature of the civil divorce process and are simply attending in order to legalise the religious divorce. Equally, those with limited command of the English language are likely to reject the appropriate non-English language information pack for similar reasons.

Because the nature of ethnic variation, coupled with gender considerations, implies a wide variety of significant needs and expectations among ethnic minority groups, it appears that choice as to the background and sex of the presenter should be provided. Respondents to questions about presenter background and the sex of the presenter offered the following views:

A presenter from the same background enables the attendee to relate to the presenter more easily and will feel more relaxed and receptive.

Women would feel more at ease speaking with another woman.

There might be a preference for the presenter being from the same background or [a] different background.

Women from a strict culture might want a presenter of the same sex. Some men from a strict culture might want a male presenter. The attendee could be asked this question.

The attendee should choose the sex of presenter.

Presenter from the same background will hopefully have a cultural perspective – people may feel more able to challenge, discuss and ask questions.

Presenter training

Presenters would need to be skilled in responding to the needs and expectations of ethnic minorities. Consequently, it is vital that presenter training should embrace cultural awareness and knowledge of the relevant cultural and religious issues. It is clear from the consultations and attendee responses that cultural and religious knowledge is important. This should include awareness of ethnic community values and sensitivity to matters of separation and divorce, knowledge of traditions and customs and awareness of differences in attitudes to the family and family dynamics. Presenters should be recruited from a range of ethnic minority backgrounds. Ethnic organisations and agencies in local communities could provide an important resource both for initial training and for ongoing advice and updates on particular ethnic concerns. Attendees should be offered an information meeting in their own language whenever possible. The following is a sample

of the comments made in relation to the question 'What specific training or awareness will presenters need?':

Sensitivity and awareness that the meeting is NOT about encouragement BUT purely an informative guideline to the Family Law Act and its legal procedures.

A very good, all round race awareness training course.

[Presenters] might need to become aware of smaller ethnic groups like Chinese or Polish.

Knowledge of cultural, economic and political issues.

Strong liaison groups with established and active organisations and people to support and advise.

The information content

All attendees must be made aware that the specific information to be presented is determined by statute and that all members of ethnic groups must receive the statutory information. This does not mean that the information cannot be structured and presented in a culturally specific way. Many ethnic groups living in this country fear intervention by the state, particularly in matters pertaining to the family. The statutory information requires that the identity of support services must be given. This information must include particulars of local ethnic support groups and, in particular, information about where to go for religious information and information about conflicts-of-law issues. This is particularly important given the fears and misunderstandings about the legal status of religious divorce and of marriages contracted abroad. Information should include, for example, referral to the mosque, Asian Welfare Centres and the Jewish Marriage Council, and should include named contacts within local support agencies and networks. It is possible that information meetings will meet the needs of men more than those of women since men are, as one respondent put it, 'more adept at using the white system'. At the same time, men are more likely to use the customary or religious form of divorce and women are more likely to believe that they are legally divorced by such means. Of course, in religious terms it may only be this form of divorce in which both parties truly believe. Verdicts about the usefulness of the information leaflets ranged between very useful and fairly useful.

Mode of delivery

Responses to the video and CD-ROM shown at consultations highlighted two major points: both modes of information giving need to be prepared in appropriate languages and both need to be culturally specific. The latter point was consistently made in the context, for example, of showing Asian couples at mediation. The revised video was perceived as reinforcing cultural stereotypes, portraying a negative image and paying lip-service to ethnic diversity. It was seen as a token gesture towards diversity rather than as portraying real couples reflecting on their marriages. Some South Asian women perceived the video to be completely inappropriate. Mediation as depicted is unrealistic for such women, since they would not speak frankly in front of their husbands and would

never argue with them in front of a third person. An opportunity exists for videos and CD-ROMs to be prepared in a culturally specific way – different videos for different ethnic groups – with couples of the particular ethnic background discussing their marriage in a way that highlights their particular concerns. In this way, the law can approach ethnicity concerns from a stance of cultural pluralism and ensure, as far as possible, that ethnic minorities have equal access to justice. Additionally, videos and CD-ROMs, as well as overheads in the group presentation, should be produced in different languages. In response to a question about the clarity of the overheads one respondent said:

English is a second language so one has to really listen and grasp the information.

The information leaflets in different languages should not simply be translations of the English leaflets. There is an opportunity here to approach the matter from the perspective of cultural pluralism and respond directly to ethnic concerns. Culturally specific issues can be addressed in the substance of the information. Packs in non-English languages should also modify the language used so as to make them less forbidding and official than is currently the case. The following comments were made in telephone interviews:

Not sure that leaflets are easy to read for ethnic minorities – [they are] less educated.

The information is a lot. A lot is jargon and in professional terms

In a telephone interview one female Pakistani attendee stated that in the information pack there should be

more issues relevant to Asian women, maybe a different leaflet ... Many Asian women have difficulty and there are not many services to help Asian women. There is a need for services which can understand the needs of Asian women.

Parenting plans and meeting with a marriage counsellor

From the consultations and responses to questionnaires we have deduced that the parenting plan was perceived as helpful but needs to be culturally specific and produced in other languages. One Afro-Caribbean respondent described the plan as

very good and useful – [it] will help focus parents on their children.

An Indian respondent commented:

... theoretically it is an ideal but [it] may be difficult to carry out. Should be available in the five languages.

Again, the issue needs to be approached from the perspective of cultural pluralism and specific parenting plans produced. The meeting with a marriage counsellor was perceived by respondents as being useful to ethnic minority couples, although consideration would need to be given to providing the service at a specific ethnic counselling agency. It was perceived as

giving women an opportunity to consider their options more seriously ... in a lot of cases they bottle up their feelings and suffer in silence.

One Afro-Caribbean respondent commented that counselling should consider unmarried couples – that the effects of the separation process on such couples can be just as great if not more so because of added financial and child custody insecurities. Counselling for ethnic minority communities is very much part of religious/community services, provided from within the particular community.

The Need for Cultural Pluralism

The conclusions to be drawn are that information meetings and information for members of ethnic minority groups are likely to achieve their purpose more readily if they are tailored to the attendee. The concept of cultural pluralism demands this. Culturally specific information needs to be given, and appropriate sensitivity extended to the attendee, whether in group or individual meetings or in some other format. This, of course, would require a culturally sensitive and appropriately trained presenter, of the ethnic background and sex preferred by the attendee. Additionally, it would require an information pack created with specific cultural references, in a range of languages other than English, and a local directory of ethnic support agencies. Other jurisdictions, such as Australia, produce information in a very wide range of languages. Other elements like religious holidays must be recognised when appointments for attendance are made. Flexibility in relation to date, time and place is important.

Choice is vital in meeting culturally diverse needs and meeting the challenge of countering social exclusion. The ethnic diversity in England and Wales is very great, making it impossible to contrive a standardised information meeting which is applicable to all non-English speakers and ethnic minorities. Consequently, information meetings and information provision will best meet the objective of ensuring equal access to justice if flexibility is retained and ethnicity addressed by the provision of choice. If appropriate attention is paid to ethnicity and proper provision made we see no case for exemption from attendance on grounds of ethnic origin if Part II is implemented.

Chapter 27

Domestic Violence and Information Meetings

Caroline Bridge and Susan Mitchell

If domestic violence issues are not clearly acknowledged at all stages of the process, then many victims who have not disclosed abuse will be unaware of the protective measures available to them.¹

It is important that information meetings are conducted in such a way that those attending them feel safe, enjoy privacy and are respected.²

The White Paper expressly stated that one of the advantages of the information meeting as ‘a compulsory single first port of call’ is its perceived ability to ‘[ensure] that all persons obtain the same access to information about the divorce process and related matters’.³ Consequently, particular groups with special needs must be identified to ensure that all those seeking information have equal access to justice. Those who have experienced domestic violence or are worried about aspects of personal and child safety form a specific population group to be considered in the light of the new legislation. Information and information meetings need to be rendered available to and accessible by people from a range of backgrounds and circumstances. Consequently, we considered it essential to give particular attention to situations in which there had been actual or threatened abuse and to identify mechanisms for ensuring that as many such people as possible could receive the same information. The importance of protection from violence is, significantly, recognised in one of the four principles set out in Part I of the Family Law Act 1996, which directs that the court and any person, in exercising functions under or in consequence of Part II and III, shall have regard, *inter alia*, to the general principle that

any risk to one of the parties to a marriage, and to any children, of violence from the other party should, so far as reasonably practicable, be removed or diminished.

This principle underlies Section 8(9)(e) of the FLA, which provides that regulations to be made with respect to the content of the information to be given at the information meeting must include the ‘protection available against violence, and how to obtain support and assistance’. The underlying policy is that information about dealing with conflict and its harmful consequences for children, coupled with protection from violence within marriage and during the process of divorce, should be imparted at the compulsory meeting.

Our task in the evaluation was to understand the dangers and fears posed by domestic violence in the context of attendance at an information meeting. Attendance must not pose a threat in terms of physical safety, either to the attendee or the presenter. One of the key policy questions is to determine which categories of people may be exempt, or what

¹ The Women’s Aid Federation of England, quoted by Mrs Barbara Roche MP (Hornsey and Wood Green), Official Report (H.C. Standing Committee E), 9 May 1996 at col. 178.

² Mrs Barbara Roche MP (Hornsey and Wood Green), Official Report (H.C.), 17 June 1996 at col. 624.

³ The White Paper, at para. 7.7.

sort of circumstances might warrant exemption, in the interests of making Part II of the Act workable and providing justice.

Defining Domestic Violence

As the task of the research was to evaluate the variety of ways in which the statutory information might be delivered to those with safety concerns and to consider what arrangements would need to be made to promote equality and safety of access to all information and to minimise disadvantage, it was essential to adopt a broad definition of domestic violence. Recent research has presented a clear picture of domestic violence.⁴ The terminology covers any controlling or undermining behaviour where one adult exerts power and control over another within the context of an intimate relationship. As such, it includes physical violence, bullying, threats, sexual, mental and verbal abuse and humiliation.⁵ Recent commentators conclude that

many abusive relationships are characterised by a pattern of ‘coercive control’ involving ‘an ongoing strategy of intimidation, isolation, and control that extends to all areas of a woman’s life, including sexuality; material necessities; relations with family, children and friends; and work’.⁶

The picture emerging from the accounts of attendees at the information meeting pilots is broadly in line with this definition, although ambiguity surrounds use of the term ‘domestic violence’. Attendee responses were wide-ranging, with some people revealing that, although they were experiencing emotional or mental abuse, they did not see themselves as victims of domestic violence. Others revealed that domestic violence was relevant to their situation, and described a diverse range of actions and events. Asserting the existence of a common understanding of the nature of domestic violence is problematic. A number of observations lend weight to this view and enable us to characterise the general themes which emerged from the research.

While domestic violence is usually experienced by women (the assumption made in the pilots), this is not always the case. Men can also be the victims of violence and particular problems arose for men in this context. One male attendee revealed that he had

been attacked once by wife with a knife. I hit her in defence. She got an injunction out on me. Get more mental taunting from wife than physical violence. Arguments nearly every day.

Another male attendee stated that his wife had

⁴ Hester, M. and Radford, L., *Domestic Violence and Child Contact Arrangements in England and Denmark*, Polity Press (1996); Mayhew, P. *et al.*, *The 1992 British Crime Survey*, HMSO (1993); Mirrlees-Black C. *et al.*, *The 1996 British Crime Survey, England and Wales*, HMSO (1996); Anderson, L., ‘Contact between children and violent fathers – in whose best interests?’, *Rights of Women*, Bulletin (Summer 1997); Lewis, R., *Progress through Partnership: Domestic Violence Inter-agency Forums in the North East*, University of Newcastle upon Tyne, Department of Social Policy (1998).

⁵ *Are You a Victim?*, LCD Family Policy Division leaflet.

⁶ Kaganas, F. and Piper, C., ‘Divorce and domestic violence’, in S. Day Sclater and C. Piper (eds), *Undercurrents of Divorce*, Dartmouth (1999), p. 188.

a large family and that violence was a major part [of her family life] – it is difficult for a man to admit it in the first place. [I] don't think there is enough help available for men. [Such violence requires] more understanding and not [to be treated] as a joke. People treat it more as a joke when a man suffers from domestic violence.

The comments of male attendees who had suffered abuse invariably indicated that violence against men was little-understood and consequently not readily accepted. Men were reluctant to admit that they were the victims of violence and frequently commented that they did not gain assistance from the police or others when it occurred. They were unlikely to obtain much assistance from information meetings in the pilots. Domestic violence arises in other family relationships as well and 'cuts across boundaries of social group, class, age, race, disability, sexuality and lifestyle'.⁷ In one case, a teenage son's violence had largely contributed to his parents' separation.

The cumulative evidence from published research suggests that while a significant proportion of women experience abuse from their spouses during marriage, the process of separation and divorce represents a particularly dangerous period. Men continue to abuse and perpetrate violence against their partners after separation, and at times there is an escalation in the severity of violence after separation.⁸ Women may be most at risk from domestic homicide directly after separating from the abuser.⁹ Consequently, the information meeting, as the first formal legal step in the divorce process, represents a particularly high-risk time for those already experiencing violence.

Research indicates that those who have experienced abuse are often reluctant to reveal the fact. Kaganas and Piper¹⁰ conclude that victims as well as abusers tend to minimise or deny violence, and proffer the explanation, *inter alia*, that disclosure equates with acknowledgement that the relationship is over and the loss may be psychologically denied. Anticipated explanations for non-disclosure also extend to the perception that the information will not be taken seriously, that the victim may be labelled a failure, that she may fear losing her children, be reluctant to define her intimate partner as an abuser, and may not conform to her own stereotypes of battered women. Recent researchers noted a marked increase in disclosure by abused women when they were specifically asked about abuse.¹¹ During attendance at an information meeting some attendees seized the opportunity to disclose abuse. For example, one attendee stated that

when suffering violence you lead a parallel life (normal and home), tolerating it. Awful to have to admit it.

The existence of domestic violence is acknowledged by Parliament and, in terms of protection from domestic violence *per se*, the Family and Domestic Violence Bill 1995 was intended to provide the requisite new range of civil remedies. However, after the Bill had completed its parliamentary passage it was challenged by certain backbench MPs and ultimately abandoned by the Government. It subsequently re-emerged, with amendments, as Part IV of the FLA and provides for 'non-molestation orders' and 'occupation orders' to be available in all courts exercising jurisdiction in family matters.

⁷ *Are You A Victim?*, *op. cit.*

⁸ Hester and Radford (1996), *op. cit.*

⁹ Jones, A., *Women Who Kill*, Victor (1991).

¹⁰ Kaganas and Piper (1999), *op. cit.*, p. 188.

¹¹ Hester, M. and Pearson, C., *From Periphery to Centre: Domestic Violence in Work with Abused Children*, Polity Press (1998), p. 27.

Throughout the passage of the Bill, and since the FLA received Royal Assent, concerns have been voiced about the potential dangers involved in attending an information meeting for people who have experienced emotional, psychological or physical abuse or who fear for their safety. Attendance at a compulsory meeting must not pose a threat in terms of physical safety. Awareness also of the nature of domestic violence, its coercive strengths, its perpetration by both men and women and the documented reluctance to disclose its existence informed the research design. Because of the likelihood that some attendees might find the information meeting an appropriate opportunity to disclose the fact of abuse we were aware of the range of issues this would highlight both in terms of presenters reacting appropriately and in terms of the suitability of the information to meet the attendee's subsequent needs.

The Research Task in Relation to Domestic Violence

The research task in relation to domestic violence was to examine the variety of ways in which statutory information, in the form of leaflets, video, CD-ROM, individual and group presentations, might best be delivered to those with safety concerns. We considered what arrangements would be made in the future to promote equality and safety of access to all information and minimise disadvantage. It was a central task to ensure that both the meeting and the materials met users' expectations and equipped them to access the services readily. In this connection information meetings as a whole have been assessed against the needs of those experiencing domestic violence as either victim or perpetrator. Key policy questions in relation to domestic violence also include the determination of which categories of people might be exempt from attendance at an information meeting prior to making a statement of marital breakdown, and what sort of circumstances might warrant exemption. The determination of exemption is very much part of achieving equality of access to justice. It must be noted, however, that it was never the intention of the evaluation to test the usefulness of information meetings *per se* as a help mechanism for sufferers or perpetrators of domestic violence, although such people may well receive help from the presentation or leaflets. So, for example, we have not sought to test the usefulness of the meeting by tracking those who go on to obtain a non-molestation or occupation order under Part IV of the Family Law Act.

In brief, our evaluation of information meetings in relation to domestic violence highlighted five vital issues in relation to safety, which were the focus of our inquiry:

1. The safety when attending the meeting of both the attendee and the presenter.
2. The different modes of delivering information.
3. The appropriateness of the information and materials.
4. The skills of the presenter in giving information about abuse.
5. The extent to which domestic violence might constitute an exempt category.

The research methodology employed to evaluate safety concerns comprised two elements: the general study and a special study. First, the research strategy designed to evaluate the management and delivery of information overall incorporated a specific inquiry into safety concerns. Domestic violence issues were, therefore, part of the routine evaluation methodology in respect of all attendees. Secondly, domestic violence issues formed part of a special in-depth consideration consisting of consultation meetings, workshops, focus groups, and piloting of the provision of information meetings in a women's refuge.

In relation to the routine methodology, the administrator making the information meeting appointment in each pilot area ascertained whether there were any concerns about personal safety, the nature of the concern, and what steps could be taken to make attendance possible. Specifically, the administrator asked whether it was appropriate to write to the potential attendee at home, to contact them by phone, leave messages on an answerphone or get in touch in any other way. After each information meeting, presenters filled out a questionnaire indicating whether domestic violence concerns were raised and whether information was provided. The telephone interview schedule questioned the attendee about the relevance and usefulness of the safety information given and the extent to which that information resulted in greater awareness about how to get help with domestic violence.

During the information meeting, the issue of domestic violence was addressed directly. The presenters' kit contained guidance for presenters on how to deliver the section entitled 'Protection from violence in the divorce and separation process'. The script focused on the need to reveal anxieties about safety and attempted reassurance by stressing that actual or threatened violence need not be tolerated; that the law is there to protect. The information leaflet on domestic violence stressed the above two points, elaborating on the common nature of abuse, the forms it may take, and the range of remedies available under the criminal and the civil law. Additionally, the information stressed the appropriateness of asking for separate meetings for both information and court welfare purposes and gave relevant addresses and helplines. It should be noted, however, that the leaflet was written for victims and not perpetrators of domestic violence.

As part of the special focus study, we worked closely with the Leicester and the East Midlands pilot site. Following an initial meeting in November 1997 with a member of the Women's Aid Federation of England (WAFE) and a police officer specialising in domestic violence we set up an extensive consultation group. This consisted of the domestic violence police task force, members of women's refuges and other help associations, particularly Asian women's groups, and victims of abuse who had already attended or wished to attend an information meeting. This group was convened in January 1998. At this consultation, to which 27 people came, a group presenter demonstrated leaflets, the video was viewed and presentations were made on the new FLA, the procedural context of information meetings and the particular issues of domestic violence, and the research itself. An enthusiastic and wide-ranging discussion followed during the next hour and a half. Many issues that had already been identified were confirmed and new issues were raised. The enthusiasm generated resulted in the participants being eager to contribute in a more in-depth way to the research. As a consequence, a day-long workshop was held in March 1998.

The issues and findings of both the consultation and workshop are incorporated in the findings and recommendations set out in this chapter. Later in 1998, an information meeting was held inside a women's refuge. With the aid of a presenter from the Leicester and East Midlands pilot, we elicited responses to our five key research questions from the women present following a demonstration of an information meeting. Subsequently, a further meeting was held in a different town, in a room adjacent to the local police station, with groups of women actively involved in women's refuges. An information meeting presenter again demonstrated an individual meeting, the video was viewed and discussion followed. At both of these meetings, women were encouraged to reflect more generally on the current divorce process in relation to domestic violence as well as to speculate on the likely impact of the new law.

A final meeting in relation to this special focus aspect of the domestic violence study was convened in Leicester in March 2000. This was attended by a member of the domestic violence police task force, a representative from Leicester City Council and members of a women's group. The objective was to elicit final comments on the findings and recommendations we had detailed in relation to the fivefold research aims, and to proffer our appreciation of the time and energy which so many participants had given to the research.

The Relevance of Information about Domestic Violence

Analysis of data extrapolated from across the pilots and from the telephone interviews within the routine research have provided a number of insights into the relevance of information to issues of domestic violence generally and the extent to which it was received positively. Seventeen per cent of women and 11 per cent of men who responded to our telephone interviews indicated that the information they received about domestic violence was of relevance to their situation. Of those who felt it was relevant, 66 per cent of women and 52 per cent of men indicated that, as a result of the meeting, they felt better informed as to where to get help. There can be several reasons for information being described as relevant, and an attendee's attributing relevance to it does not necessarily imply that violence is an issue in their marriage. Some attendees described a diverse range of events and actions which led them to attributing relevance to the information, while others indicated that they had been in physical danger in the past. People who were involved in divorce proceedings before attending a meeting were twice as likely as others to describe domestic violence information as relevant to their circumstances. This may explain why, as Figure 27.1 shows, more than a third of those who attended a Model C group meeting, which was only available to people involved in divorce proceedings in the London and Manchester areas, felt that domestic violence was relevant to their situation:

Violence did happen a few times ... – hoping it won't happen again. Domestic violence is not an issue at the moment, but it has been in the past.

It could be [relevant] in the future ... I called the police because his behaviour was threatening – he was shouting and swearing in the street.

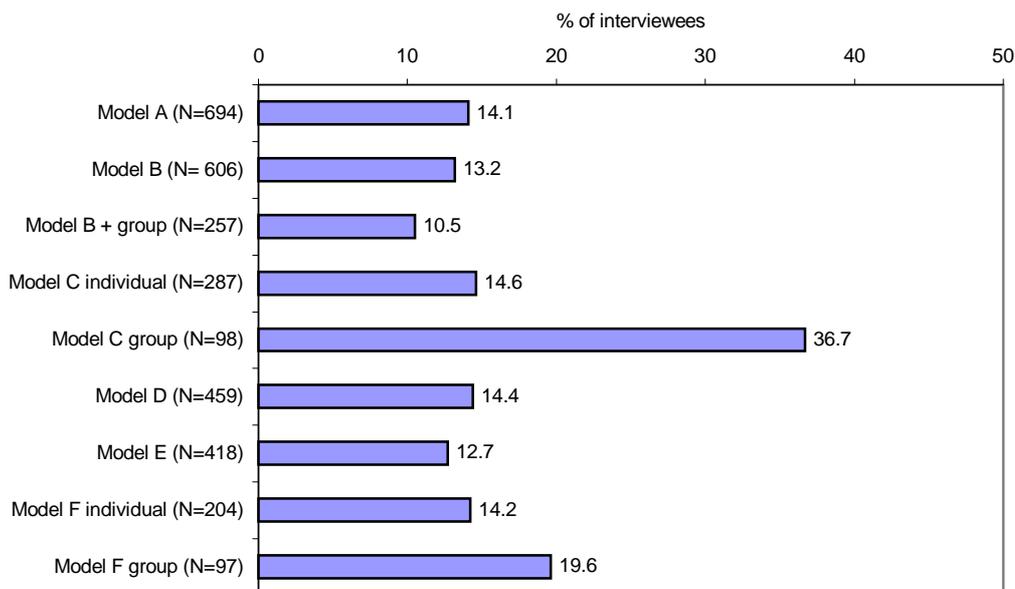


Figure 27.1 Percentage of interviewees who suggested that information about domestic violence was relevant¹²

A number of male attendees indicated that the information on domestic violence was relevant to them but that it was couched in terms more suited to women. One man told us that, as a male suffering from domestic violence, he felt that the whole issue was angled towards women victims and that this was why he was not asked if he were afraid of his partner or worried about his own safety. In his view, all the information is angled towards women in danger. Other men told us:

It isn't always male versus female and there might be an example of that in the presentation.

One of the things I remember is that one of the ladies said 'Now if there is any violence, ladies, there are places to go'. I said 'Excuse me, is there anywhere we can go?' The assumption was 'wife-battering' – what about 'husband-battering'? I don't think husbands dare to admit it for a sense of weakness ... I would almost curl up and accept whatever was coming until it died down or I'd walked away.

Another male attendee stated that it would have been helpful if he had been listened to more readily. He had proof that his wife had assaulted the children but nothing was done. In his view, if it had been the other way round he would have been arrested and charged. Other men suggested that the information they were given was, in the words of one, 'no use as it was geared towards women'.

Male attendees indicated very clearly that men also needed protection. For example, one man suggested that domestic violence by men and women should be treated equally. His wife was violent towards him but the police did not believe him. Another male attendee stated that the information should include husband-battering. He claimed that the social

¹² Attendees who went to both parts of Model C or Model F are not included.

worker was more helpful about this issue – ‘she deserves 11 out of 10’. Another man stated that his wife accused him of domestic violence because he restrained her when she was attacking him with her nails. He still had the scars. He also suffered damage to his vehicle and other personal items.

The question of relevance was interpreted in a number of ways, with some attendees stating that they were not in danger themselves but knew of others, such as a family member or friend, who was. One attendee, for example, was worried about her sister in Scotland ‘with no access to children, domestic violence issues and bad solicitors’. The presenter gave her some emergency numbers, and referred her to the pack for further information for her sister.

At the time of divorce violence may come from another family member – a teenage son or daughter, for example. A male attendee mentioned the violence of his 17-year-old son as a factor which had led to the marriage breakup. The violence ‘got worse at the time of divorce’ and he would have liked some acknowledgement of this in the pack, which he said ‘should include information on domestic violence and the wider family’.

Overall, only a few attendees were actually afraid for their safety in relation to attending a meeting and only a small minority stated that attendance had actually caused problems for them. Eighteen attendees at Model C individual meetings indicated that they were afraid of their partner or worried about their own safety although only one person stated that going to the meeting had actually caused them problems.

Fifty per cent of the 2,834 attendees who could recall having received information about domestic violence when we telephoned them indicated that they were better informed as to where to get help as a result of the meeting. In particular, one male attendee stated that the information gave him alternatives to staying, while another stated that it was not helpful because ‘some information was not relevant to a man, for example [the section] “Getting her out of the house”’. He was still afraid of his wife, but had moved out, and she did not know he had been to an information meeting. Other attendees said they were not better informed because

the information was too sketchy, [and gave the] false impression that all you had to do was ring the police to be protected. People giving the information did not have a clue what happens in a domestic violence situation. (F)

While some attendees claimed that the information had been useful, others knew what they were told already or felt that the information or its presentation was insufficient. For example:

All they mentioned was that there are safe houses, etc. But when you go for help as a battered husband, you get no help at all ... I’ve been to the police with this and I’ve gotten no joy at all. (M)

They couldn’t legislate to cover what happened to me. (M)

One attendee who had already been to court for an injunction indicated that the information she received on domestic violence at the meeting did not tell her anything new.

It is clear from the research that women, too, are perpetrators of violence. For example, one female attendee said that when she admitted that she was the violent one in the relationship ‘the presenter didn’t continue with this issue ...’. She got the impression that the presenter was uncomfortable with this admission. Some attendees commented on the impact of the information meeting. For example, one said that ‘the information meeting pushed me into doing something about it’. By contrast, another woman felt let down by the information meeting: it had been a very negative experience, and did not meet her needs at the time.

Several female attendees commented that domestic violence was linked to alcohol, mental health problems and bankruptcy or problems regarding debt. One female attendee who claimed that her husband was ‘a secret drinker’ said that she had found no way to broach this with the presenter.

Information Meetings Observed

Observation of information meetings revealed difficulties surrounding mandatory inclusion of information about domestic violence in the script. Our observation of meetings revealed apparent embarrassment on the part of both attendee and presenter when the issue of domestic violence was raised; that domestic violence received a cursory explanation, particularly where the attendee indicated that it was not a current concern; and that the script and written information were inappropriate in cases where the attendee was identified as the violent partner. This inappropriateness may also apply where the attendee’s situation varies from that recognised in the script. For example, one female attendee stated that ‘the presenter was disturbed that the information format was not suitable to my situation’. The presenter had to read from the manual, but it was her ‘off-the-record’ remarks that helped. Information about domestic violence was one of the most difficult sections of the presenter’s brief and was potentially embarrassing for both presenter and attendee. However, the vast majority of attendees recalled the question of protection from violence having been mentioned to them. When we interviewed attendees shortly after they attended an information meeting, 93 per cent of those who had been to an individual face-to-face meeting (Models A, B and C) and 94 per cent of those who had attended a group presentation indicated that they could recall domestic violence having been mentioned, although CD-ROM meetings had significantly less impact than other types of meeting. Only 42 per cent of those who attended a Model F CD-ROM meeting, and 73 per cent of those who went to a Model E meeting, could recall having received information about domestic violence.

Although attendees may not identify themselves as in need of information about safety the apparent tension could be avoided if the attendee were asked whether he or she wished the presentation to cover domestic violence. If a negative answer were received, the verbal information could be omitted, in the same way that information on children was omitted for childless couples, and provided solely via the leaflets. The problem with this approach is that it may prevent either perpetrators or victims reluctant to admit violence from verbally receiving information which may be highly relevant. Nevertheless, it is our present contention that the structure, format and delivery of the presenter’s brief overall was such that these individuals were not, in any case, satisfactorily catered for.

Consultations in Relation to Domestic Violence

The domestic violence special study identified which issues were of vital concern in relation to safety. In particular, these issues have sprung from the consultations, focus groups and workshops carried out in conjunction with the Leicester and East Midlands pilot. The participants were mostly women and all had a particular interest in domestic violence, as members of the police task force, leaders of Asian women's groups, members of women's refuges or victims of abuse who had fled the family home as a result of violence. Consequently, the views of these participants with respect to such matters as safety when attending an information meeting were not necessarily mirrored in the views of attendees at meetings across the pilots. The consultations considered:

- the safety when attending the meeting of both the attendee and the presenter
- the skills of the presenter in giving information about violence
- the appropriateness of different modes of information delivery
- the appropriateness of the information and materials
- whether domestic violence might constitute an exemption

It is pertinent to re-examine and elaborate on these particular issues one by one. In doing so, it is important to bear in mind that research shows that, for the vast majority of abused women, violence continues and at times escalates in severity after separation.¹³ Women may be most at risk from domestic homicide directly after separating from the abuser. Additionally, domestic violence at the time of separation may be linked with child issues, particularly the negotiation of contact, and may also increase the risk of violence towards the children themselves. Child abuse has a correlation with domestic violence towards women. Since the vast majority of victims of abuse are further assaulted by husbands or partners after leaving the relationship, we can conclude that the information meeting, the 'gateway' to the divorce process, may place such women, and sometimes their children, in a particularly vulnerable position. Ensuring that all people can both arrange and attend meetings safely is a vital part of ensuring equal access to justice.

It is also pertinent to bear in mind that domestic violence may consist of emotional, psychological, sexual and verbal abuse as well as physical abuse. These other types of abuse may be especially powerful and often have a greater impact than physical forms of violence. Hester and Radford conclude that Asian women may be more at risk of sexual abuse (as well as other forms of abuse) than other women.¹⁴ This is due in part to stronger cultural expectations about marriage and a woman's duty to accept the situation and stay with the husband.

¹³ Hester and Radford (1996), *op. cit.*

¹⁴ This is confirmed to some extent by our study. Three per cent of men and 7 per cent of women who attended an information meeting indicated that they were concerned about their personal safety. For the 56 Indian women who attended a meeting, however, the figure was 16 per cent.

Safety issues in respect of attendance at information meetings

Making arrangements to attend a meeting may create difficulty for some people because of worries about safety. Some people may fear giving their home telephone number and may fear that their own call to an information meeting has been recorded on their telephone bill. Asian women in particular, may have no access to a telephone. Receiving official-looking communications or, indeed, any communication in the post may be difficult, and likewise, gaining the opportunity to leave the home in order to make a telephone call may be equally problematic. Consequently, both acquiring the information meeting telephone number and using the telephone to make an appointment may not be easy. The following observations are pertinent:

1. The phone number for booking into an information meeting would have to be widely available and well advertised in appropriate places. These might include health centres, GP surgeries, schools, nurseries, benefits agencies, Yellow Pages, local free newspapers, supermarkets and community centres.
2. People would need to be able to make appointments without recourse to the telephone.
3. Members of women's support groups and refuges would need to be able to inform others about information meetings (preferably at their own meetings or through their own particular information network) so as to avoid the need for any telephone calls.
4. The information meeting telephone number would have to be non-traceable and withheld from all telephone accounts. A 24-hour freephone number should be available.
5. Making an appointment must be completely confidential and the caller must be assured of that confidentiality.
6. The telephone operator/receptionist at the information meeting venue must be aware of domestic violence issues and respond appropriately. It is vital that every potential attendee making an appointment and expressing fears about safety is believed and the issue taken seriously.

Being identified and traced by the abusive partner or even by the wider family was the major concern of victims of domestic violence. Consequently, the location and specific venue of information meetings is a particular worry. This is even more strongly the case among abused women within the Asian community since identification by a member of the same community may result in attendance at an information meeting being reported back to the husband. Women who are victims of domestic violence may particularly fear leaving the home. The woman may not have access to a house key, and frequently may be unable to leave the home to visit her GP, for example, without being accompanied by a relative.

We have drawn the following conclusions as a result of our consultations:

1. Information meeting venues need to be situated in locations where other activities are going on. This is to ensure that the attendee is not obviously identified with the divorce process but that on the contrary, any person witnessing the attendance of another at a particular venue must not be able to discern the motive for the visit. A degree of subterfuge is necessary, and consequently schools, community centres and health centres – all places where a woman's presence would not raise suspicion – are ideal locations.
2. Security at meetings, in terms of there being people around to prevent intrusion or offer assistance, must be assured. Equally, an attendee worried about safety must be able to emerge from the meeting on to a well-lit and busy street. Consequently, venues need to be situated in central locations where there is a degree of bustle, with no dark alleys or lonely roads. This is clearly more problematic in rural areas. It must also be realised that in rural areas abused women, in particular, may be kept in isolation by the abuser and may be unable to attend a meeting at all.
3. Information meetings within women's refuges are likely to prove appropriate for many victims of domestic violence. However, the policy of absolute secrecy maintained by some refuges (although not all) may create an insurmountable problem in some districts. Additionally, safe places, such as a police station, may be appropriate venues. Even so, a police task force has made clear to us that there are some women who would need to be escorted by the police to a secret location for the purposes of a meeting.
4. Some members of the Asian community endorse the idea of Asian women presenters being able to offer meetings in a mosque or temple. Such women believe that if information meetings were held in a holy place such as a temple, husbands would be less inclined to make trouble. These venues, it is claimed, would offer some women their only chance to receive the statutory information. However, other members of the Asian community express distaste at such 'expediency' and do not believe that religious venues would support any process aimed at assisting divorce. Ultimately, we see the issue of religious venues in terms of gender: men do not generally endorse the proposal because they do not believe that 'holy places' should assist the divorce process. By contrast, women believe they will receive greater protection in such a place.
5. The presenter must be kept safe and free from fear of personal harm or from becoming embroiled in a dispute or violence between others. The presenter needs to be alerted to any risk, in order that the possibility of assistance from others in the vicinity can be ensured. When a woman indicates particular fears the

presenter needs to be able to offer her safe escort from the building.

6. When a family member or friend is present at the meeting with the attendee, the presenter must have a protocol for checking whether the attendee has voluntarily given consent for this.

Once a meeting has been arranged and attended this must remain utterly confidential. The abused person's fear of being traced is such an overriding concern that the aftermath of the meeting, including receipt of a certificate of attendance or acknowledgement of attendance on an information database, demands consideration from the safety point of view. Evidence of attendance at an information meeting will, of necessity, be recorded. Whether this is done by means of logging on to a national database, maintaining records at the information meeting venue or notifying a third party, such as a solicitor, confidentiality is vital. All attendees must be assured that no other person can access any records and learn of their attendance.

If it is envisaged that attendees will receive a certificate of attendance, it is important that this can be discarded by the recipient without disadvantage. An electronic record must also be kept. Many victims of domestic violence, fearful of being detected accessing the legal process, will not risk keeping such a document in their possession. The information pack itself is, of course, evidence of attendance and is likely to be quickly discarded by any attendee fearful of detection. The size of the pack is important and it must be able to be carried or even discarded readily.

While all attendees must be guaranteed complete confidentiality, it is particularly important that women from ethnic minorities who have received information via an interpreter, possibly from their own community, be assured of this. It is vital that a comprehensive awareness and understanding of the issues is apparent in the selection and training of presenters and interpreters, and that an ethos of assured confidentiality develops.

Presenter skills

The personal characteristics of the presenter in relation to safety issues are of the utmost importance. Knowledge, awareness and an ability to respond to issues of domestic violence are paramount. Because there has been no blueprint for information meetings, it is difficult to determine the extent to which presenters may be at risk from abusive spouses of attendees. If a violent partner were to follow the attendee to the meeting, for example, there is clearly greater protection for the presenter at a group than at an individual meeting. The presence of others for the offering of possible assistance is important and awareness of security is essential when establishing venues. We note that at mandatory information presentations (group meetings) in Alberta, Canada, for example, a security officer is on duty in case there is any difficulty.

On the other hand, it may be virtually impossible to screen out abusers among those seeking to train as presenters. Divulgence of abuse is highly unlikely. The success of any screening process in relation to the selection of trainee presenters may require a police check to be carried out, in the same way as it is for trainee teachers. It has been noted that 'some women may choose not to act on the information because they fear that to tell a

legal or social work professional may lead to loss of their homes or may expose them to criticism as mothers and result in the loss of their children'.¹⁵ Extrapolating from this, it may be the case that victims of abuse are reluctant to reveal their situation to the presenter, who they may perceive as a person in authority.

Presenter skills and characteristics need to operate in relation to the following points:

1. The selection process for presenters needs to be able to screen out an applicant who is an abuser.

Although both male and female presenters will be trained, attendees need to have a choice as regards the gender of their presenter. Female victims of domestic violence generally, and Asian women in particular, cannot be compelled into an individual meeting with a member of the opposite sex. Fear and anxiety could be engendered and, for Asian women, such a meeting would be cultural anathema. During the pilots, we noted that the gender of the presenter allocated to the meeting did not always seem to be appropriate.

2. It was suggested during our consultations that presenters will need to have the knowledge and skills of a trained domestic violence worker. The ability to respond appropriately in a non-oppressive and culturally sensitive manner, minimising antagonism, is vital.
3. It has been suggested that in order to achieve such a level of awareness in presenters, a multi-agency approach to training should be adopted. Child protection issues, alongside domestic violence and cultural issues, need to be incorporated. It has been proposed that the Women's Aid Federation take the lead role in delivering domestic violence awareness training since that organisation has been dealing with abuse for 25 years and has expertise in all the issues surrounding domestic violence.
4. Attendees from minority ethnic groups need to be given a choice as regards the ethnicity of their presenter. Some ethnic minorities may prefer a member of their own ethnic community while others, particularly Asian women, may seek the anonymity of a white English-speaking female presenter. Again, fear of identification is paramount. The attendee must be able to trust the presenter to remain non-judgmental. In this connection many Asian women perceive the 'white European' as having more authority and would therefore be more ready to accept and act on the information given.
5. Interpreters from within a community may cause anxiety for some women. It has been suggested that presenters with appropriate language skills might provide a safer option.

¹⁵ Piper, C. and Kaganas, F., *Family Law Act 1996*, Section 1(d), 'How will "they" know there is a risk of violence?' (1997), 3 CFLQ 269 at 271.

In relation to presenter safety, other people need to be present in the building. There is more protection for the presenter at a group meeting where other attendees as well as the co-presenter provide company and act as a deterrent to an abusive spouse. We recommend that the selection of venues must take account of presenter safety. Panic buttons or mobile phones may need to be available, and other people need to be present in the building.

The appropriateness of different models of information delivery

Information meetings are intended to convey all the requisite information in Section 8 as effectively as possible rather than provide a forum for the disclosure of individual problems. Advice cannot be given, and even when the meeting is used as an opportunity to disclose abuse, the presenter can only give further direction with respect to relevant information. In this sense, the information meeting as a tool for dealing with domestic violence issues is limited. However, our research did not focus on assessing the usefulness of information meetings either in relation to facilitation of disclosure of abuse or as a help mechanism for sufferers of abuse. The aim was to meet the statutory objectives of diminishing or removing risks of violence in the context of giving the statutory information. This duty is incumbent on information presenters, as it is on every person who exercises a function under the Act. Consequently, the most appropriate mode of giving information to victims of abuse needs to be identified.

The advantages and disadvantages of both one-to-one meetings and group presentations for victims of domestic violence have been identified. The perceived advantages of group meetings include anonymity, the safety of numbers, the potential for mutual support, and the possible lessening of the intensity likely in individual meetings. It should be recalled that more attendees at group than at individual meetings said that the domestic violence information had relevance to them. Disadvantages include fear of identification by other attendees at a group meeting (apart from meetings held in a refuge). Asian women expressed this as a particular concern, given the close-knit nature of the Asian community. Other disadvantages are the cultural difficulty for some women in attending a meeting which includes men as well as women, and the perceived lack of presenter flexibility in responding to individual needs such as obtaining particular information about refuges and safe havens.

The advantages of an individual meeting centre on privacy and the notion that a one-to-one meeting heightens the prospects of safety, honesty, the opportunity for disclosure, comfort and the flexibility to respond to need. It will be recalled that more attendees felt better informed about domestic violence after a Model C individual meeting than after any of the group meetings. Disadvantages include the greater likelihood of consumer expectation of interaction, and possibly advice, from the presenter. The help desired by victims of domestic violence is likely to exceed that required by other attendees, and so the potential for increased frustration at the presenter's inability to give specific advice is heightened.

The content of the individual meeting is crucial, and many abused women may gain the ability to take the first step in the divorce process only after years of suffering. Women we interviewed in women's refuges spoke of the courage required to take this first step and how taking it was often accompanied by anguish and guilt over children. When the

abused spouse feels sufficiently empowered to attend an information meeting to begin the process of divorce, the last thing he or she needs is to be confronted with an exhortation to consider whether the marriage is really over and to consider marriage counselling, albeit coupled with information about domestic violence assistance. Not only are needs and expectations likely to remain unfulfilled, but the attendee's morale and self-esteem are likely to be deflated and further guilt engendered. It was a common perception at the consultations that abused women would simply return home disempowered and believing once more that they were at fault. The marriage-saving agenda has no relevance in such a context and neither does the message that divorce is bad for children.

Apart from in meetings held in a refuge, those with fears about safety are more likely to want individual as opposed to group meetings. However, some of the statutory information, such as referral to a marriage counsellor, is likely to be destructive rather than an enhancement of the well-being of the attendee and his or her children. Where domestic violence is identified, the presenter must be enabled to tailor the substance of the information presented to meet the needs of the recipient. More information about help with abuse may be required.

Despite the requirement to give the statutory information, it is clear that some presenters tended to tailor their presentation once they recognised the particular needs of the attendee. For example, at a Model B individual meeting (lasting 30 minutes), a female attendee commented on how the presenter had 'affirmed to her that her marriage was indeed over'. The attendee discussed her situation with the presenter, who told her that

the next step is to see a solicitor and sort things out. It's finished. The marriage is finished and there is nothing to save from it.

As a consequence, she found the meeting very useful.

One of the major advantages of providing information on a CD-ROM lies in the elimination of the presenter and all the associated problems linked to ensuring appropriate characteristics, responses and skills on the part of the presenter. Accessing information via a CD-ROM ensures more privacy and anonymity for the attendee. Additionally, every attendee would receive the same information, delivered in the same manner. This would eliminate inappropriate or inadequate presenter responses. Blanket information is not as frightening to the victim of domestic violence as specifically-directed information. The ability to read, interpret and replay certain aspects of the information is an additional benefit. The attendee has time to digest the information. Coupled with the privacy factor, this is also advantageous for attendees who fail, initially, to recognise themselves as victims of domestic violence. If the CD-ROM were to be the medium, or a supplementary medium, of information delivery nation-wide, the technology would have to be prepared with expert care, taking ethnic variation into account. CD-ROMs can be readily updated and could include local information and support services for each geographical area.

The portrayal of mediation on the video was perceived by those who took part in the domestic violence consultation and workshop as 'frightening', with the actor/husband, seen as a big man, clearly exhibiting latent violence. The arguments portrayed were frightening to many women. Neither does the video clearly indicate that mediation is optional and may be inappropriate for anyone with worries about safety. Our research

respondents suggested that it makes things 'look easier than they really are'. Above all, the video was considered to be patronising.

In conclusion, it is apparent that sensitivity to the needs of victims of abuse is a major requirement in terms of devising the appropriate mode for giving information. A coupling of information on domestic violence with that on marriage saving will be disempowering in some cases. On the other hand, an appropriate response to a story of abuse is of benefit to the attendee. It is clear, however, that overall, information on domestic violence is itself useful. After having attended a Model B half-hour meeting a female attendee commented:

I don't know if I can tell you how much better I've been because I've always assumed you had to put up with it. I don't feel the same now. The whole experience [attending a meeting] has really made a difference although I've not yet made the decision.

Another female attendee at a Model B meeting commented:

It's a really good idea. I mean, there are people who would just sit back ... this was a good place to go to discuss the problem.

Appropriateness of information leaflets

It is imperative that the information leaflets are accurate, not just in terms of their statements of law, but also in their descriptions of practice. Many women with worries about violence are experienced in dealing with the police and know how and when the police will act to protect them. At the same time, it is vital that the information does not criticise or judge. This is pertinent in light of the abused person's already fragile sense of self-worth. The consultations revealed a general consensus that the leaflets should clearly make some statement such as 'So you've left – we are not criticising you'. A further vital issue was the reluctance of some attendees to take the information pack home. It is clear from the experience in the Leicester pilot that some attendees, concerned about discovery and their own safety at home, were unwilling to take the information pack. Presenters have a statutory obligation to give the pack, but some attendees either said they would not take it home, or else took it and discarded it outside the meeting room. It is presumed that those who did this were likely to be, or feared becoming, victims of domestic violence. The pack is perceived as being too big and too bulky. The information may be better contained in a form resembling a child's school folder rather than the distinctive shape of the pack that was given out during the pilots. Equally, its identity could be more readily disguised by creating simple, non-distinctive A4 sheets or credit-card-sized information sheets.

Support and assistance are more accessible when helpline telephone numbers are easily visible in the meeting venues and the surrounding vicinity. Additionally, the pack should ensure that a telephone helpline number is given in a form that can be taken away even when the information pack is left behind. This suggestion came from the domestic violence police officers, who already give out telephone numbers, without any name or other means of identification, on plain slips of paper. It was suggested that the presenter's script should include a statement to the effect that such a number is available in the pack in this form. The attendee could then take the slip (which would be easily accessible) out

of the pack before discarding the pack. Information about support groups and helplines needs to be very local.

Domestic Violence as a Category of Exemption

Section 8 of the FLA is heavily dependent on the making of future regulations. In particular, these will ultimately specify the nature of the 'prescribed circumstances' under which some people will be exempt from attendance at an information meeting. The exemption of those who consider they are victims of abuse does not appear to be within the legislative intention. The White Paper (Cm 2799, 1995) envisaged the exemption of certain categories of person, and, in particular, cited 'the elderly, the disabled or those in prison' (para. 7.18). Nevertheless, as our consultations and workshops addressed this issue it became clear that some Asian women, for example, who are victims of very severe violence may be completely disabled from attending. Other women, who often move around the country under police protection to escape the abuser, may be unable to attend.

Two questions have emerged. First, are such fears realistic? If so, they need to be addressed, as the aim is to ensure that as many people as possible gain equal access to every compulsory part of the divorce process. Secondly, if there are such women or men (who cannot even escape to a refuge, for example) can they ever be properly identified so as to be granted an exemption? Examples such as 'the elderly, the disabled and those in prison' are readily identifiable. By analogy, women imprisoned in the home need the exemption just as much, but how will they be recognised and identified? Is there a yardstick of levels of violence beyond which the exemption could come into being? How can 'very exceptional circumstances' be identified?

Domestic violence is not simply evidenced by cuts and bruises. On the one hand, the women at the consultations portrayed psychological violence as more damaging and threatening than physical violence. On the other, although non-molestation orders provide obvious evidence of actual or threatened violence, many women in very great need of protection do not seek such orders. The reason is that any court order immediately identifies and locates the victim.

A further problem in identifying an exempt category is the well-recognised phenomenon of the battered man or woman failing to see themselves as victims of abuse, and thus being unable to reveal the abuse. Very often, it is only when systematic and serious physical violence has occurred that such people recognise themselves as a victim of domestic violence. Abused women who currently initiate divorce invariably do so from within a women's refuge. This fact may prove to be the solution to the issue of exemption for them, as the safe haven provided by the refuge could also provide the opportunity for them to attend a meeting. Equally, those high-profile cases identified by the police may be able to attend a compulsory meeting in a women's refuge or in a police station, or, alternatively, a statement from the police could constitute an exemption.

It is clear that, in general, the information on domestic violence is useful to people and upholds the legislative aim of seeking to reduce the risk of abuse and provide protection from violence. It is equally clear that some people would have difficulty attending a meeting. Two interlinked conclusions can be drawn. First, all those who want the information, whether or not they ultimately seek divorce, should have the opportunity of receiving it. The information should not be denied because of difficulties connected with attendance. In other words, the issues of gaining access to the information and attending an information meeting should not be inextricably linked. Secondly, those who have fears for their safety should not have to expose themselves to risk in the interests of accessing

the information and beginning the divorce process. If a person is unable to attend or is fearful of attending, not only do they need to be able to obtain the information they need without attendance, but they also need to be able to initiate the divorce process without attendance.

While the holding of information meetings in women's refuges (coupled with the training of workers within the refuge movement as presenters) would enable some abused women to gain access to the information and begin the divorce process, this could not be relied upon as a catch-all. There are women who are imprisoned in the home, perhaps in rural areas, who cannot find their way to a refuge. It is our contention that all those who believe they are unable to attend or fear attending an information meeting should be able to apply via the police or women's refuge workers for a certificate of exemption from attendance. This would, in effect, constitute an ex-parte application to make a statement of marital breakdown. It should be noted that other jurisdictions holding compulsory information meetings as part of the divorce process do not provide exemptions from attendance on account of safety concerns. It is considered that if an exemption is required so as to ensure safety then the legal process has failed in its duty to provide protection from violence.

Those very few people for whom attendance might be bypassed should not be denied the appropriate information. It is our contention that when an exemption from attendance is granted the information should be made available by whatever means the person considers appropriate. Information confers power, and non-attendance at an information meeting should not further compound the vulnerability and social exclusion of those who are in fear of violence.

The Importance of Flexibility

It is clear that information about domestic violence is considered useful by those for whom it has relevance. It is also clear that when the Act is implemented, great sensitivity needs to be shown in the handling of domestic violence material and in meeting the safety concerns of prospective attendees. A lack of recognition of the issues, a lack of awareness on the part of presenters, a lack of appropriate neutral venues and a lack of sympathetic and empathetic response in individual meetings would result in an exacerbation of the distress many victims of violence are already suffering in the lead-up to divorce. A uniform exhortation to consider marriage counselling and focus on the needs of children, for example, could cause unnecessary anxiety and risk disempowering the very people for whom divorce provides the only long-term safety mechanism. The provision of statutory information must not risk such a result. Choice of venue, presenter gender, mode of information delivery and content are therefore vital in ensuring that all those initiating divorce are not disadvantaged but, rather, helped to make informed decisions about their own and their children's futures. In an implemented system, the focus therefore needs to be on providing a service that meets these needs rather than preaching a uniform message in a standardised format.

The tensions between individual needs and the structure of the information meeting must be recognised and people enabled to exercise choice in the way information is provided. Flexibility is key. Not only do people need to be able to access the information at a women's refuge or attend a meeting at a health centre, for example, but they also need to be able to specify the nature of the information they expect to receive. Topic-specific

rather than uniform information needs to be provided so that those who wish to receive more in-depth information about domestic violence matters, for example, might do so. The insensitive imposition of ideas must be avoided. This effectively means tailoring a service to meet individual needs – operating a policy of social inclusion rather than exclusion.

In the event of non-implementation of Part II of the Family Law Act, it is clear that information provision on a wide scale would assist in meeting the needs of people concerned about domestic violence. Fifty per cent of those who recalled receiving information about domestic violence claimed that they were consequently better informed about where to obtain help. It is also clear from the research that information about domestic violence is of greatest benefit when it is detailed, mentions local telephone helplines and relevant addresses, gives a realistic account of what help is available, is directed at both men and women, recognises that violence may be perpetrated by both sexes and by wider family members including children, and is non-judgmental in its approach.

Chapter 28

Providing Information to People in Prison

Robert McMullen and John Kain

Everything here is more elemental, somehow: social relationships and mechanisms that are hidden and masked in complex ways outside appear in all their nakedness; everything is bare, as it were, unmediated, transparent; everything can be seen with greater clarity ... it is a kind of convex mirror.¹

One of our research tasks was to consider what special arrangements might need to be made in respect of people with special needs, including those deprived of their liberty through a sentence of imprisonment. One option, of course, might be to put prisoners in an exempt category, but given the fragility of their personal relationships, this would mean exempting and excluding a fairly large group of people whose spouses would have access to an information meeting. Another option would be to develop a specific type of meeting which could be held in prison establishments, and which could address some of the particular concerns and worries prisoners have when their marriages are likely to break up. We set out to test the provision of information meetings in prison establishments located in some of the pilot areas.

There is clear evidence of the existence of a social class gradient in the characteristics of those who divorce. Members of social class 1 are least likely to divorce, whereas social class 5 and the unemployed are most at risk.² These social groups are over-represented in prisons. Burgoyne *et al.* described 'a web of interconnected disadvantage' suffered by some younger working-class couples. Since 1993 there has been a rapid growth in the prison population – it had increased by 47 per cent by 1998.³ This increase is largely attributed to increases in custody rates and in the length of sentences. The number of male prisoners was greater in 1998 than at any time in the last 100 years. In 1998 the average prison population was 65,298.⁴ By 1999 there was a slight reduction (1%) overall, although the average female prison population increased by 5 per cent.⁵ At the end of May 2000 the prison population in England and Wales stood at 64,837, of whom 61,521 were male and 3,316 female.⁶ Unfortunately, the Home Office does not keep statistics in respect of marital status. The 1991 National Prison Survey (NPS)⁷ made it clear that prisoners represent a highly disadvantaged group. Stern, for instance, has argued that the prison system is the magnifying lens which reflects and enlarges the unresolved social problems of the society which it serves.⁸

¹ Havel, V., *Letters to Olga*, Faber & Faber (1990), p. 81.

² Burgoyne, J., Ormrod, R. and Richards, M., *Divorce Matters*, Penguin (1987).

³ White, P., *The Prison Population in 1998: A Statistical Review*, Research Findings No. 94, Home Office Research, Development and Statistics Directorate (1998).

⁴ *ibid.*

⁵ Cullen, C. and Minchin, M., *The Prison Population in 1999: A Statistical Review*, Research Findings No. 118, Home Office Research, Development and Statistics Directorate (2000).

⁶ Home Office Offenders and Corrections Unit, Research, Development and Statistics Directorate.

⁷ Dodd, T. and Hunter, P., *The National Prison Survey 1991, A Report to the Home Office of a Study of Prisoners in England and Wales Carried Out by the Social Survey Division of OPCS*, HMSO (1992).

⁸ Stern, V., *A Sin Against the Future: Imprisonment in the World*, Penguin (1998).

Characteristics of the Prison Population

The NPS demonstrated how the specific characteristics of prisoners differed from those of the general population, placing them directly into the social classes which are more liable to divorce:

1. The prison population is relatively young: 55 per cent of women prisoners and 62 per cent of men were under thirty, and more than 80 per cent of both populations were under forty.
2. Few prisoners come from the professional or managerial classes. Of those who had had a job, twice as many as in the population as a whole had done unskilled or low-skilled work. Employment backgrounds were worse: 33 per cent of those in prison were unemployed. Only 13 per cent of prisoners aged between 25 and 29 were owner-occupiers of their homes, as against 63 per cent of the general population.
3. Disrupted family backgrounds are common. Although more than two-thirds of prisoners had spent most of their childhood with both parents, more than one in four come from a disrupted family background. Men and women in prison were also significantly more likely than members of the general public to have been taken into local authority care as children: 21 per cent of female prisoners and 26 per cent of males, in contrast to 2 per cent of the general population, came into this category.
4. Educational levels are lower. One-third of prisoners had played truant from school and 40 per cent of prisoners had no formal qualifications. The Prison Reform Trust reported that, in the academic year 1984/85, of 28,255 prisoners assessed for literacy, 6.2 per cent had a reading age of eight years or less and 9.4 per cent of ten years or less.⁹ Around half of all prisoners have functional difficulties with literacy.
5. Prisoners are less likely to be married and more likely to be living with a partner to whom they are not married. The marriages of half of those serving between five and ten years in prison had broken up.

Maintaining Family Ties

The maintenance of family ties is recognised as one of the key factors that contribute to a prisoner's successful reintegration into society on release.¹⁰ There is much evidence that the most important aspect of life for prisoners and the most likely influence for good is the connection with the family.¹¹ Prisoners are highly likely to lose their place in their family in all but name, but may wish to return to their family in due course. Time spent in

⁹ Prison Reform Trust/Howard League, *The Identikit Prisoner: Characteristics of the Prison Population*, Prison Reform Trust (1991).

¹⁰ Ditchfield, J., *Home Office Research Bulletin No. 36*, Home Office (1994).

¹¹ Stern (1998), *op. cit.*

prison may well have damaged those elements that bond people to society, such as relationships with family and friends, the chance of somewhere to live, a job, and the chance to be respected and esteemed by others.

The report on the 1990 prison disturbances at HMP Strangeways argued that, by being in a prison,

people lost their connections with the outside world. They lost their job, if they had one. They lost their homes if they had them. Their families deserted them, if they had them. Their attachments to the outside society, the legal society, were weakened and their attachments to the prison society, the illegal society, were strengthened.¹²

Being deprived of freedom wrenches people from everyday life and places them in an abnormal environment, exposed to quite different pressures and imperatives. Prison is an upside-down world, a single-sex environment in the main, with an inverted class structure. Relationships with the outside world are mediated through censors, and constructive human reactions and behaviour become more difficult.¹³ This is compounded by the uncertainties surrounding life in prison in relation to the other life that prisoners leave outside. For their families outside, the stress that a spouse's term of imprisonment imposes often leads to marital breakdown. Contact with and visits from family members can become a double-edged sword, a source of both joy and despair. Existing studies of the effects of imprisonment on families are scarce. Morris¹⁴ provided the first modern account of the effects of imprisonment on the families of prisoners. From a sample of 837 male prisoners she reported on such matters as relationships breaking up, poverty, stress, the effects on children, loneliness and stigmatisation. She argued that the experience of imprisonment

does not occur in isolation for a man with a family, and the prison wall can never be a complete barrier to the emotional currents which flow between a man and his wife and children. Too often in prison work, the family is thought of as some external appendage, remote and irrelevant to the processes of treatment and training, rather than a continuous influence upon the man in custody.

More than ten years after Morris had conducted her study, the Nottingham Prisoners' Families' Project,¹⁵ undertaken in 1970–2, studied the effects of imprisonment on prisoners' families. About one quarter of the marital partnerships broke up. The proportion of prisoners without a stable family increased with each prison sentence served. Prisoners become excluded from family decisions which would normally be taken jointly; wives become more independent and sometimes reluctant to resume shared decision-making.¹⁶ Prisoners can easily be wound up so as to harbour suspicions of infidelity or desertion and these stresses add to the emotional tension of visits when they

¹² Woolf, Lord Justice., *Home Office Prison Disturbances April 1990: Report of an Inquiry by the Rt Hon. Lord Justice Woolf (Parts I and II) and His Honour Judge Stephen Tunim (Part II)*, HMSO (1991), p. 196.

¹³ Stern (1998), *op. cit.*

¹⁴ Morris, P., *Prisoners and Their Families*, Routledge (1965).

¹⁵ Monger, M. and Pendleton, J., *Through Care with Prisoners' Families*, Social Work Studies No. 3, University of Nottingham (1980).

¹⁶ Roberts, J., 'The relationship between the community and the prison', in E. Player and M. Jenkins, *Prisons After Woolf: Reform Through Riot*, Routledge (1994).

do occur. Another ten years elapsed before further, but essentially similar, studies were initiated, which gained wider public interest.¹⁷

Shaw¹⁸ drew together a number of contributions, which detail the multiple impacts upon, especially the potentially lasting emotional damage to, the children of prisoners. Shaw argued that such harm could be alleviated if family contact were to be made more available and could be more readily maintained. This would particularly be the case if skilled help were made available to prisoners and their families to facilitate them remaining together both during and after sentence.

More recently, in its response to the Government's consultation document *Supporting Families*, the Federation of Prisoners' Support Groups made the following observation:¹⁹

Prisoners' families live in the shadows of the offender's actions, often facing financial hardship, guilt, stress and isolation. Furthermore the stigma associated with having a family member in prison inhibits prisoners' families from seeking appropriate support and results in them being denied essential information and access to advice which could alleviate many of their problems.

It seems that all the studies, and the comments of those agencies intimately involved in working with offenders and their families, point to the need for greater information, advice and support being available in prisons.

The Provision of Information in Prisons

In this special study, our research objectives were threefold:

1. To determine whether the prison population should be exempt from attending an information meeting, and to report upon the mechanisms that may be needed to ensure that the required information is available to them.
2. To explore the most appropriate combination of materials and modes of delivery by which the information required by Section 8 may be presented to prisoners.
3. To consider what special arrangements might need to be made in respect of the prison population in respect of the Family Law Act.

Our focus was on considering whether or not information meetings could be delivered in prison establishments, and to consider any special arrangements that may have to be made. We also wanted to discover whether ancillary provisions within the Act, such as a

¹⁷ Shaw, R., *Children of Imprisoned Fathers*, Hodder & Stoughton (1989). See e.g. Light, R. (ed.), *Prisoners' Families*, Bristol and Bath Centre for Criminal Justice (1989); McDermott, K. and King, R.D., 'A fresh start: the enhancement of prison regimes', *Howard Journal of Criminal Justice*, vol. 28, no. 3 (1989), pp. 161–76.

¹⁸ Shaw, R. (ed.), *Prisoners' Children: What Are the Issues?*, Routledge (1992).

¹⁹ Gampell, L., *Response to the Government Consultation Document 'Supporting Families'*, Federation of Prisoners' Families Support Groups (1999), para. 2.2.

meeting with a marriage counsellor and the services of mediators, could be provided for prisoners in an appropriate and practical way.

The Lord Chancellor's Department was not in a position to give permission for information meetings to be piloted in prisons, or indeed for prison staff to be contacted in any way. In consultation with the pilot areas we asked the Lord Chancellor's Department to seek the appropriate permissions, which were eventually obtained in August 1998. Thereafter, pilot managers were able to approach named establishments in five pilot areas: East Anglia; Leicestershire and East Midlands, North East, Merseyside and North Wales, and the Solent and the Isle of Wight (Table 28.1).

Table 28.1 Prison establishments included in the pilots

North East	HMP Acklington HMYOI Castington HMYOI Deerbolt HMP Durham HMRC Low Newton HMP Frankland HMYOI Holme House HMP Kirklevington
East Anglia	HMP Blundeston HMP Highpoint HMYOI Hollesley Bay Colony HMP Norwich HMP Wayland HMP Whitmoor
Solent & Isle of Wight	HMP Winchester
Merseyside	HMP Liverpool HMRC Risley HMYOI Thorn Cross
Leicestershire & East Midlands	HMP Ashwell HMYOI/HMP Glen Parva HMP Leicester HMP Nottingham HMP Stocken HMP Sudbury/Foston HMP Gartree

All but the North East pilot had between 7 and 9 months left to run, but it takes time to set up a new service from scratch in a prison establishment. Because of this, we had to acknowledge that it would not be possible to obtain a sufficient sample of prisoners in the time-scale permitted. One pilot site manager commented:

I think it was too short a project, it came too late. Had we started with it at the beginning we might have been able to do more by using diligent application and constant nagging. But the time frame was much, much too short.

As to consideration of which models might be offered, group presentations were not thought to be a practical option within a prison setting. The prison department felt that such meetings might create security problems for staff. Only individual models of information meetings (Models A and E) were offered.

An invitation to attend a meeting with a marriage counsellor was not offered to prisoners. Because the offer of a MWMC had to be omitted from the script, the Model E CD-ROM program presented problems, since it was difficult to edit sections that made reference to the MWMC. Facilitators were told that whereas the offer of an invitation to a MWMC was mentioned during the presentation, if prisoners enquired about them they were to be told that the meeting was not available to them. Nor was the invitation to be included in the information pack given to people attending either model.

Model E had other limitations. The CD-ROM contained a large quantity of text. Attendees required a good understanding of English in order to find its contents accessible. As an alternative Model A could have been used, and it may also have been possible to provide prisoners with audio tapes of the information leaflets if the prison authority thought it appropriate. In the case of Model A information meetings, the use of interpreters and the provision of audio tapes were considered less problematic. Nevertheless this was an issue that would have required pilot staff to negotiate with the prison establishment. The Lord Chancellor's Department thought that these additional circumstances 'may cause some special difficulties' in prisons. Given that prisoners generally have a lower level of literacy than the general population, this means that prisoners attending information meetings may have been disadvantaged.

Staff in one pilot site expressed some disquiet about including within the project those prisoners who had been convicted for offences of child abuse or serious domestic violence. Pilots also expressed concern about providing information to such prisoners about domestic violence, and about issues involving children. The Lord Chancellor's Department decided that the prison staff concerned with such individuals would be best placed to decide upon this question and should exercise their judgement about attendance at a information meeting.

It was important for the purposes of our research to ensure that as many serving prisoners as possible were able to apply to attend an information meeting. We requested pilot site managers to ask prison staff to inform them of all the applications that were made, and of any circumstances in which an application had been refused. However, it has not been possible for us to audit whether or not all prisoners who had made an application to attend were permitted to do so. We were not informed of any circumstances in which a prisoner's application had been refused. We cannot, therefore, say whether in an implemented system this would become an issue for more affirmative direction from the prison service to prison governors.

Administering Information Meetings

Pilot site managers arranged to have posters and flyers placed in the prisons in their areas. In some cases, flyers were pushed through the doors of the cells of prisoners. The pilots which eventually arranged the most information meetings were those in which the pilot managers held meetings with prisoners to explain the purpose of information meetings.

The administration of the applications was dealt with initially by a prison officer, usually a landing or wing officer who had direct contact with the prisoner. Prisoners were then asked to fill out an application form. If the application was approved, the pilot site was informed and a meeting was arranged. Applications, as far as we can determine, were few and far between. As a result, information meetings took place in only four of the pilot sites: East Anglia, Leicestershire and East Midlands, North East, and Solent and the Isle of Wight. They were held in only eight of the prisons that had been identified, and only twenty-seven meetings took place. Six of these meetings involved prisoners who were not married, despite the fact that prison staff and pilot managers had been informed that information meetings were only to be offered to married prisoners who were considering or were involved in the process of separation or divorce.

Together with the information provided in the prisoner's application form, data were collected from prisoners via the administration of exit questionnaires. The opinions of presenters and facilitators were collected using questionnaires which were completed at the conclusion of each meeting. We had intended to obtain follow-up information from prisoners who consented to further contact, using another questionnaire. However, because the prison population is extremely mobile, this proved to be impracticable in the time available.

In the initial stages of our research we did not seek permission to approach prisoners or prison staff directly. However, because of the low throughput, in the later stages we were given permission to conduct focus groups in prisons, in which we were able to speak with both staff and prisoners.

Consultations and Focus Groups

Focus groups led by members of the research team were held in three prison establishments. The first consultation was held in HMP Foston Hall. The purpose was to explain the Family Law Act, information meetings and ancillary provisions to staff. Foston Hall is a young offender and female establishment, but staff from nearby closed male training, local and open prisons attended. The participants represented a cross-section of those involved in the care and control of prisoners: governors, the principal, senior and junior prison officers, senior and other probation staff, and prison chaplains. Model E was demonstrated to the group. This was followed by a discussion, and the issues raised were used as the basis of questions in a series of focus groups. We obtained permission to organise focus groups involving both staff and prisoners. We chose to involve prisons in which information meetings had been held. The first of these focus groups met in HMP Foston Hall and involved most of those who had participated in the original consultation exercise. We used this event to pilot the questions that were subsequently used in other focus groups. Two further events took place at HMP Gartree (a male life or long-term prison) and HMP Highpoint (a male and female closed training establishment).

A total of thirty-six prisoners, including nine females, were involved in focus groups. They included women and men with a range of sentence lengths and security categories from different ethnicities. We spoke with women and men who had received relatively short to medium terms of imprisonment (the shortest being one year) and to men who had been sentenced to a term of life imprisonment, a number of whom did not think that they would ever be released from prison.

Thirty-six members of staff were involved in the focus groups. They were drawn from different categories of prisons: male and female closed and open young offenders establishments, and local short-, medium- and long-term establishments. Staff had different lengths of service: one uniformed prison officer had served for over twenty-seven years and another had been in the prison service just one year. They included both male and female uniformed prison officers from junior to principal officer rank, chaplains, probation service officers, probation officers and senior probation officers and governors from grade five to deputy governor rank. Before these focus groups a researcher gave a short explanation of the FLA, information meetings and the Act's ancillary provisions. At the end of the focus group each participant was given an information pack, Local Services Directory and parenting plan. They were given a questionnaire to evaluate the information meeting, the information pack and the other material and asked to return them to us using a pre-paid envelope. Only three were returned, despite several reminders.

Prisoners in Foston Hall and Gartree were given access to laptop computers and were asked to work through the Model E CD-ROM in small groups. Two presenters from the East Anglia pilot site gave the prisoners in HMP Highpoint a demonstration of a Model D information meeting. The video explaining the role of marriage support services, mediation services and the solicitor was also shown to them. The prisoners were given an information pack, the Local Service Directory and the parenting plan. They too were asked to complete a questionnaire to evaluate the model of information meeting that had been demonstrated, the information pack and other printed material. Fourteen questionnaires were returned. We concluded the data-gathering process by conducting in-depth interviews with pilot site managers to understand their experiences of setting up the prison project.

Potential Demand for Information Meetings

The National Prison Survey 1991 reported that the longer the time a person spent in prison, the more likely it was that their marital status would change. Twenty per cent of a sample of 3,844 prisoners said that their marital status had changed while they had been in prison. However, the percentage increased over time, from 12 per cent of those who were less than six months into their sentence to just over half of those who were between five and ten years into their sentence.²⁰

The NPS reported that 19 per cent of all prisoners in its sample were married before their prison sentence commenced. Of these, during their time in prison:

- 15 per cent said that they had divorced
- 7 per cent had become separated
- 3 per cent recategorised themselves as 'single'
- 3 per cent had become widowed

The marital status of a total of 28 per cent of those who had previously been married changed during the time of their imprisonment.

²⁰ Prison Reform Trust/Howard League (1991), *op. cit.*

In order to establish a working hypothesis about the number of information meetings that may be needed in a prison setting we initially discounted the 13 per cent of the NPS sample who had described themselves as having become widowed, separated or single during their prison sentence. The 15 per cent of the married prison population who divorced could have been compelled to attend an information meeting under the terms of the FLA, if they were petitioners in the action, or if they wished to contest or to take ancillary proceedings. However, a meeting may also have been relevant to those who described themselves as separated or single. If we include these, it seems that 25 per cent of married prisoners or 5 per cent of all prisoners may require an information meeting at some point during their sentence. These figures, however, do not take into account whether or not the person requiring the information meeting would be the petitioner. Nor do they take into account whether the divorce process had started before a prison sentence was passed.

The prison population on 18 November 1998 was 65,881, of which 3,182 prisoners were female.²¹ We have used this figure as the basis for our estimates, as follows:

1. 19 per cent of this population may be married before starting their prison sentence (n = 12,517).
2. 15 per cent could divorce at some point in their prison sentence and may require an information meeting, if they are petitioners (n = 1,878).
3. This number could increase to 25 per cent of the married prison population who may wish to attend an information meeting at some point in their sentence (n = 3,129). We have no means of calculating how many prisoners would make ancillary applications during a divorce process, which would require attendance at a meeting.

Establishing Information Provision in Prisons

The people involved in setting up the prison project had a relatively short period of time in which to organise information meetings before the pilots closed. Pilot staff and prison managers embarked on a very steep learning curve together. Neither party had experience of the other's work, management structure or culture. In an implemented system the lead-in would need to include a period of mutual learning, to build successful relationships between providers and prison staff. In the consultation exercise that took place at HMP Foston Hall one probation officer expressed a view which received general agreement. He commented:

I'm disappointed by the lack of time that is available to us. It's not possible for us to set things up to support the meetings. Administration differs from prison to prison. In category 'C' we would need a six-month run-in to deal

²¹ One should note the finding of Richards *et al.* (1995) that about 20% of female prisoners are foreign nationals, and that these women make up about 35% of the convicted female population. Richards, M. *et al.*, 'Foreign nationals in English prisons: 1. family ties and their maintenance', *The Howard Journal of Criminal Justice*, vol. 34, no. 2, Blackwells (May 1995).

with this adequately. At the moment sharing this would be problematic. It takes time to build up trust about such issues.

An assistant governor added:

Each prison would have to put some organisational arrangements in place to deal with these sessions ... We need to decide how to identify the staff in each prison, on every landing – who would be chosen to facilitate access to the meeting. They need to understand the purpose of the meeting.

The assistant governor's comment, relating first to the organisational arrangements and secondly to identifying key staff to liaise with agencies providing information meetings, is important. It highlights problems which some pilot site managers identified. Some reported that they had difficulty locating and maintaining a relationship with someone who would act as an effective liaison officer. One described this as

very hard work, a lot of correspondence, a lot of telephone calls. We never seemed to get somebody that would be willing to co-ordinate things. I think that the general impression I got was that they are far too busy.

Another said:

I think it was quite difficult in that they [prison staff] had a lot of things on, all sorts of schemes happening, and it was never easy to pin down who was actually going to be responsible and take the thing through. There was a lot of promise but not a lot of actuality.

It is clear that the lead-in to an implemented system would not only need to involve the management of the prison and that of the agency providing information meetings, but would also necessitate involving prison staff and information presenters in the process. It would be important to explain the purpose of information meetings to prison officers, who are intimately involved in the daily lives of prisoners. Similarly, presenters or facilitators would need to be trained in certain aspects of the structure, work practices and security arrangements of the prison service.

One prison officer suggested:

I think that presenters need to know about us, how we operate, what facilities are available, security and so on just as much as we will need to know more about this whole thing.

A Governor IV suggested that

policy decisions need to be made centrally regarding the initial training of prison officers. This is an important development for the prison services and as we have said, it has implications on staffing. Although the pressure upon the staff may not be huge it will still have to be taken into account. It seems to me that recruits will have to be told about the information meetings and meetings with marriage counsellors. I also think that existing staff will have to be told about the meetings and their principles and aims.

Prison governors had the discretion to decide whether to involve their prison in the pilot project. Pilot site managers quickly became aware that governors were significant in the success of their endeavours. Since governors are able to determine whether and how information meetings will be provided, it is imperative that they understand the principles

of the FLA. The following are examples of the experiences related by pilot site managers in dealing with some prison governors:

The governor at one prison was fairly sceptical about the whole thing and we didn't in fact have any response from them ... I don't think he approved of divorce anyway. I think maybe there were some personal considerations or the prejudice of experience over years.

... the prisons are very much organised on a one-off basis, depending entirely on what the governor likes. They are not a uniform set-up.

By contrast, one pilot manager experienced no opposition to the project, but nevertheless found governors variable in their response:

... obviously some were better than others. Some were absolutely excellent, but you know, there was no opposition at all, well no overt opposition ... everybody said 'Yes, OK, we'll do it' but there was the reservation that they clearly had no idea how many people were in a position to divorce anyway.

If information meetings were implemented, directions or guidelines would need to be provided by the prison department. Before pilot site managers approached governors, the prison department had agreed to write to each governor explaining the need for the research and informing them that a pilot site manager would contact them. When pilot managers contacted the prisons, however, some governors were unaware of the study:

[I] wrote to the governor of each of the prisons and discovered that nobody knew anything about it yet because there had been a hiccough between what the Home Office said had happened [and what it had] told the LCD had been done, and it hadn't actually been done at all. So the first hurdle to get over was them not knowing anything about it.

In an implemented system the appropriate liaison would have to be more closely established so that this form of difficulty did not occur. One principal officer said very firmly during a focus group:

The [governors] should be told that they *will* have to provide access to the information. *It is a right.*

Building trust

Building trust and establishing relationships between both parties was considered to be very important for the success of information meetings in prisons. It emerged that this sense of mutual trust was needed to ensure that there would be a degree of understanding on the part of information providers when demands upon staff within the prison were high. One senior probation officer encapsulated the views of many when he commented:

If there are large numbers of people requiring or demanding this meeting it may present problems to us. The relationship between ourselves and the agency would have to be very strong to prevent problems.

The issue of trust in respect of the reliability, authority and significance of the content of any information provided during the meeting, or produced in the pack, was also emphasised. One senior prison officer with considerable experience said:

The information needs to be correct, because it can be changed to become misinformation.

Another commented:

I can see that if the information is given badly or insensitively, or if the contents are not structured to the needs of prisoners as separate from the needs of those on the outside, then I think it could be damaging.

Security

The term 'security' has many meanings attached to it. Security can be equated with the security regulations, which form part of the core activities of the prison, so as to ensure that prisoners do not escape from custody. It can also refer to the means of ensuring that the prison population remains calm and stable, free from disturbance. It can be equated with safety, not only for the prisoner but also for prison staff and other people who work in prison. It may be extended to those who visit establishments, such as prisoners' families and friends. Furthermore, security considerations can encroach upon the lives of the families outside. A minority of those who raised security issues as a problem with regard to information meetings did so by making reference to specific perceived difficulties regarding the content of the information presented during information meetings, and the time that a prisoner may have to consider these issues in isolation.

One very experienced prison officer told us that security in each prison is dependent upon the needs of each establishment and gave some suggestions for arrangements regarding presenters who came in from outside:

It would depend on the establishment and the need for security as an ongoing concern. There would need to be security checks and some training about prison security for the presenters.

Presenters/facilitators working in prison would require training to ensure that they were aware of the security arrangements for each prison in which they work. One facilitator came across a set of circumstances that highlighted just such a difficulty. He was working with a female prisoner who was using a laptop computer and viewing Model E, when she asked to use the toilet:

Yikes! [She] asked to go to the toilet! As I was with her in the dining room I wasn't sure what to do – before I could think she had left the room. Thankfully she came back! My point is, I wasn't sure whether she could go or not without supervision or permission. Again I would clarify next time but it is a useful point for other facilitators.

It is part of normal security arrangements that those who work in a prison setting on a regular basis will need to be vetted to ensure that they do not fall within a category of person who may be considered to be a security risk. This would mean that information about presenters would be checked on the police national computer, to ensure that they did not have a criminal record.

It became clear that some officers were concerned that some of the information presented could cause security problems. They felt that the information, particularly that relating to the marriage, and issues relating to maintaining contact with children, might cause some prisoners to harm themselves. Indeed, maintaining contact with children and partners was a concern for some of the prisoners with whom we had the opportunity to speak. One prisoner told us:

It's very hard if you have children. It's very difficult for me to see my children.

Others commented:

Partners can refuse to bring children to visit, so relationships with children will weaken. The system is largely unsympathetic ... There is no facility in prison to have private conversations, to discuss problems with partners or children.

There's very little encouragement to keep family contact.

You can get a child visit for three hours once per month. There is only room to have four of these visits in the rooms that they have here. It's like a lottery when there are 180 inmates here ... The visiting room is too small. If they have, say, forty prisoners a week wanting to have a children's visit, only about four will be able to.

Prison staff reflected these concerns during our discussions:

The section 'What could I do to help my children?' is problematic. When prisoners are separated from their children already, the amount of emotional energy spent by prisoners considering this is considerable. This is frustrating enough for prisoners as it is. To compound this together with the problems of divorce or separation may be difficult, even dangerous.

The parenting plan I find would be useful, but difficult. I can see people brooding about the issues raised by them. It would present emotional problems for some people. Especially when most of their time is spent doing just that, mulling things over.

Access to children is very difficult. As it's set up the information meeting is useless in prison. The package has to be more focused.

There is a need for leaflets which will specifically address the particular circumstances in which prisoners and their families found themselves.

Suicide and self-harm were issues that were raised often during the focus groups. For example, when prison staff were considering the most appropriate venue in which to present information meetings, the phrase 'in sight but out of hearing' was often mentioned. When we asked what this meant, it emerged that staff would prefer the meeting to take place in a room in which the reactions of the prisoner could be observed from outside. They also felt that presenters should inform staff if a prisoner became upset during the meeting. The following conversation took place among a group of prison officers in one of the focus groups, and is indicative of the views that were expressed by others:

It goes beyond the meeting too. I feel that once the information is presented it may create hours of stress, agitation and frustration for prisoners. We have to be so careful and watchful in this volatile situation.

I think that the information meeting may unlock things that have remained locked by the prisoner. This may harm individuals. In such circumstances we need to be made aware whether the prisoner was upset by the information given.

When we asked pilot site managers whether they became aware of any security considerations, none perceived that a meeting held in sight but out of hearing would create difficulties for them. One manager, who also facilitated Model E meetings, told us:

... obviously they had to make sure that there was an appropriate room for myself and the prisoner and that they were rooms where I could be observed – you know, so that I was protected. Really most of them have that kind of facility for visiting solicitors, barristers, etc.

Informing prison staff that a prison attendee was upset as a result of the information provided could present those who provide information meetings with some moral dilemmas. The ethos of providing information on a one-to-one basis suggests that such meetings have an element of confidentiality attached to them. However, the scripts of all the models have a caution attached. The following is an extract from the script for Model A:

Firstly I want you to know that this meeting is confidential. I won't be keeping notes or records but of course you can if you want to. It's confidential unless of course something comes to light that suggests someone including a child is at risk, in which case I would have to take advice.²²

There may be a need for more flexible scripting to be used in prisons. The precise nature of the limitations of confidentiality may need to be negotiated between the prison service and the agency providing the information.

Presenters advise attendees that they do not need to know their personal circumstances. However, one of the presenters made the following comment, which illustrates the need some prisoners have to tell their story to someone:

This was a highly unusual case. The attendee talked for most of the time and there was nothing I could do, except terminating the meeting to stop him. Like most prisoners, he is more anxious to be heard by someone than to listen.

Although anxieties are expressed with respect to the perceived risk of suicide and self-harm, these need to be viewed with caution. Most prison staff felt that information meetings could create a climate of trust between the prison staff and the prisoner, and could lead to safer conditions in prisons, especially if the information meetings were brought to prisoners' attention as they entered the prison system, as part of their induction programme:

Information about the information meetings should be made available to every prisoner during their induction into prison. They get information about HIV and AIDS, which they can deny will affect them when they're in prison, and

²² Presenter's kit for individual information meeting, 3/11/97, p. 7.

yet we know that such is life in prison that people are affected by these things. They may deny that a breakdown may occur during their time in prison, but being told that an information meeting is a right that they have can only be helpful. (prison officer)

It was felt not only that knowledge of information at the beginning of their sentence would be useful, but also that such knowledge may be useful as a means of preparing prisoners for the realities that may face them as release becomes imminent. One principal officer suggested that such information could help prisoners reorder their lives, and become a source of empowerment:

Knowledge is power. People can organise their lives far better when they have access to independent information of a good quality. It is extremely important that you understand that many prisoners find out information such as this, a separation or problem in a relationship, maybe two or three weeks before they are due to be released. It comes as a shock. Maybe their partners on the outside have kept this decision from them because they thought it was the kindest thing to do – they may have had the best intentions. If the prisoner has this information before they are released then they will at least have the opportunity to reorder their lives – to arrange to have somewhere to stay, for example. Women outside may not want to return to their previous lives once their partners come out of prison.

The security of people outside the prison

A minority of pilot staff expressed concerns surrounding the provision of information to particular groups of prisoners, such as those who had committed offences of child abuse or domestic violence. Most prison staff, by contrast, saw no difficulty whatever in providing such people with information. A prison chaplain in one of the first focus groups told us that sex offenders get divorced and there are issues regarding children. One probation officer commented that there are no types of prisoner

who should not have an information meeting. But some may need to be segregated; those on rule 43 for example.²³

However, a minority of prison officers did express concerns regarding the security of prisoners' families as the result of particular prisoners having access to some of the information provided. The prisoners referred to fell into several categories:

- those who may use the information as a means of exerting power and oppressing a spouse or partner
- those who had suffered violence at the hands of a spouse or partner and would find the information distressing
- those with mental health problems
- those who were considered to be violent or unstable

²³ Rule 43 allows the governor of a prison to 'remove a prisoner from association'. Usually this means a segregation in a discrete wing or a landing of the prison. In 70% of cases those on Rule 43 are prisoners who have been convicted of sex offences.

The following comments by prison staff illustrate the concerns that were expressed:

... where there is a history of domestic violence or the offence for which they have been sentenced relates to violence towards a partner, and issues over contact with the children or their partner, [information] may be used as means of maintaining inappropriate contact and hence exacerbate the control placed on the other party or children.

Male prisoners may use the information that they get as a way to extend domestic violence. They may get to a woman. It may give him another way of oppressing her – ‘if I can’t get that I might get this’.

The information meetings could act as a trigger to memories of previous violence and could therefore be distressing.

There are certain very specific types of prisoner for whom the information may not be appropriate. For example those with mental health problems²⁴ or [those] who may be considered to be suicidal or have a history of self-harm. In which circumstances I feel that the prison’s medical officer should be asked to assess the prisoner’s health and the effect that this information may have upon them.

Certain types of prisoner, for example section 1 offenders or those with specific mental health problems that might lead to self-harm or suicide, should be thought about very carefully. The information given in the meeting may just overload them. I think that the medical officer should be given responsibility to decide in this circumstance.

I think that unstable or violent prisoners should be barred from attending a one-to-one information meeting. Although the information may be relevant or pertinent the aspects of safety and security in this arena, I’m afraid, take precedence.

These comments are important. However, we found that whenever a security issue was raised as a possible bar to a prisoner attending an information meeting another issue would be raised to counter the argument. Many members of staff were of the opinion that information meetings were no more traumatic than any other part of the separation or divorce process as a whole. An officer at HMP Highpoint considered that prisoners could use the information meeting as a means of taking charge of their lives on the outside in a time of difficulty in their marriage:

It should be allowed as part of an assessment process and may assist the prisoner to sort out the problem that exists at home themselves. I don’t think that we can allow paternalism or a sense of the prisoner being patronised.

Other officers, responding to cautionary comments from colleagues, offered different arguments in favour of providing information:

²⁴ The treatment of people suffering mental health problems in the prison service is reflected in the report to the Home Office by Her Majesty’s Chief Inspector of Prisons (1996–7) in which the Chief Inspector states, ‘The fact is that the problem of mentally disordered offenders (MDO’s), like so many other aspects of imprisonment, cannot be solved by the Prison Service going it alone. If they cannot be treated in special hospitals, with the best facilities that the NHS can provide, what on earth are prisons meant to do with them, having no facilities worth the name at all?’

I don't consider it to be possible to decide whether an individual is unsuitable or not. Once you isolate an individual and prevent access to this information it may open a minefield.

Once a person asks for an information meeting it's a sign that they have taken a decision to deal with a problem in their relationship. By going to an information meeting they are being pro-active rather than passive or hostile to changes in their lives outside prison.

The provision of information was seen as being, from a security perspective, positive by many prison staff with whom we spoke. Most prison staff perceive information meetings as being useful in terms of providing valuable information to a prisoner, information that may alleviate a sense of powerlessness felt at a time of crisis in a relationship. Such a provision could keep the lid on potentially volatile situations that might otherwise escalate to dangerous levels. On the other hand, some prisoners have suggested that approaching a member of prison staff would be off-putting, because the information might produce emotions that they would prefer not to show. Several prisoners told us that they would feel distrustful about approaching a prison officer to gain access to an information meeting. One said:

You have to bottle up your feelings in prison – we're not allowed to show emotions. Everything you do or say is written down and may be used against you. The information is bound to stir up some emotions that would be off-putting.

However, these opinions should be considered alongside the following comment by a prisoner who was evidently experiencing marital problems and was serving a life sentence:

This [information meeting] would have been useful to me a couple of months ago, or when I first came in here. Me and my wife separated soon after I came into prison. She just couldn't get her head round the fact that I was in here for life. She's with someone else now, but she still loves me. Yes, this would have been useful.

The majority of prison staff to whom we spoke believed that information meetings in a prison setting were advantageous to the general well-being of prisoners. They considered that the provision of good, readily available, well-presented, independent information would assist rather than hinder security. Some suggested that the provision of information should be arranged promptly, on request. One officer commented:

As and when something comes into their heads they want that information there and then. It should be provided. The shorter the time taken to arrange it the better – it would keep the situation calmer.

Timing is therefore important, and information would need to be provided to prisoners as soon as possible. An assistant governor reflected on the problem of delay as follows:

I think that the frustration will come in the 'turn-around' time, between a prisoner being informed that a partner is taking some action, and the time of the information meeting. Prisoners have an enhanced feeling of the passage of time, especially in a long-term or life sentence establishment such as this one. When something occurs that would affect their outside lives, it preys on their minds. If the information meeting could be presented to them as quickly as

possible after this event has been brought to their lives in a prison it would be better.

The Provision of a Meeting with a Marriage Counsellor and Marriage Support Services in Prisons

A MWMC was not offered in prisons during the pilots. Nevertheless, we considered it important in terms of future policy to gain insight as to whether or not MWMC would be appropriate to people in prison and to understand if they could be provided in prison establishments. Most prison staff we spoke to considered that such a meeting was completely appropriate, and indeed would be a positive contribution to the well-being of prisoners. Only a minority of staff expressed some reservations about the meeting.

Relate currently offers marriage support services to people in prison at a number of institutions throughout the country. The provision of the MWMC is not too far removed from the service that Relate already offers, and could be facilitated within the prison establishment. The cost of the MWMC was an issue that was raised by some prison staff. Part of the purpose of testing the free MWMC was to investigate how many people would be eligible for legal aid to cover the cost of the service in an implemented system. Given that the majority of prisoners are socially and economically disadvantaged it may be that most prisoners would qualify for financial assistance. Some officers thought payment should come from prison funds:

The governor would have to budget for these meetings if there is a charge, or else the prisoner would have to pay. However, I can see no problems with them going ahead. They could be arranged under the existing special visit facilities. We could arrange it easily. The facilitator already has a room set aside which is in sight but out of hearing.

I can see no problems. Both the Samaritans and the CAB go into prisons on a regular basis.

Personal counselling services are already offered to prisoners in some establishments. At HMP Highpoint, for example, the Ormiston Trust, a charitable organisation which works with prisoners and their families in the East Anglia area, offers personal counselling as part of its work. One member of staff suggested:

I think that the MWMC should be used to help the prisoner to focus on the usefulness of the counselling services that already exist within the prison. There are charitable and voluntary services already available to prisoners, such as the Ormiston Trust.

The greatest difficulty most members of staff had with the MWMC was the follow-up provision of joint counselling to both the prisoner and their husband or wife. They could foresee that the practicalities of offering ongoing counselling may present the prison service with some challenges, but the MWMC was not perceived to be problematic *per se*.

Other considerations were voiced, such as the location of the prison in respect of the family of the prisoner seeking counselling. Some members of staff raised issues regarding security, and there was a perception that some prisoners could abuse the system to obtain

more visits. One member of staff considered the effect that not being able to gain access to further counselling may have upon a prisoner:

I don't think that the full service should be offered if the resources are not fully available. If a MWMC is brought in and offered to prisoners in an attempt to save their marriage then the possibility of the full services of marriage counsellors should be in place. There's nothing more frustrating than to be told that a service exists and then not being able to use it.

One prisoner, when asked about the provision of marriage support services, told us:

Access to outside agencies is discouraged and disallowed in many cases. It would need a massive change in attitude from individual prisons, as decisions are at the discretion of individual governors in many cases and are arbitrary. Individual personalities are often taken into account, rather than need, and decisions made can be used as extension of punishment.

These comments point to a number of issues that would need to be considered when developing policy. In the first example above the officer is suggesting that there would be little point in implementing the MWMC unless a full service is also offered. Indeed there would be little point, since the script for the MWMC asks attendees to consider counselling as a means of saving their marriage or of making the divorce or separation process less traumatic. The implications of organising further counselling after the MWMC would need to be understood by the prison service and the agencies that may provide the service, prior to its implementation in prisons.

Prisoners may be transferred from one prison to another, one landing or wing to another, or one work routine to another, with little notice. Prisoners are often held in prisons that are many miles from their homes. The location of prisoners has an obvious effect on the amount – and quality – of contact that a prisoner has with his or her family. Indeed, the National Prison Survey reported that the average distance travelled to visit a family member in prison was 62 miles. This is an added hardship for partners and children, other family members and friends, who may have to travel long and arduous journeys to visit and provide support to a prisoner in a time of marital or other crisis. One pilot site manager reported that information meetings had been organised for prisoners on the Isle of Wight whose families resided in the north of England. In our focus groups of prisoners at Highpoint in Cambridgeshire, we spoke with two men whose family homes were over 260 miles away. One prisoner at HMP Highpoint summed up the frustration that a prisoner's powerlessness may have upon the maintenance of ties with family:

I was first locked up in a local prison. That was OK – my wife and kids could visit me with no problem. Then they told me that I was moving here, and I told them I didn't want to go. They said I had to, so I caused a fuss. Next thing I knew I was pulled up in front of the governor to ask why I had refused to be transferred. I said something about the problems of family visiting – he took no notice. I was given three days' loss of privileges, and moved off my wing. Three days later they dumped me here. It takes my wife ages to get here for a visit, changing tubes, trains, not to mention the expense. Why couldn't I have stayed in the local one? Just not fair.

One member of staff voiced their concerns in this way:

Where would this service be offered? The prison population is not fixed geographically. Neither are the prisoners fixed in time as it were. Their

location can be changed as the circumstances in the prisons change. If, say, someone were to request a MWMC at a local prison before being sentenced and then after sentence they were placed many miles away this would obviously affect the MWMC and subsequent counselling. If the partner of a prisoner wanted to become involved this would place a financial burden upon them or the state.

If the MWMC is intended to act as a spur to saving marriages, and if it is to be offered to any party who attends an information meeting, then the spouses of prisoners may be disadvantaged if they are not able to enter joint counselling with their respective partners who are in prison, should they wish to do so. One officer suggested that criteria should be developed

to decide the type of prisoner who could access these services. Things such as the length of their sentence, the time expected in the establishment, the anticipated usefulness of ongoing counselling as it affects their sentence management plan, and the time that they have left in prison. It may be that the MWMC comes about towards the end of a sentence, for example.

This is an important issue, both in so far as it relates to the provision of a MWMC, and in so far it relates to the provision of information meetings in the first instance. People outside the prison, prisoners' spouses or partners, would be free to attend an information meeting and to gain access to ancillary provisions within the FLA. What is restricted in prison is the ability to make choices. The information meeting is designed to enable people to make more informed choices. However, prisoners and their families have little choice; access to such services fits with the needs of the institution rather than the needs of the individual concerned. The question of sentence length as a qualification for attending an information meeting raises many issues relating to the human rights of prisoners. Who would be qualified to restrict attendance at an information meeting should an individual prisoner perceive the need to attend?

As might be anticipated, some members of staff raised issues relating to security, again not merely in terms of the security of the prisoner:

The security of the counsellor, the state of mind and therefore the security of the offender, the effects of the prisoner's behaviour when they return to the wing also need to be thought about.

Security arrangements would need to be very tight. These [counselling] meetings could be used as a method to smuggle heroin into the prison.

The majority of prison staff with whom we spoke considered that, although care would need to be taken as is always the case in prisons, the majority of prisoners settle into the prison regime and cause few problems. One young officer told us:

Just because it may be abused by a small number it doesn't mean that it shouldn't be offered.

An assistant governor made a point that will need to be developed further. This relates to a relationship that a prisoner may have with a spouse or partner which is considered to be a major contributing factor in the prisoner's offending behaviour:

There is an issue for us to consider here. If it is thought that the main cause of an offender's offending behaviour is the partner or spouse of a prisoner it may

not be considered best, in terms of their rehabilitation, to allow a meeting to take place between a prisoner and their partner in the prison. It may be considered more appropriate to discourage such a relationship.

There are several questions to ask here. How would ongoing counselling act as a negative influence in such instances? How many prisoners would this apply to in practice? If the aim of counselling is to act as a force for the good of the individuals involved in the relationship, and the state offers such provision within legislation, who would take responsibility for acting as arbiter in such a circumstance? How would this decision affect the human rights not only of the prisoner but also of their spouse?

When we asked prisoners if a MWMC would be helpful to them, the majority considered that it would be beneficial and would help to reduce the tension that may exist between themselves and their partners as the result of the separation imposed by a prison sentence. Many of the issues that prisoners raised echoed those of prison staff. Many thought that the MWMC would be an excellent idea, but raised issues regarding the location of the prison in relation to their marital home. However, many of their views were positive. The prisoners felt that the MWMC and further counselling would help them form a basis upon which to work on their relationships. Most thought that the MWMC could help them to deal with their feelings about their relationship and to cope with feelings of being isolated.

It came as no surprise in the focus groups that relationships between prisoners and staff were not based upon mutual trust. Many prisoners felt that the monitoring that is a part of daily life in prison would impede them should they wish to take up an invitation to attend a MWMC or any further counselling. The following comments are representative of those that were made:

We don't have privacy in prison to talk to solicitors and the like. Even they have to be carried out in the visiting rooms with everyone else, so counselling facilities would be logistically difficult.

There are video recorders in the visitors' room, and we are continually monitored, so there is a lack of privacy. Any mood swing is noted, and emotional reactions are not allowed, so it is difficult to address any problems on a one-to-one basis. We can't even phone privately in times of crisis – conversations are taped.

Well I knew someone who had a 'Dear John' letter and was very upset. He went to see his landing officer to talk it through with him. I knew what he was going to the officer about. Later on that day I overheard the same officer telling another officer about the guy's problem and they were laughing and joking about the situation. You can't trust anybody in here.

Consequently, the majority of prisoners thought that information meetings and the MWMC should be organised by an agency which would be independent of the prison service.

Those prisoners who were sentenced to life imprisonment also saw the value of a MWMC. They told us, however, that they would use the opportunity to end a relationship in a more conciliatory manner. One middle-aged man who had been sentenced to a term of life imprisonment told us that his wife had divorced him. Their relationship, however, was still important to them both. He told us:

My wife was divorcing me. She knew I would never get out, so we divorced. However, I requested a final meeting with my wife, just to say goodbye, as I would probably never ever see her again. After putting a request in for this final meeting I was met by considerable resistance. The only way this happened was through a prison visitor who took this on and negotiated with a prison chaplain, who arranged the meeting, but he had to sit in on it. He sat in the corner pretending to read his Bible. This last goodbye was important because you can keep the friendship going. You have some idea of the feelings continuing.

Unmarried Parents in Prison

Cohabitation has increased dramatically in the general population. Reflecting this trend, the prison population has a high proportion of people who have decided to cohabit. In 1991 the NPS reported that 20 per cent of the prison population were in a cohabiting relationship at the time their prison sentence was imposed. We would suggest that this proportion is now much higher. One third of the prison population had dependent children living with them prior to imprisonment. In its response to the Government's consultation document *Supporting Families* the Federation of Prisoners' Families' Support Groups suggested that the majority of prisoners

have families living in the UK and many have children resulting in a conservative estimate of 140,000 school age children alone being affected every year.²⁵

The provision of information meetings to prisoners who were cohabiting parents was not part of the remit for the prison study, although it did form part of the general research programme. Since we do not have access to figures relating to prisoners who may be involved in Children Act applications, we are not able to suggest how this would affect the take-up of information meetings in prison, if this population were to be included in the future. During the first consultation exercise held at HMP Foston Hall the following observation was made, which reflects other remarks made by staff during subsequent focus groups:

The larger prison population are not married. I gather that this presentation is only open to married people. I would estimate that three quarters of the population are unmarried but have children. I have found that when people are in a controlled environment, when there is little chance to have involvement outside, everything that is offered to one section of inmates and not to others who may also be affected becomes intensely important. Information meetings for people who have difficulties with partners and kids ought to be thought about.

This is an important issue that will need to be addressed before the implementation of any future information meeting scheme. Offering useful and important information to one set of prisoners but not to another who may equally be suffering difficulties in relationships is considered to be divisive:

I can imagine very difficult situations arising if, for example, an information meeting was offered to one person in a shared cell who was married and a

²⁵ Gampell (1999), *op. cit.*

cell-mate who wasn't but was having problems at home with a partner. (prison officer)

There was consensus that equality of access to information must be considered; it is not enough to inform prisoners who are parents but are not married that the FLA does not apply to them. The following comments about cohabiting prisoners indicate the feelings of prison staff in general:

The problems that these people have in prison are no different to those which have an effect on those who are married.

It will increase the numbers of information meetings, but that will not create too many problems.

Children, finance and property are still a problem.

Both parents still have rights and responsibilities as parents.

This information if available will make prisoners aware of where to get help.

Prisoners' children have been the focus for most of the comments that were made during focus groups:

Most of the women in this prison have children. Just because they don't have a piece of paper doesn't mean that they should be refused access to the same information regarding these important issues.

It's in the children's best interests to have these information meetings.

Life can be very complicated. For example, one lady in here has nine children from different partners. Others may have moved in with someone who already has children and they've taken on the role of stepmother to these children. In which case the information meeting should be able to provide them with at least a starting point from which they could get further help.

Pilot managers were convinced that unmarried prisoners should be allowed access to information meetings:

I think it would be very appropriate. Which is one of the reasons why I would have liked to have done that group presentation in Glen Parva. I think one could raise the awareness of prisoners about the well-being and the needs of children, which is important.

I think it's very appropriate, I think that it is important because such a proportion of them are not married and I think really that would be very important to do.

The information provided in the information meetings to married prisoners is perceived as being able to provide a focus for prisoners to take charge of the lives that they have left outside the prison perimeter fence. Good-quality independent information is seen as being able to provide prisoners with the ability to maintain their relationships with their partners and wider kin. The comments that were made by both staff and prisoners would seem to apply to unmarried parents in prison. The following comment illustrates this opinion succinctly:

It is important to their well-being and their conduct in the prison and therefore their subsequent release that they maintain themselves well here. A continuity in their long term relationships and contact with their wider family has the effect of producing a sense of security.

One of the underlying principles of the FLA attaches importance to the continuity of parenting after divorce. Indeed *Supporting Families*²⁶ places great significance upon this as an issue. It also places emphasis upon supporting 'problem families'. Yet no mention is made of prisoners and their families. Nor is any mention made of prisoners and their families in the Government's summary of responses to *Supporting Families*.²⁷ The Lord Chancellor's Advisory Board on Family Law commented on this in its formal response to the consultation document:

The Advisory Board considers that there are a number of areas which are notably absent from the Consultation Document. No mention is made of support for families following bereavement and also no consideration is given to meeting the needs of the families of people in prison.²⁸

Our research during the pilots would suggest that the provisions of Part II could indeed be made available to prisoners.

Preferred Mode of Delivery of Information

Two models of information meeting were tested within the prison study: Model A and Model E, which was the CD-ROM version of Model A. In the focus group involving prisoners at HMP Highpoint Model D group presentation was demonstrated. We decided to use this model so that we could test the relevance of its contents to a group of prisoners.

Twenty married prisoners attended information meetings and eighteen attendees completed exit questionnaires – thirteen men and five women. Their ages ranged from 19 to 53, a mean of 35.5 years. Their sentences ranged from 6 months to 11 years, with a mean of 5.25 years. Fourteen attendees defined their ethnicity as 'white': four others defined themselves as being black Afro-Caribbean or else did not specify ethnicity. They had been imprisoned for a variety of offences: 6 for the importation of drugs, 2 for murder, 4 for assault, 2 for theft or burglary, 1 for drink driving offences and 1 for fraud or deception.

Eleven people attended Model A and nine others attended Model E information meetings. Of those who attended a Model A presentation, nine people told us that they found the meeting either fairly or very useful. Eight of the Model E attendees told us that they had also found the meeting either fairly or very useful. Two attendees did not complete an exit questionnaire.

Eight Model A attendees told us that the information that they received was either very or fairly relevant to their needs, and two attendees told us that the information was not at all relevant to them. The eight who attended a Model E presentation considered that the

²⁶ Home Office, *Supporting Families: A Consultation Document*, HMSO (1998).

²⁷ Home Office, *Supporting Families: Summary of Responses to the Consultation Document*, HMSO (1999).

²⁸ The Lord Chancellor's Department, *The Advisory Board on Family Law Second Annual Report*, 1998/99, HMSO, p. 31.

information they had received was either very or fairly relevant to their needs. The majority of attendees told us that they were better informed than they had been before the information meeting about the subjects that were presented.

Model A presenters expressed less satisfaction with the information meetings they delivered than Model E facilitators. However, Model A presenters had more of a sense of personal interaction with the attendees than did the facilitators of Model E. Model A presenters expressed their dissatisfaction in terms of the prisoner's inability to maintain contact with their children, spouses, family and friends. They also expressed some concerns regarding the appropriateness of the script for Model A as it related to the special circumstances of the prisoners they met. Their major concerns focused on the inability they felt prisoners would have to access the services referred to in the script. The script of any model of delivery must, they thought, be flexible, and more focused upon the particular needs of the prison population. The following extracts from the presenters' questionnaires illustrate their concerns:

This was my first information meeting in a prison. I had been a little surprised to be told that we were to provide Model 'A', with the only change being to include the parenting plan, as I had thought that some of the information may not be wholly appropriate. Is marriage counselling really appropriate when one partner is inside? Of course marriages go through bad times, but marriage when you're inside is a somewhat different thing. There are obviously practical issues involved in trying to save the marriage and this has to be rephrased, as does the section about talking to someone. Talking to a GP, family and friends are not easily accessible. Talking and listening to each other is not easy. Relationships have to be worked at but again this has a whole new meaning when passing this information to a serving prisoner.

Discussion with this man highlighted what must be obvious: if marriage counselling is sometimes hard to get outside prison, inside prison it is virtually non-existent.

Children ... looking at reassurance, listening, adult companions, keeping in touch with extended families, are these appropriate for serving prisoners? Contact arrangements also hard, this prisoner has another eleven months to serve. How are joint agreements reached when [the parties have] already separated, [there is] limited contact and [it is] on [the] ex-husband's terms? Is mediation appropriate? This whole thing needs to be looked at.

Again it was very difficult presenting the information to an inmate who can access almost nothing in terms of help and support. In this particular case the marriage is in trouble, but what can he do? Talking to him about the divorce process felt very defeatist. Looking at children's issues was easier as this can also be linked into their situations regarding Dad's imprisonment, although I'm not sure I should have done this. It certainly felt as though it had more relevance. Otherwise I was talking about how they would feel if Mum and Dad were to split up, and he didn't want this. I reinforced ideas such as keeping communication channels open and that parents are forever. This script is not appropriate for inmates. I'm covering all sections and picking my words with care.

I am quite sure that the people who are proposing that information meetings might take place in prison have no conception of what an impoverished and deprived environment is the British prison. To try and talk exhaustively and positively about the different facilities and resources which the attendee

should consider using, to help him make an informed choice, would be in many cases an act of psychological cruelty – and highly provocative, to boot.

It seems that the presenters' frustrations were not with the presentation itself, but were caused by the need to make the information and the structure of the meeting more specific in terms of their focus for prisoners. The areas of information that were of interest to the prisoners were not in themselves any different from those of interest to attendees outside.

Presenters also found that many prisoners needed simply to tell somebody what their problems were:

In this particular instance, I spoke with a man who clearly needs, and would benefit from, a counselling environment, which might assist him in making sense of his life – which would also assist his two children. But nothing of the kind is available to him.

I tried 'emotional process', again not easy when already legally separated and she had been inside for some months. I did look at how she would feel when the divorce was finally through.

Model E facilitators also told us that they had some difficulties with the content of the CD-ROM programme:

[The prisoner] mentioned that she had been married to her present husband before – and divorced him – so I presume that a lot of the information was not new to her. I didn't hand out the invitation to the group presentation which came with the leaflet pack – naturally no invitation to a MWMC was provided – however the CD-ROM does mention this service several times, and so I wonder if it is helpful for the prison candidates to hear this – if they can't use the services of a counsellor. Judging by some of the exclamations made by [the prisoner] I sensed the information on family support was not helpful. I was unable to check with her probation officer what access she would have to external help, etc. I think that this is an area to clarify beforehand so that facilitators can structure expectations.

The main thrust of the presenters' and facilitators' complaints was the lack of knowledge they had at their disposal regarding the facilities to which prisoners may have been able to gain access while they were in prison. These complaints were associated with a lack of direction, training and time afforded to the pilot sites which participated in the prison project.

The opinions of prisoners and prison staff

We asked the participants in the focus groups what mode of delivery would be most appropriate in a prison setting. It was significant that the views of both the prison staff and the prisoners coincided. The majority of the participants felt that the CD-ROM was a poor substitute for the personal interaction that could be afforded prisoners in an individual meeting with a presenter. The following comments made by prisoners were typical:

The CD-ROM was patronising. The music and the language were awful.

Life-changing decisions are too personal to put over on a CD-ROM.

It focused on conventional families and support structures too much. The majority of us do not have much support from our families.

It's too impersonal – it should cater more for us in here.

A one-on-one meeting would be better. I think that this the second-best package. It's a good presentation but it could be better.

People with reading or hearing difficulties would find it hard.

It skipped over violent partnerships. There wasn't enough advice, it needed more detail. There was more detail on pensions and things.

This information should be given to the editor of the *Sun* newspaper to tone down the type of language.

The following are typical of the comments made by prison staff:

The CD-ROM needs to be made more pertinent to the prison population. What I saw would have little or no relevance to prisoners who are always vulnerable to divorce or separation.

One of the options on the presentation mentioned the importance of continuous contact with children during and after the divorce. This is problematic – children are never left alone with prisoners.

The CD-ROM is too impersonal. By the time a prisoner comes to us they have already decided. There is enough trauma without the machine, especially if a counsellor is not provided. They are screaming inside.

We asked both staff and prisoners whether a group presentation would be an appropriate mode of delivery. Prisoners thought that a group presentation would present them with some difficulties. They perceived a lack of confidentiality – that they would be unable to participate in such a meeting because other people in prison, both prisoners and prison staff, may use the information that they were having marital or relationship difficulties to their advantage against a prisoner who attended a group meeting:

You can't keep secrets in this place.

This sort of information is far too personal to be aired in public.

Information of any sort is valuable. Prison is a unique environment, where information about a person can even be used against them.

Some prison staff agreed with these views:

To have to meet with other people in a group meeting is difficult for prisoners who are involved in a separation or divorce process.

It could cause some peer pressure or bullying.

The group meetings would not be anonymous in prison whereas on the outside this would be possible.

You'll leave them up in the air if the group meeting is the only one presented.

If they come to the group meetings with different needs this could create security problems. If these different needs were not addressed then it could create or trigger off difficulties throughout the prison.

The 'mop-up' afterwards would be time consuming and there is the potential for danger.

Nevertheless, we found little opposition to running focus groups or conducting a demonstration of a Model D group meeting during our research. Prisoners meet regularly in groups to participate in courses and other activities. In HMP Gartree, for example, groups of prisoners meet regularly to debate topical issues and prisoners associate with each other in groups more informally on their wings and landings.

The video as a medium

The video that accompanies Model D was shown to a group of prisoners at HMP Highpoint. They found it to be patronising and inappropriate to their circumstances. No positive comments were made at all. Some of the men in the group thought that a video could be produced that would be useful, but the content of this particular production was very poor. It reflected nothing of their experience outside, nor had it any relevance to the world they inhabited in prison.

We had no time to show the video to members of prison staff, but we asked them to tell us what they thought of a video as a mode of delivery. The majority felt that using a video to provide information would produce a standardised package. Others thought that it would be useful for prisoners with literacy difficulties and that a well-produced video could be a little more free in its style of presentation:

Maybe it could be possible to have a number of videos dubbed in different languages, sensitive to the multi lingual and multi cultural population of prisons.

Prisoners would be more relaxed, and not bound by time – it would be easy for them just to put it on in the library, for example. They can relate to video as a medium, but it would have to be interesting otherwise it would produce 'turn-off'.

However, many staff felt that using only a video as a mode of delivery would be problematic. As one officer put it:

They will not be able to question a video.

Providing information through a pack

Providing information through a pack was considered to be the most inappropriate means to use in prisons. We have already noted that prisoners have generally poor levels of literacy. The amount of information in the pack would also be off-putting. Prison staff considered that prisoners might feel overburdened by the volume of information in the pack:

It would depend on the individual. It could give someone who has literacy problems some difficulty accessing the information. There is a lot in the pack – the sheer volume of it is enough to put off even the most avid reader.

Some officers considered that the provision of information would be difficult to control and that the pack may be given to those prisoners who ought not to be provided with this form of information:

If the responsibility to hand out the pack is contracted out, not in the prison's control, then it may be given out irresponsibly or inappropriately.

Although some positive comments were made about the pack itself, the consensus among both prisoners and prison staff was that the pack could not stand alone. Most staff and prisoners considered that an information meeting that had a high degree of personal interaction would be the most welcome form of information delivery.

A preferred model

One Governor IV made the following observation, which provoked great interest and agreement among other staff members in her focus group:

The most appropriate would be a combination of a video to get some general background information then a CD-ROM on some further, more specific issues, followed by a one-to-one meeting with a presenter to get information in which the prisoner can have some interaction with a human.

If, for example, the first port of call for information were prison libraries or education areas, the prisoner could simply be visiting such venues during the normal course of their prison life. Should they then read or view the information and perceive the need for more specific information, they could then gain access to an interactive CD-ROM. Thereafter, if they felt that they required further assistance a specially-designed information meeting might be appropriate.

We asked prisoners and prison staff about who should train as presenters. The consensus was that information meetings would be better received by prisoners if they were presented by an independent agent who had no connection with the prison community. Furthermore, other circumstances within the prison might take precedence over the member of staff's duty to present the information meeting to a prisoner:

Time is difficult for staff. It would not be seen as an important issue if other matters arise which have more of an impact on the prison. The duty to present an information meeting would just have to be dropped in times when staffing levels are low, say as a result of sickness. Prison staff are overworked as it is.

Staff are on overload at the moment. There is very little sign of other staff coming on board. I have the fear that members of staff, no matter how well meaning, may not be able to present this important information sufficiently well or with any degree of consistency because of the pressures of work that they already have. Therefore an outside presenter is far more beneficial to all concerned ...

Prison staff were also concerned that prisoners would perceive the information delivered during the meeting by a presenter from outside the establishment to be more independent:

Outside presenters are seen as being independent of the system.

It is preferable for someone from outside the prison to come in to give this information.

Similarly, prisoners had reservations about members of the prison community presenting information to prisoners who may be vulnerable. One prisoner told us:

Like all prisons you do get some co-operative prison officers, but quite a few still have an 'old guard' attitude, which tends to be detrimental in these types of situations.

Another commented:

Don't expect the truth from prison officers.

Looking Ahead

Prisoners are vulnerable people. People who have committed serious breaches of the criminal law are removed from the rest of society, deprived of their liberty and subjected to numerous other restraints frequently amounting to an alteration of their basic legal rights and obligations. It is possible to argue that denying prisoners information cannot be justifiable. Lord Wilberforce in 1982 laid down this maxim in a historic judgment in 1982 in which he stated:

Under English law a convicted prisoner, in spite of his imprisonment, retains all civil rights which are not taken away expressly or by necessary implication.²⁹

It is now well-established that the prison authorities have a duty of care to the prisoners in their custody. The Woolf Report considered that four elements need to be balanced when the manner in which prisoners are to be treated is determined by prison authorities: security, control, justice and humanity. Security is required to ensure that prisoners remain in prison and complete their sentence. Control is needed to ensure that a prisoner's behaviour is acceptable as regards the institutional view of good conduct. However, justice and humanity are imperative: without them the other elements will fall away. According to Woolf, the requirements of justice encompass notions of procedural fairness, particularly the obligation to provide prisoners with reasons for any decision that may be made about them. Woolf recommended that a prisoner should be given reasons 'for any decision which materially and adversely affects him', not only the major decisions affecting the prisoner such as those relating to transfer or release. Woolf encouraged the regular provision to prisoners of extensive amounts of information. Just as prisoners possess rights despite their imprisonment, they also remain responsible for their lives and should be entitled to participate in the decisions that affect them, with the proviso that such participation should be compatible with the demands of security or control.

The provision of information meetings, meetings with marriage counsellors and access to alternative forms of negotiated settlements during a divorce, such as the use of the

²⁹ *Raymond v Honey* (1983) 1 A.C., 1 at p. 10 *per* Lord Wilberforce.

services of mediators, are particularly important aspects of the FLA 1996. If one argues that prisoners should be exempt from the obligation to attend an information meeting, prior to making a statement that their marriage is irretrievably broken down, then some other form of information and access to the services that would ordinarily be available to citizens who are not imprisoned would need to be considered. Our prison study found no reason to consider prisoners an exempt category under the FLA.

Chapter 29

Addressing Specific Needs and Circumstances

Peter McCarthy, Cathy Stark and Janet Walker

Understanding human needs is half the job of meeting them.¹

In the previous chapters of this section we have examined the issue of access to justice with reference to categories of people whose backgrounds or situations render them in need of special consideration when decisions are taken about the type of information to be provided and the models through which it might be delivered. Although the White Paper suggested that certain categories of person might be excluded from the requirement to attend an information meeting, citing in particular ‘the elderly, the disabled and those in prison’,² our special study of people in prison led us to conclude that there is no case for the prison population as a whole to be excluded. During the pilots, we did not conduct any special study of older people or of the significance of disability or illness. Nevertheless, through the pilots, our general evaluation has enabled us to draw on data that allow some discussion of these issues. Furthermore, while the information meeting pilots were ongoing in England and Wales, the Ministry of Defence (MOD) commissioned us to conduct a feasibility study with respect to the implementation of various aspects of the Family Law Act for Forces’ families, specifically those stationed in Germany. We concluded that study in October 1999³ and refer to it here. There were some members of Forces’ families who attended the information meeting pilots and we draw on their accounts in a discussion of the needs of Forces’ families.

Senior Citizens

In the years 1996 and 1997, 1.7 per cent of men, and 0.9 per cent of women who received a decree absolute, had passed the age of 65.⁴ This may not seem a large percentage, but the data suggest that in an average year, around 2,600 men and 1,300 women who divorce will be aged over 65. Moreover, 120 men and 50 women will be aged over 80. Among those aged over 65 years, more than half the men (52%) and nearly half the women (47%) will be divorcing a second or subsequent spouse.

Among information meeting attendees, 2.1 per cent of men and 1.7 per cent of women were aged over 65. Four men and one woman were aged over 80. Clearly, some older people were able to get to a meeting, but it is likely that there were others who were unable to do so. There may well be a case for enabling some older people to obtain a quicker divorce, given that a year may seem like a very long time to someone in their eighties. There was one particularly difficult case involving an 87-year-old man, the oldest attendee, who attended a Model E CD-ROM meeting. According to the facilitator’s

¹ Adlai Stevenson, speech, Columbus, Ohio, 3 October 1952.

² *Looking to the Future: Mediation and the Ground for Divorce: The Government’s Proposals*, Cm 2799.

³ Walker, J. and Mitchell, S., *Feasibility Study for Implementation of Provisions under the Family Law Act 1996 for Forces’ Families in Germany*, Newcastle Centre for Family Studies (1999) (MOD – restricted – Management).

⁴ Data provided to NCFs by Office of National Statistics.

notes, this attendee, who was frail and suffered from a degenerative disease, was seeking advice about ownership of the property in which he and his wife lived. The property had been left to him by one of his relatives and he was anxious that his wife, aged 85, should not inherit it in the event of his death. The circumstances behind this were described by the facilitator as follows:

The attendee informed me that over the last ten years, since ill health weakened him and he developed the level of disability he endures to date, his wife has become very aggressive and violent towards him on a regular basis. The violent environment that the attendee lives in is fuelled by the attendee's wife, who suffers from alcoholism to the extent that all the local outlets have been advised by the police to deny her any alcohol. Recent injuries that the attendee has suffered are: being hit about the head with an empty whisky bottle resulting in a head wound requiring eight stitches and being stabbed in the back of his left hand. The attendee throughout the meeting referred to his oncoming event (death) and on a number of occasions was reduced to tears. This was brought about by the bitterness he has for his wife, as he feels she would be entitled to all of his belongings.

This is clearly not an easy case to legislate for, particularly since it involved the problems that are associated with ill health and with domestic violence as well as with old age. It does illustrate, however, how the type of information provided at the pilot information meetings could seem totally inappropriate in some cases. It seems unfortunate that somebody so vulnerable had made what was probably a fruitless journey to sit in front of a CD-ROM, receiving sympathy from a facilitator but little else. He clearly needed to seek legal advice, and so, no doubt, did his wife.

There were two other cases involving people over 80 about which we received comments from a presenter. One 80-year-old was apparently adamant that neither he nor his wife wanted a divorce, although they had separated after fifty years of marriage. He apparently wanted advice about 'his financial affairs; property, pensions, tax position and a will', and advice about 'gas safety' since he had apparently lost his sense of smell. Another attendee, an 84-year-old, apparently did not want information, but simply to 'offload 57 years of an unhappy marriage', and the presenter suggested, not surprisingly, that the information meeting had been both irrelevant and inappropriate.

Separation from a spouse is seldom easy, but for older people it may be especially difficult, not least because some will have been married for a very long time. For older people the issue of pensions becomes central. One 70-year-old attendee, for instance, wanted to divorce but felt that pension arrangements made this impossible. He clearly needed advice, or at least in-depth financial information:

We can't afford to separate financially. I'm beyond retirement age. My wife is early 50s. She has been ill. It's just my pension keeping us going, so as we see it we can't split the one pension – mine. We don't have much choice but to stay together and make the most of it.

Some older people felt that they needed information because, in their view, the fact of their ageing had significantly changed the circumstances of the relationship, especially when there was an age gap between spouses. One 70-year-old, who was in his second marriage, of ten years' duration, told us:

I don't think it will be long before she says she can't stand it any more – namely living with me – because I'm fifteen-and-a-half years older than she is

and she doesn't like to put up with the things that happen to you as you get older.

That much of the information provided was not relevant to older people is an issue that was raised by a 67-year-old man who attended a Model A meeting:

I feel that the problems of my age group are not adequately addressed at the meetings, and I found that the literature was written in a format that assumed I was uneducated, clueless and thick. Perhaps there should be another pack for more educated, mature people, unencumbered by children, with some understanding of procedures.

III Health and Disability

Not surprisingly, health concerns were prominent among older people. They were also the key issue for some younger attendees. Although the negative impact that illness can have upon relationships is well-documented,⁵ health issues were not referred to in either the information meetings or the information pack. Nevertheless, during our telephone interviews it was apparent that attendees (of all ages) who were themselves in poor health, or caring for an ill spouse, tended to find that the illness was the dominating factor in any decision they made about their marriage. Indeed, for some of them ill health was the root cause of their marital problems. Some people intended to divorce but found it difficult to proceed because of changes in health circumstances. Comments made during interviews suggest that those attendees who were affected by health issues would have appreciated acknowledgement that ill health is an important issue. In particular, they suggested that information about appropriate support services should be included in the information pack.

At individual meetings, presenters and facilitators completed a questionnaire after each meeting. In it, they were asked whether attendees had special needs. According to presenters and facilitators, only around one in fifty attendees had 'special needs'. These were wide-ranging. They included disabilities associated with hearing, sight and mobility, which call for special treatment in the provision of information. Other problems described included illiteracy, arthritis, diabetes, depression, drug addiction and mental illness. Some of the issues described as special needs, however, were not, in our view, indicative of disability or health problems. For instance, one person who attended a CD-ROM meeting was considered to have special needs because he was left-handed and had difficulty with the mouse. Another was described as 'lacking confidence', and two attendees were defined as having special needs because they needed childcare.

The problem with data generated only by attendees is that they cannot account for people who do not attend a meeting. We would expect that those with more severe disabilities would be the least likely to attend. Nevertheless, it is clear that there were large numbers

⁵ See e.g. Anderson, R. and Bury, M., *Living with Chronic Illness: The Experience of Patients and Their Families*, Unwin Hyman (1988); Parker, G., *With This Body: Caring and Disability in Marriage*, OUP (1993); Speedling, E.J., *Heart Attack: The Family Response at Home and in Hospital*, Tavistock (1982); Walsh, A. and Walsh, P.A., 'Love, self-esteem and multiple sclerosis', *Social Science and Medicine*, vol. 29, no. 7 (1989), pp. 793–8; Waltz, M., Badura, B., Pfaff, H. and Schott, T., 'Marriage and the psychological consequences of a heart attack: a longitudinal study of adaptation to chronic illness after 3 years', *Social Science and Medicine*, vol. 27, no. 2 (1988), pp. 149–58.

of people for whom the information meetings, as delivered in the pilots, were inappropriate. If Part II of the FLA is implemented, consideration would clearly have to be given to providing information for people with visual and hearing impairments as well as for people who are housebound. This could include more use of audio tapes (audio tapes were available for some models), sign language, and home visits.

Considerable efforts would need to be made to ensure that people with disabilities or illness were not denied access to information. In addition, people who care for a sick spouse might have access problems. As one attendee pointed out, when one has to care for someone 24 hours a day there are limited opportunities to go to an information meeting, even if ending the marriage is an option. Some interviewees described feeling trapped in a marriage with a sick partner who did not have alternative sources of care; they wanted to end their marriage, but felt they could not cope with the guilt that they would feel in doing so. Although the problems faced by carers have been well documented,⁶ however, they are not referred to in information meetings or in the information packs. When asked if she was still considering divorce, one 56-year-old woman who had been married for 37 years told us:

It is up in the air at moment. [My] husband had a heart attack and hernia operation and is now depressed and won't talk ... when people get to 60-plus and health deteriorates ... this should be in the pack to warn people.

Another woman, aged 36, had what she described as a degenerative and debilitating illness. She felt that her husband could not cope with the fact she had to use a wheelchair, or with the unpredictability of a condition characterised by periods of exacerbation and periods of remission. It seemed that her illness had become the primary factor in her wanting to end her marriage, and she told us:

It's quite common for problems to arise in marriages when a partner becomes disabled ... there's no way we're going to get back together. My husband can't deal with my illness and all the ailments. I'm not going to wait until my husband finds somebody else, and then wants a divorce. I thought it might be a good idea to do something for myself.

This case indicates how people with disabilities may feel that they want to have a degree of control over the relationship, despite sometimes being dependent in other ways. Information can clearly be useful in this process, but wheelchair users may not have been able to get to a meeting on their own. For this woman, however, the effort in getting to the meeting did not prove to be worthwhile. Although she was happy with the information pack she received, and suggested that it had helped to 'demystify' the divorce process, she felt that attending the meeting had been 'a waste of time':

Being a bit different, with particular concerns, my disabilities were not addressed at all or acknowledged. I realise that some people don't think that disabled individuals should get any special treatment.

⁶ See e.g. Carers National Association, *Speak Up, Speak Out: Research Amongst Members of the Carers National Association* (1992); Parker G., *With Due Care and Attention: A Review of Research on Informal Care*, Occasional Paper No. 2, Family Policy Studies Centre (1985, rev. 1990).

In another case, the wife of a 55-year-old male attendee had developed a 'life-threatening illness' after she and he had agreed to separate. Because of the illness, however, they re-evaluated the situation and decided to 'make a go of it again'. The man told us:

The information meeting helped in clearing a few things up but the development of the illness had a greater impact ... I'm in remission from divorce.

In other cases, when death is imminent, the three months' waiting period after attendance at an information meeting may be inappropriate.

A female attendee (aged 45) had filed for divorce before attending the information meeting, but at the time of the follow-up interview told us she was no longer considering divorce although she had received a decree nisi. She decided to stay in the marriage because if she had left the marital home she would have been rehoused by the council in a location which was a 'long walk away' from her son's school. As her illness restricted her mobility, and she could not afford a car, she opted to stay put:

I've decided to stay, because I'm the one who's going to be impoverished afterwards if I move out. By staying here, I've sentenced myself to a life of celibacy and what else. It's not very practical, but as I have ME, I don't feel I can stand on my own two feet ... I'm well provided for here.

Another attendee (aged 60), who said she had multiple physical-health problems, complained that her husband was not supportive. She found managing in the house very difficult and said that she received no help from him, despite the fact she had recently become wheelchair-dependent. From her account of events, it appears that she was so exhausted by her physical problems that she had no energy left with which to address her marital problems:

I'm still considering [separation]. I'm not considered in the house. There's nothing left. My severe medical problems make any action towards a divorce difficult at present, and unlikely in the future until the health matters are settled ... I spend quite a lot of time crying because I'm in pain all the time. What with the operation and my front and my back, I'm not sure what I'm crying over at the moment.

Despite the fact that this woman's comments suggest that her husband was not heavily involved in caring for her, her illness had had a significant impact on his attitude to the marriage. People may experience considerable guilt about leaving a sick spouse, whether the illness is physical or mental. One attendee (aged 38) described how difficult she found deciding whether to divorce her husband, who was hospitalised because of a mental health condition and ignored all communication from her. She was fearful that the serving of divorce papers might exacerbate an already difficult situation:

The plan is whether I want to get a petition served on him. There's a lot more involved than that, because he's actually been in hospital and it's a case of deciding whether or not it would be worth it, or whether it would make things worse. There is a lot of emotion and blackmail involved in this. It's not the easiest one.

She had apparently hoped to get information from the meeting that would help her move forward, but stated: 'I think my situation is quite complex, with everything that is

happening around it.’ She also felt that her husband’s condition prevented the use of many of the services she was told about at the information meeting:

In a perfect world, if you have got two people who are rational ... – but we haven’t.

Similarly, another attendee explained how his wife’s mental health problems prevented any constructive use of services. He described his wife as ‘suffering from depression’ and told us that her behaviour was at times irrational. He acknowledged that he could use marriage counselling alone, but described this as ‘rather like going to a dance on your own’.

A female attendee (aged 40) made a similar point, suggesting that simply having the information does not necessarily mean that it can be acted upon. Her husband’s health problems dominated both their lives:

It is not a case of lacking information, because I have all that now. My husband is not a well person. He is depressed. Our marriage is no better, but we have talked more. I feel it’s not the right time to do anything. The information was good, but I haven’t made any decisions. It isn’t from lack of information. It is just that his medical condition takes priority. I can’t really walk out on a sinking ship.

A mother of three children, aged 9, 13 and 16, commented that the pack as a whole and the parenting plan in particular did not address the issue of illness, which was dominating her arrangements for the children at this time since her husband suffered from depression:

With Dad going through a depression, it was all very complicated. I didn’t want the children to feel I was pushing them to see him when he wasn’t ready. There was too much information when I first got the children’s leaflets. Other issues were more important and I wanted to deal with the children personally ... I had to deal with a lot of financial things. Something to read about the emotional needs of children would have been useful ... I haven’t really read through the parenting plan ... I had too much to worry about. Some of the questions didn’t really relate to me. I would have carried on doing what I was doing ... the plan should have had something on illness.

It is clear, therefore, that simply giving information to people, even if it is sensitive to their personal situation, is no guarantee that it can be acted upon, or that people will change their behaviour. As findings from health education and health promotion research show, in order for information to be acted upon other key factors need to be right. In the cases described above, it seems that much of the information was not relevant because it could not be acted upon because of illness. This suggests a need for information and, indeed, for marriage support that is specifically targeted at people who are ill or disabled, and at their spouses whose needs are likely to be different.

Implications for Provision of Information

The exploration of age and health issues inevitably leads to questions about how these issues affect provision of information meetings. Should there be exemptions for certain categories of disability or illness? Ought people over a certain age to be exempt? How should mental illness be addressed? We note that consideration has been given to provision of information to prisoners, but not to people in psychiatric hospitals.

As has been illustrated, ill health and/or old age can have a significant impact on available options, but these issues were not mentioned in either the meeting or the pack. Given restrictions on the length of meetings, it is clear that not all topics can be covered, and priority will need to be given to those issues that are of general relevance and which promote the principal aims of the Act: marriage saving, conciliatory divorce, supporting children and parenting, and protection from violence. Nevertheless, questions exist as to whether the information materials are as useful as they might be to older couples or to those in marriages affected by health problems. During our interviews, attendees pointed to the absence of information targeted at older people, and to a lack of recognition that age leads to particular information needs. Much of this is due to the perceived heavy emphasis on children, at group meetings in particular. This is an emphasis that leaves older people, who are of course unlikely to have dependent children, feeling that much of the information is simply not relevant. Older people indicated a need for more in-depth information about financial issues, particularly pensions, and for guidance on where to obtain advice and/or support concerning issues that affect them. Attendees also called for acknowledgement of the problems that the ill health of spouses or of their children can bring to a marriage, and for guidance as to where to obtain help. Clearly some of these concerns could be addressed by extending the information provided in the information pack, but it may also be that if Part II is implemented, exemption might be appropriate in some cases involving ill health, disability and old age, especially as it would not mean that people would not be free to attend an information meeting if they wished to.

Providing Information to Forces' Families

We began our work for the MOD in April 1997, dovetailing the feasibility study with our evaluation of the information meeting pilots. The overall objective was to provide information to assist the MOD and those responsible for making and implementing policy in respect of military families to reach decisions about the extent to which elements of the FLA could and should be embraced in British Forces Germany (BFG). We held a number of consultations in BFG, analysed statistics relating to the numbers of Forces' families who might wish to take advantage of information meetings and other provisions, gained an understanding of the existing services available in BFG, conducted interviews with wives returning home from matrimonial relationships in Germany, and examined our information meeting pilots data to extract data about Forces' families.

Research indicates that Forces' families face additional stresses as a result of the nature of military employment, which promote an even higher rate of marital breakdown.⁷ Forces'

⁷ See e.g. Black, W.G., 'Military-induced family separation – a stress reduction intervention', *Social Work*, vol. 38, no. 3 (1993), pp. 712–13; Figley, C.R., 'Coping with stressors on the Home Front', *Journal of Social Issues*, vol. 49, no. 4 (1993), pp. 51–71; Gibson, M., 'Divorce in the Army', outline report (September 1993); Rosen, L.N. and Durand, D.B., 'The family factor and retention among married soldiers deployed in Operation Desert Storm', *Military Psychology*, vol. 7, no. 4 (1995), pp. 221–34; Pittman, J.F., 'Work/family fit as a mediator of work factors on marital tension – evidence from the interface of greedy institutions', *Human Relations*, vol. 47, no. 2 (1994), pp. 183–209; Jolly, R., 'Confined to barracks', *New Society*, vol. 82 (November 1987), pp. 19–21; Knapp, T.S. and Newman, S.J., 'Variables related to the psychological well-being of Army wives during the stress of an extended military separation', *Military Medicine*, vol. 158, no. 2 (1993), pp. 77–80; Anson, O., Rosenzweig, A. and Shwaezmann, P., 'The health of women married to men in regular army service – women who cannot afford to be ill', *Women and Health*, vol. 20, no.1 (1993), pp. 33–45; Siddall, R., 'Company ... dismiss', *Community Care*, (April 1995), pp. 22–3.

families face more transitions and disruptions than most other families, and families who face repeated separations may have difficulty in readjusting family roles, routines and rules, thus causing tension and threatening the stability of relationships. Servicemen are inclined to marry young and service life places exceptional stresses on marital relationships. Ninety per cent of those seeking help from Relate in BFG are aged under 40, and the majority (70%) have been married for less than ten years. Most have young children. There was support from all those consulted for the provision of information meetings and for the meeting with a marriage counsellor for Forces' families resident overseas, but there is clearly a need for information to be provided which is both sensitive and relevant to the special circumstances of Forces' families.

Of course, Forces' families and the spouses of military personnel living in England and Wales would be able to access information meetings anyway, as some did during the pilots. The argument for provision overseas is precisely to give equality of access to those people who are not able to attend an information meeting in England and Wales.

The experiences of Forces' personnel who attended an information meeting in England and Wales

Several of the information meeting pilots were conducted in areas in England and Wales in which Navy, Army and RAF bases are located. In an attempt to encourage the attendance of Forces' personnel, pilots conducted briefings on some of these bases. In total, 22 serving military personnel (all male) attended an information meeting in the UK pilots. (No information materials were available overseas.) We have no way of knowing how many Forces' wives attended since we did not routinely ask applicants to declare the employment of their spouse.

Overall, 8 of the servicemen described the information meeting as very useful, 13 described it as fairly useful, and only one did not find it at all useful. Although these men received the standard information pack, with no additional information having been prepared for Forces' families, 10 men found the information very relevant to their needs, 5 found it fairly relevant, and only 2 said that it was not at all relevant for them.

Most of the servicemen were very positive about the information meeting, and several were attempting reconciliation when we spoke to them afterwards. Most men felt that they had got all the information they needed, although for many, some of the agencies were inaccessible because of their circumstances. One man who went with his wife to the meeting with a marriage counsellor described himself as 'desperate'. He and his wife intended to go for counselling, but he was concerned that there might be stigma attached to it. This man also recognised that he should have sought help sooner.

It is possible that those few servicemen who did not get all the information they were looking for were needing information which was more specific to their circumstances. Several men were experiencing difficulties concerning contact with their children, a problem which is familiar in the services, where contact opportunities are limited. Nevertheless, all of them told us that they had learned a great deal, particularly about marriage counselling, mediation and how divorce affects children. Judging by the reactions of this small sample of servicemen across all three services and all ranks, information meetings would be a welcome innovation, particularly in the early stages of marriage breakdown. In order to illustrate the experiences of the servicemen in our study we offer some brief personal accounts.

*Jim – managing a DIY divorce*⁸

Jim was in his mid-thirties and had two children. He was already living apart from his wife, and he found the information meeting very useful and very relevant. He had gone to the meeting *to find out more about the ins and outs of divorce and separation* and the divorce process. He attended the CD-ROM presentation, which he described as *a good idea and better than speaking to someone, which may be a bit embarrassing*.

During our first telephone interview, Jim said that he had learned about marriage counselling but thought that it was too late for him to use it. He had discussed his situation with friends and family, and with his service. As a result of having attended the information meeting he thought it less likely that he would involve a solicitor since he now understood the legal process. He felt better informed about the psychological well-being of his children.

When we spoke to Jim some six months after he had been to the meeting, he had consulted a solicitor for *a free half-hour session* and visited the Citizen's Advice Bureau so that he could manage a DIY divorce. He expected to check settlement details with his solicitor, and did not see the need for mediation. He described the information meeting as having encouraged him to talk with his wife, and as having influenced the way in which he had approached the divorce process. Although he had not given the leaflets for children to his children he had been through the leaflets with them and they had encouraged discussion with his children. He thought that it would be helpful to make the information available on the internet, which could also be used for completing the necessary legal forms which could then be printed out and taken to the courts. For Jim, the information meeting had been a positive experience which had given him the confidence to conduct his divorce amicably.

Steve – a matter of timing

Steve was in his fifties, and had been married over 25 years, with two grown-up children. He was already involved in divorce proceedings when he went to an information meeting, which he found useful and relevant, particularly the video. He felt much better informed about the emotional aspects of divorce and about mediation, although he had gone to the meeting to get guidance about financial matters such as wills, pensions and financial settlements.

Steve was serving overseas at the time, and attended an information meeting during a visit home. He told us that *in my circumstances – working abroad – I got the information too late*. He believed that if he had known about the marriage counselling earlier it might have helped him. As it was, he learned about mediation and had made an initial appointment with the local service. He was concerned that there was a six-week waiting time for the next appointment. When we last spoke to him, six months after the information meeting, he and his wife were working out the financial settlement through mediation.

⁸ All the names used in this chapter have been changed to protect confidentiality.

Mark – working on saving his marriage

Although Mark and his wife were living apart, they attended the information meeting together. They had already been to marriage counselling at Relate-BFG. As a result of having attended the information meeting they took up the offer of a meeting with a marriage counsellor and were discussing the possibility of reconciliation. Both wanted help to save the marriage and were positive about their experience of the information meeting and the meeting with the marriage counsellor.

Paul – a problem with distance

Paul and his wife had a very young child, and he was still living in a married quarter although his wife had left him three weeks previously. He had found the information meeting very useful since his main concern was contact with his child. The information meeting prompted him to see a solicitor, and to talk to his colleagues, although he had tried to keep his work and private life separate. He described his colleagues as supportive.

Paul told us that he wished he and his wife could use mediation, but that this was impossible since they were living 450 miles apart. He described the information on mediation as the most important he had received, and said that having become aware of it he was very disappointed that because of his circumstances it was not an option.

While these men were appreciative of the information meeting experience, their circumstances did prevent some of them from following through options such as mediation. We have recommended that the MOD should consider how information can be made available to Forces' families overseas, and to consider whether other services, such as mediation, might be developed.

Providing Information Specific to Different Categories of People

The various studies we have conducted within our evaluation programme which have addressed the ways in which access to justice might be ensured for those groups and categories of people with special needs or circumstances have led us to conclude that if Part II of the Act were implemented there would not be a case for blanket exemptions.

In all the foregoing chapters in this section we have seen how:

- information needs to be specific to particular cultural groups
- safety and security need to be ensured for people in fear of domestic violence
- prisoners, irrespective of their marital status, need information which can assist them when relationships fail
- there needs to be recognition in the information provided of the special circumstances associated with old age, ill health, disability, or being a member of the Armed Forces, and also specific information for people with no children, or with adult children

The findings in respect of these groups of people indicate that, if the information meetings are to be revised, some leaflets would need to be modified and others developed, and the context of the meeting would need to be more personally tailored. Indeed, many of the problems of relevance would be alleviated by provision of a meeting which is responsive to the needs of individuals. Only in very exceptional circumstances can we see there being a need for people to be exempted from attending an information meeting. When this is the case, however, arrangements will need to be made for the information to be provided in appropriate formats.

Chapter 30

Gender, Divorce and Information Meetings

Richard Collier

... legal thought and legal relations influence self-understanding and understanding of one's relations to others. We are not merely pushed and pulled by laws that exert power over us from 'outside'. Rather, we come, in uncertain and contingent ways, to see ourselves as law sees us; we participate in the construction of law's 'meanings' and its representations of us even as we internalize them, so much so that our own purposes and understandings can no longer be extricated from them. We are not merely the inert recipients of law's external pressures, but law's 'demands' tend to seem natural and necessary, hardly like demands at all.¹

The research has produced a vast body of information and rich data about the workings of the information meeting pilots. It has, in particular, told us much about the attitudes, expectations and behaviour of attendees. Yet the research has also, importantly, provided much information about the changing nature of contemporary family life in a more general sense, and of family circumstances, childcare arrangements and the material and emotional dynamics which surround the complex processes of divorce and separation. It is clear from interviews with attendees, for example, that there exist a whole range of diverse experiences of divorce. What has emerged, in short, is a picture of the real complexity of people's lives, something which can be all too easily passed over.

Gender is a central element of this picture. The idea that the institution of marriage and the social experience of divorce are themselves gendered phenomena is now commonplace within social science literature. Across a diversity of research fields over the past twenty years there has been a growing recognition that research which does not adequately address gender issues in relation to family practices² will itself be fundamentally flawed in missing out on what is now widely seen to be a key element of social life. In approaching gender and the information meeting it is more helpful to focus on the idea of 'family practices' rather than any pre-given notion of family life. This is an approach which, it will be argued, is of particular use in seeking to understand divorce law reform. If a consideration of gender is essential in developing understandings of marriage, divorce and family relations, at the same time, and at a different level, a recognition of the importance of gender has moved increasingly centre-stage within scholarship concerned to address the relationship between law reform and family policy. There now exists a growing literature in the field of legal and socio-legal studies pertaining to gender and law, and pertaining also – of direct reference to this research project – to the extent to which legislative processes and policy reforms are themselves gendered in terms of both their conceptual frameworks and their implementation.

¹ Sarat, A. and Felsteiner, W.F., *Divorce Lawyers and their Clients: Power and Meaning in the Legal Process*, Oxford University Press (1995), p. 12.

² On the concept of family practices see further Morgan, D., *Family Connections: An Introduction to Family Studies*, Polity (1996); Morgan, D., 'Risk and family practices: accounting for change and fluidity in family life', in E. Silva and C. Smart (eds), *The 'New' Family?*, Sage (1999).

It is this very ubiquity of the relevance of gender which has, from the outset, posed a number of difficult questions for a research project framed around a set of key aims and objectives. Accordingly, it has been necessary to focus the consideration of gender in ways appropriate to the research imperatives which have informed the project and the research tasks as a whole – to recognise, in effect, that this is a study of the information meetings and *not* an investigation of any one of a number of issues pertinent to developing an understanding of gender and divorce. With this in mind, this chapter seeks:

- to highlight the core issues which have derived from the gender analysis as they relate to the need to formulate specific policy conclusions around the implementation of the information meeting
- to assess and contextualise research findings around gender and the information meeting in relation to a broader body of social science literature concerned with gender, families and divorce
- to consider the implications of an analysis of gender for the future development of policy in this area and to consider policy issues arising in respect of implementation of Part II of the FLA

Unlike other aspects of the research a consideration of gender has not been a stand-alone element. Much of the work on gender has been ‘behind the scenes’, informing the framing of data collection and analysis as the research has progressed. It has only been in the latter phases of the research that it has become possible to make more conclusive statements on gender and the information meeting in the light of the available material. This discussion cannot reflect the depth of the qualitative material and quantitative data which have been collected in terms of what this research might potentially tell us about gender, marriage and divorce. This ambiguous positioning of gender within the research as a whole (as pervasive, yet as something which needs to be approached in a focused manner), alongside the need to ground substantive analysis in the context of the relevant social science literature in this field, has resulted in the presentation of a discussion of gender and information meetings which is in some respects distinct in terms of style and content from the evaluation contained in other chapters.

The core assumptions which have informed our reading of gender, law and the information meeting are outlined below. Conceptual issues are considered here in relation to three broad questions: What do we mean by gender? How might we approach the gendered subject? How is the relationship between gender and law to be understood in this context?

Gender Is Relational

The concept of gender is relational. That is, the dualisms between cultural ideas of masculinity and femininity (or, increasingly, the plural masculinities–femininities), fatherhood and motherhood and so forth are only meaningful when considered in relationship to each other. Diverse cultural beliefs about gender relations have been structured around this masculine/feminine dualism and a number of common assumptions have long circulated within family studies about the cultural status of gendered characteristics in relation to marriage and divorce: for example, that masculine traits include aggression, non-emotion, rationality and ideas of being in control. Feminine

traits, by contrast, have been culturally associated with the qualities of emotion, passivity, lack of control, and so forth. It has been, more recently, from within some feminist accounts that this relation has been seen to be structured around what is a hierarchical dualism. That is, the masculine has been systematically valued more highly than the feminine in western cultures. Each of these culturally 'sexed' gender traits can be seen to have encircled discussions about the information meeting in a number of ways, whether within attendees' accounts of their experiences and expectations of marriage and the divorce process, in presenters' assessments of the meeting and the nature of their interaction with attendees, or in the researchers' own recorded observations of presenter-attendee interactions in interview notes.

Gender Is Inescapable and Pervasive

Gender is now widely seen across the social sciences to be a theme – and often the most important theme – running through and helping to shape understandings of family and household relationships, but it continues to be conceptualised in different ways. Gender is not generally seen as something which is external to or imposed on family relationships. Family practices are, rather, themselves gendered and are seen as active forces in the construction of particular ideas of family life and family values – for example, in producing culturally specific notions of what is deemed to constitute a good mother or father, a good son or daughter and so on. It is, in short, impossible to think, write about and research the family and family law without thinking about gender and taking it seriously.³ Research into the information meetings which did not address gender would itself miss out on a major component of social life. It is, in part, for this reason that gender has been accorded the status of a separate chapter in this report.

Despite the above comments on the seeming ubiquity of gender concerns, it cannot be assumed that gender will be the only or the most important piece of information in any particular instance. While all social institutions can be seen as being gendered in particular ways, evaluation of any specific interaction, such as that between presenter and attendee in the information meeting, may always be gendered but will rarely simply be about gender. Equally, family relations are not the sole site for the generation of gender hierarchies. It is thus necessary to be aware of the dangers of over-gendered conceptions of both the family and legal processes. It is, accordingly, necessary to bear in mind the issue of gender salience: that is, the extent to which gender is understood by the self and others to be a relevant category compared with, or in relation to, other potential bases of personal or social identity: race, ethnicity, sexuality, physical ability, socio-economic status, a diverse range of cultural identifications and so forth.

Formal gender neutrality currently frames legislative and other regulatory interventions concerning the family both in England and Wales and across western jurisdictions. The FLA can be seen as part of, and in keeping with, this more general approach. The gender-neutral term 'parenting' is an active word which assumes the *work* of parents rather than their formal (gendered) status (as mother/father). The information meeting presents a formal or public presentation of normative parenting activities in terms of promoting continuity in relationships between parents and children. Entangled with this now well-documented shift towards the language of gender-neutral parenting across western societies, however, has been a number of assumptions about men and women's changing

³ Morgan (1996), *op. cit.*, p. 81.

familial roles. In particular, it has been widely argued that, for a host of complex reasons, changing family relations and broader social understandings of the gender roles or identities of women and men are, and have been for some time, in a state of change or flux. Crucially, these shifting gender relations are presented as being inextricably linked to debates about the changing family.

Gender Difference

It is now a commonly-held view within the social sciences that gender is something which takes multiple forms, defined by both institutional structure and everyday practice.⁴ Underlying the above critique of gender neutrality has been a belief that the structural and discursive practices which both constitute and give meaning to ideas of sexual difference at any particular historical moment involve the production of specific ideas of gender difference. The view that women and men in fact live gendered lives⁵ is an idea which is now central to a range of engagements with what has been termed the politics of difference,⁶ not least in relation to questions about the differing material and psychological investments which women and men have been seen to make in ideas of family and working life. As a result, and without our in any way underestimating the social changes which have taken and are taking place in households regarding what women and men do, empirical studies of marriage, divorce and family life across jurisdictions continue to point to some distinct and differential experiences for women and men in families.⁷ A rich body of evidence attests, in particular, to the ways in which both during marriage and after divorce men and women have been seen to have a different approach to the family, with mothers having a greater, and qualitatively different, attachment to their children.⁸ The complex constellation of parenting practices which mark contemporary families continue to be gendered in some far-reaching material and psychologically complex ways.⁹

⁴ See further, and more generally, Connell, R.W., *Gender and Power*, Allen & Unwin (1987).

⁵ Fineman, M., 'Feminist legal scholarship and women's gendered lives', in M. Cain and C. Harrington (eds), *Lawyers in a Postmodern World*, Open University Press (1994).

⁶ Young, I.M., *Justice and the Politics of Difference*, Princeton University Press (1990).

⁷ See, e.g. Arendell, T., *Fathers and Divorce*, Sage (1995); Arendell, T., *Mothers and Divorce*, University of California Press (1986); Eichler, M., 'The limits of family law reform, or the privatization of female and child poverty', *Canadian Family Law Quarterly*, vol. 7 (1990), p. 59; Warin, J., Solomon, Y., Lewis, C. and Langford, W., *Fathers, Work and Family Life*, Joseph Rowntree Foundation/Family Policy Studies Centre (1999).

⁸ Freeman, M., 'Introduction', in M. Freeman (ed.), *Divorce: Where Next?*, Dartmouth (1996). See also Piper, C., *The Responsible Parent*, Harvester Wheatsheaf (1993); Smart, C. and Neale, B., 'I hadn't really thought about it': new identities/new fatherhoods', in J. Seymour and P. Bagguley (eds), *Relating Intimacies: Power and Resistance*, Macmillan Press (1999); James, A. and Richards, M., 'Sociological perspectives, family policy and children: adult thinking and sociological tinkering', *Journal of Social Welfare and Family Law*, vol. 21, no. 1 (1999), pp. 23–39.

⁹ See Day Sclater, S., *Divorce: A Psychosocial Study*, Ashgate (1999); Day Sclater, S., 'Divorce – coping strategies, conflict and dispute resolution', *Family Law* (March 1998), pp. 150–2; Day Sclater, S. and Yates, C., 'The psycho-politics of post divorce parenting', in A. Bainham, S. Day Sclater and M. Richards, *What Is a Parent? A Socio-legal Analysis*, Hart (1999).

Situating the Gendered Subject

Divorce is now widely understood to be a process rather than an event. Where people are in that process is thus seen as a significant indicator of whether they will seek certain kinds of help. In seeking to understand what kind of information will be deemed useful for particular individuals it follows from the discussion above that a research project such as this must adequately conceptualise the subject in terms of the potential importance of gender difference. If gender differences are seen to exist, it is necessary to assess what the significance, if any, of such differences might be for understanding the various impacts and outcomes of the information meeting. When seeking to situate the gendered subject socially, it is important to recognise that both information meeting attendees and presenters, as well as those involved in the research project itself, can each be seen to be gendered individuals with culturally distinct experiences of being a woman or a man (experiences which are mediated, of course, by socio-economic background, age, sexuality, ethnicity, physical ability and so forth). Without an adequate conceptualisation of how gender might inform everyday lived experience it is, in short, likely that any meaningful engagement with questions of gender will itself be 'written out' of the analysis at the outset, at least beyond, say, any charting of statistical breakdown of sex difference as a significant or insignificant variable in particular contexts. In order to make sense of the kinds of gender differences which have emerged from the research it is essential to conceptualise in some way how subjects are socially situated as men and women in relation to understandings of marriage, divorce and family life.

In seeking to situate social experience as something which is gendered it is imperative that the division between the public and private spheres be conceptually transcended.¹⁰ For example, engaging with the social relations of an information meeting attendee, not least in terms of their interaction with the legal world in the form of what would be, under implementation, a compulsory attendance at an information meeting, is something which cannot be premised on any conceptual separation of home from working lives. An individual's paid employment, contribution to the household, childcare or elder care activity is itself, as David Morgan has argued, an important family practice which involves both the production and reproduction of certain notions of family life as well as of gender.¹¹ Recognising how gender cuts across certain social spheres in this way is particularly important given how the FLA is a legal reform which has been premised on the need to change the entire culture surrounding divorce. The aims and objectives of the Act have been based on a number of assumptions about the way in which the divorcing individual presents her- or himself as recipient of a range of information, as a particular kind of rational subject. In seeking to inculcate the various approved messages about children, conflict, saving marriages and so forth which are central to the FLA there has been an underlying assumption that information will be provided on the basis of which 'rational choices could be based'.¹²

The idea of social action in this context is based on a model of rationality and conscious intention which is itself open to question. There has been a widely-held assumption¹³ that

¹⁰ Rose, N., 'Transcending the public/private', *Journal of Law and Society*, vol. 14, no. 1 (1987), pp. 61–75; also Olsen, F., 'The family and the market: a study of ideology and legal reform', *Harvard Law Review*, vol. 96, no. 7 (1987), p. 1,497.

¹¹ Morgan (1999), *op. cit.*

¹² Walker, J., *Information Meetings And Associated Provisions within the Family Law Act 1996: Summary of Research in Progress, June 1999*, Lord Chancellor's Department (1999), para 6.17.

¹³ On the background of the FLA see further Ch. 2.

the individual will, following the provision of appropriate information, make a better and more-informed decision about the ending of her or his marriage, including a better assessment of how she or he might be a good parent after divorce.¹⁴ Such a notion of rationality stands in an uneasy relation to the psychological and psycho-social dynamics of divorce and separation which, research suggests, involve far more complex, and frequently unconscious, motivations and imperatives in determining social action than that assumed by the notion of the rational decision-making subject.¹⁵ Bearing in mind how information has been imparted at a range of moments in the process of facing, or contemplating, divorce, the research suggests that a considerable proportion of attendees are not necessarily in the kind of frame of mind to take in and act on information provided; something which research on divorce has long recognised. Illustrations of this are not hard to find in the research and interviews are replete with accounts of attendees seeking to grapple with such confusions:

Sometimes I feel as if I'm going to get a divorce, sometimes I'm not. I don't really know why I haven't gone for divorce sooner given my circumstances with my husband committing adultery [with her best friend], but I've been with him 12 years ... and it seems such a big thing to throw away. (F)

The thing is with divorce there is so much emotion going on, you're not yourself, you've got important decisions to make plus you're not a hundred per cent *compos mentis* ... (F)

It cannot be assumed that changes in behaviour which do take place following attendance at an information meeting necessarily arise as a result of a rational, calculated choice precipitated by the information received. As we have seen in the pilots, there is no guarantee that individuals will act upon or change their behaviour simply as a result of their being told something.

The Information Meeting, Gender and the Power of Law

In many interpretations of the FLA, what we might term the social power of law has been seen to lie in its ability to implement the objectives underlying the Act. In this model of law, policy choices ('What do we want?') and issues concerning techniques of implementation ('How do we get there?') are formally separated, with law being conceptualised as both a set of rules (specific legal provisions)¹⁶ and various institutions and processes (information meeting presenters, mediators, lawyers, marriage counsellors, what these legal agents do in practice, and so forth). Assessment of the effectiveness of the information meeting can thus be judged in terms of its ability to change the material conditions of social life – for example, in meeting the objectives of Part I of the FLA, in turning back people from divorce, in reducing costs, in promoting mediation – although it is also important to remember that the determination of what constitutes the success of a

¹⁴ See Gelsthorpe, L., 'Youth crime and parental responsibility', in A. Bainham, S. Day Sclater and M. Richards (eds), *What Is a Parent? A Socio-Legal Analysis*, Hart (1999), p. 217; Piper, C., 'The Crime and Disorder Act 1998: child and community safety', *Modern Law Review*, vol. 62 (1999), pp. 397–408.

¹⁵ Day Sclater (1997, 1999), *op. cit.*

¹⁶ For further discussion see Sarat, A. and Felsteiner, W.F., *Divorce Lawyers and Their Clients: Power and Meaning in the Legal Process*, Oxford University Press (1995).

specific measure is itself fluid and open to interpretation, as the Lord Chancellor's announcement of June 1999 made clear.¹⁷

Family law, whether it is conceptualised in terms of specific provisions concerning obtaining a divorce or associated legal processes, cannot be conceptually separated from the values, interests, goals and understandings that shape and make up 'everyday' social life. In approaching the everyday life of those who are in the process of divorce what has been all too clear in the accounts of attendees is the force of a range of cultural beliefs and ideologies around gender. Given the well-documented centrality of gender to understandings of family life and self-identity this is, in itself, unsurprising. Nevertheless, it is important to recognise how these normative ideas about men's and women's social roles are part of a broader cluster of beliefs which encircle ideas about contemporary marriage and family life. Engaging with these beliefs is itself an inescapable and central part of the project of seeking to change the culture of divorce envisaged by the FLA. The FLA explicitly engages in a strategy of behaviour change which, although formally gender-neutral, involves changing what women and men *do* in some distinct ways. For example, it is known that women initiate the majority of divorce proceedings; that women, more generally, adopt a proactive stance in divorce in contrast to the depiction of men as, in a number of ways, reactive, seeking, as a discernible trend, to save marriages which, for a host of complex reasons, their partners feel the need to leave. Equally well-documented is men's reluctance relative to women to participate in a range of ancillary services such as counselling.¹⁸ If the FLA is about turning back individuals from divorce and saving marriages, to what extent is it about changing what women and men *do* in some distinct ways? Is it the case, as some have suggested, that women lightly consider divorce and might be discouraged or deterred by making divorce more difficult or via a period of reflection? If the MWMC and the provision of mediation are seen as fundamental to and conceptually entwined with the information meeting, is addressing the problem of take-up of mediation, and of getting both parties to attend, really about changing what men do?

A consideration of gender difference can, in short, be seen to be central to the way in which the provisions of the FLA expressly engage in a strategy of behaviour change via the production of ideas about what constitutes a good (enough) divorce. If changing the culture of divorce is inextricably linked to questions of gender difference, it is important to recognise how the presentation of the gendered subject has a number of implications for understanding the information meeting as a discrete event within broader legal processes. Underlying the dominant welfare discourse and language of gender-neutrality framing the FLA has been a formally gender-neutral subject in relation to which, it is assumed, certain socially desirable behaviour might be encouraged and inscribed. The law seeks to provide grounds for subsequent behaviour; things that must be done before a divorce can be obtained. Yet it is important to recognise how the law does not speak to, regulate or otherwise operate on ungendered or gender-neutral subjects.

The information meeting exemplifies a legal provision which positions and constructs the individual encountering law in some particular ways; for example, as someone whose attendance would be, at least under an implemented system, compulsory in order for a

¹⁷ Collier, R., 'The dashing of a 'liberal dream'?: the information meeting, the 'new family' and the limits of law', *Child and Family Law Quarterly*, vol. 11, no. 3 (1999), pp. 257–70.

¹⁸ McCarthy, P., Walker, J. and Kain, J., *Telling It As It Is: The Client Experience of Relate Counselling*, Newcastle Centre for Family Studies (1998).

desired end to be met (for a divorce to be obtained); as a citizen in whom certain notions of social responsibility (doing the 'right thing' for children, as well as for themselves) might be inculcated; and as a consumer of information provided by the state, the provision of which will, it is assumed, have more general social benefits. Yet in all of this it is important to see the gendered subject as an active and meaning-making individual. The information meeting is a concrete and particular social relation involved in the production of social meanings – this is, in essence, what it is about. However, it cannot be assumed that individuals passively accept any positioning held out to them. Rather, a body of law and social research suggests that individuals negotiate and contest meanings in frequently complex ways.

Conceptualising the information meeting as a contested and meaning-making event opens up an investigation of law as a lived phenomenon in ways which are particularly compatible with a theoretically-informed action research project such as this. It opens out to the researcher an examination of the information meeting as one among a number of diverse sites in which law can be seen to constitute particular social realities. This points towards an appreciation of the interactive, dynamic, strategic and meaning-making quality of law and legal institutions. In the light of the above discussion a number of recurring issues will be addressed within the following analysis. These include questions of:

- how the experience of the information meeting can itself influence self-understanding and understanding of relationships with others
- how the information meeting engages or 'deals with' notions of family life which relate, in complex ways, to what the attendee experiences as the diverse realities of his or her situation
- whether the FLA might ever, as an explicitly ideological attempt at behaviour change, succeed in its stated aims

Gender Difference and the Information Meeting

The general research data largely confirm a picture of family practices in which gendered divisions and differences continue to be profound and pervasive; that is, what we have here is, unsurprisingly, a picture of the gendered lives of women and men which does not differ significantly from what is known about gender and family practices within the population more generally.

Meeting expectations: differences, similarities and contexts

Both women and men attended information meetings with a broad range of personal agendas: in the expectation of receiving advice and obtaining more information about legal rights and responsibilities, and in the hope of saving the marriage, of avoiding solicitors, of obtaining personal support, of learning about children's needs, and of receiving answers to specific questions about the divorce process as well as about other options more generally available. The research suggests that there were no significant gender differences between men and women's expectations in a more general sense or in

terms of whether attendees considered that the meeting had been worthwhile/useful. Nor did there appear to be significant differences in the resistance of men and women to attending the information meeting in the first place, although, as we have seen, women were more likely to take the first step: and resistance, of course, can take different forms. The attendees did not appear to attach significant differences to whether it is a man or a woman who provides the information. Both women and men tended to share a perception that issues such as professionalism were more important. Equally, there did not appear to be significant differences in the ways in which leaflets were being read, although women were noted to be slightly more likely to read the children's leaflets. The findings suggest that questions about children's issues, finances and the legal process of separation and divorce feature strongly for both women and men. Similar proportions of women and men stated that they recalled the answers they had been given as helpful, though at times superficial, in nature.

Nevertheless, there were a number of marked differences in relation to information provision. It was suggested at a relatively early stage in the research that it was mainly women who were bringing up CSA issues and seeking related information in the pack; and that, while both men and women were similarly concerned with, and read, the leaflets about finance and children, it was women who were receiving and dealing with the parenting leaflets to a greater degree than men. It is important to remember here that the fact that both women and men report that they read the children's leaflets does not mean that they necessarily read the leaflets or found them useful in the same way; it does not mean that their relationships to or with children necessarily related in the same way to information received. The act of reading must itself be contextualised, and it cannot be assumed that women and men will necessarily have the same relationship to the information provided.

Men, 'rights' and 'justice': independent self-construal

There is evidence to suggest that male attendees tend to react, relative to women, in what might be termed a more independent manner; that is, they more routinely express and adopt an individual stance of emotional preservation which, in many cases, is marked in particular by an expressed need to 'be a man' in coping with the separation and divorce process.¹⁹ This involves a concern with issues of comportment, authority, confidence, and competency in 'dealing with' what is happening. From the beginnings of the project researchers identified a range of categories of male attendee in which these notions appeared; and, as the research has progressed, it has been possible to identify a considerable number of cases in the material where such qualities are associated with men as part of their being in control of the situation:

I've done the spread sheets, working out finances, finding out independent things on pensions, things like that. (M)

My husband can ... give us the runaround ... provide six lever-arch files in response to a simple question and say: 'The answer's in there.' (F)

¹⁹ This is broadly compatible with the findings of Arendell (1995), *op. cit.*; Smart and Neale (1999a), *op. cit.*

This is behaviour which links to what has been suggested to be men's tendency, relative to women, to ascribe great importance to being *seen* to have 'fought' for their children, for what is 'right':

I think he wanted to stand up in court and say he's made every effort. (F)

There is a tendency for men to resort to a language of 'battle' and conflict to a greater extent than women do when seeking to make sense of their own divorce and the legal process, which on some occasions they see as favouring their ex-partner in particular and women in general. This can itself be seen to be a significant gender difference: women interviewees do not, as a rule, tend to adopt the same kind of language through which to articulate their emotions. The following comments are typical in the accounts of male attendees:

I feel very much [that] the man is taken to the cleaners and hasn't got a leg to stand on, and [has become] almost a woman. (M)

He felt he had to defend himself – she was trying to destroy him financially and emotionally, [and] for him it was all a battle. (M [interview notes])

Such experiences support the argument of Arendell,²⁰ who has suggested that, in the process of divorce, there is a tendency for men to see their identities as men being brought into question in what are frequently dramatic and far-reaching ways. It may be of interest here that, as been argued elsewhere, men 'are relatively unlikely to initiate the ending of a marriage unless they have already started a new relationship, while women are more likely to be pushed by the difficulties of the current one'.²¹ The accounts of attendees attest to the purchase of this view, a position in which men are seen to leave 'for a reason' – specifically, another partner:

He's basically walked out of one family into another and he seems very settled. (F).

This is not to suggest any emotional distancing of men from the divorce process. Far from it: the qualitative material contains rich accounts of the emotional pain experienced by considerable numbers of men. Any gendered response is not clear-cut; feelings of empowerment, vulnerability, a search for order at a moment of *disorder* and uncertainty run through and coexist within many of the accounts of men and women and relate, importantly, in some complex ways to the issue of fault.

The urge to 'tell' of such injustices is now a recognised phenomenon within writings on men's/fathers' rights organisations. It is notable in this regard that a number of male attendees sought to point out their strongly-held feelings that

... there is nothing in the pack about organisations who help men who are in a violent situation. No information about what to do in that situation ... It would be helpful if the man was listened to more readily. (M)

²⁰ Arendell (1995), *op. cit.*, p. 14.

²¹ Richards, M., 'Divorce numbers and divorce legislation', *Family Law* (March 1996), pp. 151–3 at p. 152.

The man had admitted in this case that he had ‘once lashed out at my wife ... I hit her quite severely.’

Women, 'welfare' and independent self-construal

Interviews with women, in particular, reveal a range of attempts to work through processes in which it is essential to maintain a sense of 'self' which is reliant on relationships with others, children in particular. This contrasts with promoting an independent existence and responding, generally, to the needs of the individual. This is not to argue that women are not expressing what might be termed 'independence claims' – for example, to 'start afresh', to 'wipe the slate clean'. Far from it, this independence discourse appears strongly in accounts, regardless of the depth of emotional hurt involved (e.g. in cases where it is the man who has left):

... it's something I need to do ... but ... I've had so much over the last few years it'd just lovely to be [on my own] ... I've been a total doormat of a wife and I know he's going to be stung into doing something horrid if I do bring divorce proceedings against him. (F)

Yes, well I think it gave me more confidence, as I didn't know where to go or what to do, and after going to the meeting I felt more in control. (F)

Importantly, however, women's concerns with independence can be seen as being broadly different from men's. One of the most important illustrations of this can be seen in the way in which women, seemingly, rather than men, were more generally engaging in the work of seeking to preserve important relationship networks during the divorce process and in the post-divorce scenario, including contact with the non-residential parent. Although there are certainly exceptions, many examples appear of women seeking to work through how to maintain such relationships, often at times of great stress and uncertainty. The following appears typical:

I wish I had more control over the children but I don't and that's something I'll never have because when they're with him they're with him, and the only way to stop that is for me to say you're not going to see them but that doesn't benefit anybody. (F, case involving history of abuse)

In keeping with the general depiction of women as proactive subjects, there is some evidence to suggest that the information meeting can itself serve in some cases to be a clear prompt for further action, whether that is going on to seek the services of a solicitor or to initiate divorce proceedings. There may be an important issue raised by the information meeting being perceived as emotionally supportive in culturally normalising the experience of divorce and connecting up what might otherwise be disparate experiences:

I think it helps you to know that you're not the only ones going through this ... you're not there floundering ... The pack, it's like a Bible – you know it's there. (F)

... because I was able to get the right information for me, to help me make the decision ... because I was just stood still until that time, I was letting him call all the shots. Once I got information and knew what was what, he couldn't railroad me any more. (F)

As a first step in taking control it appears that the information meeting is doing something for both women and men, although not necessarily in the same ways, as the

attendee's self-perception shifts from that of a passive to that of an active subject in relation to the divorce process.

The significance and limits of reading difference

What the integration of gender difference has to do is locate social experience in the context of broader social, economic and cultural responsibilities and demands which are themselves gendered;²² and, in addition, to position it in relation to long-established gendered identities on the part of the women and men who encounter and make sense of the social, economic and psychosocial transitions of divorce in what the research suggests are distinctive, and distinctly gendered, ways. The key point is that the experience of divorce appears consistent with these gendered expectations, experiences which play an important part in the shaping of gender identities both within and beyond the family domain. Such an approach serves to highlight and engage with a frame of relating in which men and women have historically been positioned in some very different ways within the material, cultural and emotional discourses which surround ideas of family life. For example, each of the five groups of variables that we identified in Chapter 6 as informing the analysis of representativeness – the 'information gatherer', the 'good citizen', the 'responsible parent', the 'participant', the 'help seeker' and the 'privacy-conscious' individual – do not float free from such concerns; what it means, culturally, for a man to be a 'responsible parent' and what it means for a woman to be one are not necessarily the same.²³ This is to suggest that any assessment of the impact or effects of the information meeting must recognise and take into account the gendered nature of the social experiences which are being addressed. Not least of these, the research suggests, is the question of how individual experiences of divorce can be bound up with attempts to re-establish, reassert or otherwise adjust and rethink what are particular gendered social identities (such as 'men' and 'women', 'good' fathers and mothers, husbands and wives).

Reconstructing gender: reinterpreting the 'neutral' messages of the information meeting

The above depiction of divorce as a moment of or for 'doing gender'²⁴ has a number of important implications for developing an understanding of what is happening in the information meeting. One of the central aims of the training of information meeting presenters can be seen to have been the inculcation of a range of acceptable and efficacious ways of presenting oneself and responding to others in the conduct of a satisfactory information meeting. However, although the information meeting has been theoretically premised on ideas of sameness, equality and consistency across pilot sites, it is also clear that not only do local legal cultures differ, but the law itself can be seen to be, to a considerable degree, negotiated or made in a number of different ways within

²² It is, for example, notable in the research that many of the male family members who took on major childcare responsibilities frequently appeared to call on the support of female relatives (mothers, sisters, grandmothers and, to a lesser extent, friends) in ways which, arguably, women did not. That is, although the child may be resident with his or her father, a broader network of *female* support continues to facilitate men's childcare activities. (One argument may be, of course, that men lack the broader support networks available to women and that this is itself unsurprising.)

²³ See Phoenix, A., Woollett, A. and Lloyd, E., *Motherhood: Meanings, Practices, Ideologies*, Sage (1991); Ribbens, J., *Mothers and Their Children: A Feminist Sociology of Childrearing*, Sage (1994).

²⁴ West, C. and Zimmerman, D., 'Doing gender', *Gender and Society*, vol. 1 (1987), pp. 125–51.

these local settings. On one level the research has uncovered varying approaches, styles and practices of presenters, all working within the framework of the script. At the same time, however, it is also clear that information meeting attendees frequently sought to negotiate and contest the meanings which were held out to them in the meeting. Attendees routinely sought to expand a conversational agenda in the face-to-face meetings by seeking to introduce a broader picture of their lives, experiences and needs. The expectation appears to have been that this encounter with the legal system would, in some way, accommodate the social world of the attendee and at the same time support them by providing information relevant to their situation. For many attendees, however, there appeared an obvious disjunction between the world of the information meeting and the lived reality of the attendee's experience. This gendered reality was not addressed.

It is, of course, methodologically an obvious point to observe that the 'reality' of social experience can be grasped by the researcher only through the fragments of life that the observed chooses to reveal. What people do after attending an information meeting is, while not unproblematic, at least ascertainable via follow-up data. What they feel, by contrast, can be altogether more difficult to ascertain with any degree of accuracy. There is a difficult question, therefore, about the extent to which the various messages radiated in the information meeting around what would constitute a 'good' divorce were themselves necessarily accepted by information meeting attendees. The attendees did not appear the passive receivers of information as divorce lawyers' clients do,²⁵ at least certainly not in anything like the way policymakers and legislators seemed frequently to have presumed they did. They are, rather, active social agents involved in a complex, contested and shifting relationship with the legal world that they are encountering in the form of the information meeting. Far from simply accepting the premises of the dominant welfare discourse and prescriptions for behaviour or feelings underlying the information provision, and far from such information then determining in any causal way the future conduct of attendees, the information meetings research suggests, like a number of other recent studies of divorce,²⁶ that many separating couples routinely sought to reinterpret the neutral language of welfarism presented to them in terms of the lived realities of their family lives as they were presently experienced. In such a process, importantly, it is clear that notions of rights and welfare do not necessarily play out in the same way for women and men. Thus, individualised rights-talk (concerned with the rights holder) is something which tends to be articulated most clearly by non-resident parents (primarily men); on the other hand, attempts to position the child as an individual and a participant within a network of relationships with others is something associated primarily with the accounts of resident parents (mainly women).

Assessing the Information Provided

Media, information and publicity

The majority (around 71%) of attendees stated that they had heard about the information meetings via the media and advertising. There were few differences between men and women in this respect. The next most important sources of information were the courts, counsellors, Citizen's Advice Bureaux and friends. Despite efforts by pilot managers to

²⁵ See further Sarat and Felsteiner (1995), *op. cit.*

²⁶ Day Sclater (1997, 1999), *op. cit.*; Day Sclater and Yates (1999), *op. cit.*; Smart and Neale (1999a), *op. cit.*

encourage participation of local solicitors, only 2 per cent of applicants were referred to the information meeting by a solicitor. There is some evidence that men were more likely than women to have been referred by a court – 15 per cent as against 10 per cent – and that men seemed more likely to take up offers to attend an information meeting that were sent out via local courts. These general findings are themselves compatible with what is known more generally about the importance of multi- or cross-media cultural forms and the formation of identity. It is possible to make a number of points in this connection in seeking to address gender.

Publicity and sources of information

Simple reference to the term ‘media’ can be misleading, and there exists a heterogeneity of cultural artefacts through which information about marriage and divorce was tested during the pilots (as well as, importantly, a multitude of forms of information transmission which were not tested). Issues of cultural context and the temporal and spatial location of publicity each inform an individual’s relationship with the information provided; life history and the ‘situated self’ (in terms of race/ethnicity, socio-economic background, gender and so forth) further mediate the reception of information. It is, for example, clear from contemporary cultural theory that individuals are not passive receivers of texts and images and are receptive in different ways and at different moments. In a context of cultural fragmentation and increasing heterogeneity the sources of knowledge about marriage and divorce are themselves diverse and, importantly, are by no means consistent and/or coherent in how they might impact on individual subjects. This is the context within which any eventual information provision would be launched.

The research suggests that it is essential that a sensitivity to gender inform consideration of the dissemination of publicity about information meetings under an implemented system. This point is equally salient in relation to the more general provision of information around divorce in a wider sense (e.g. in relation to the distribution of the parenting plans and parenting leaflets). It is clear that men and women exist in differential relation to public space, their experiences further mediated by questions of socio-economic status, ethnicity, education, physical ability, media awareness and so forth. In the pilots, publicity for information meetings took a number of forms such as leaflets and posters located in doctors’ surgeries, information conveyed via libraries, local newspapers and solicitors, local radio broadcasts, advertisements in the local press and coverage by local papers. In terms of content, location and reception, gender is an important variable in this context and must be taken into account in considering whether the positioning of such images has been effective. At the very least it can be assumed that media advertising will be seen or heard by men and women in different ways. Despite the transformation of women’s employment, for example, daytime radio and television audiences are known to be gendered in particular ways (as well as – importantly – in socio-economic terms). Equally, locations such as public transport and doctors’ surgeries are known to be used by women and men at different times of the day, and in different ways.

Choice of location/venue

It was clear from the outset of the research that the area in which an information meeting venue is located should be considered and assessed for safety and security with

sensitivity being paid to gender differences; that is a sensitivity to (largely, if not exclusively) the threat that men can and do constitute to women's sense of well-being and safety in relation to movement in and around public space. This has obvious implications for domestic violence issues, but it can also be seen as a matter of positioning the meeting in such a way that women, more generally, feel safe. This is particularly important if consideration is given to future sites for information events (e.g. supermarkets or doctors' surgeries).

The video

While cultural representation inevitably to some extent involves effacing the diversity and complexity of social life in the presentation of the stereotypical (and, frequently, the atypical), the research brought out from an early stage complaints about gendered (grouped with race/class) assumptions contained in the video. A number of presenters, for example, felt there was a clear gender bias in the video, with the male actors, who in each case played the role of the spouse, being depicted as 'bad men':

... both men are bad (in the video), but not all men are bad.

I know there may be an effort to be ethnically minority correct ... but it does not paint black men in a good picture. It doesn't present a good picture of men.

There is a more general issue here about the way in which marital disharmony is depicted and, in particular, how the man was portrayed as the perpetrator and instigator of marriage breakdown. The recurring suggestion has been that this promotes a negative image of men:

It's a bit too biased against the man ... the saxophone player [the male spouse] is a womaniser. I don't think it added anything to the video.

The following comment was typical:

The video shown at the meeting was biased towards women, showing the men as the bad person in the relationship. This needs to be addressed immediately.
(M)

Gendered representations were also noted in relation to representations of mediation in the video: for example, in recurring comments that the video will discourage men from attending mediation:

I think it might put men off going ... it implies that if a man goes to mediation they will get a raw deal. (presenter)

They showed us this video. It made me laugh ... It shows the man climbing down the ladder and becoming putty in the mediator's hands: 'I've been a bad boy, haven't I?' But we all know most men aren't like that. They're incredibly arrogant and it's not going to happen. It's not happened in my case. (F).

Another presenter referred to the difficulties and complexities of individual's experiences in mixed-race relationships, a point which the video did not sufficiently address. In

addition, the video places considerable emphasis on the presence of children, and there is some evidence to suggest that women have found the video more helpful than men in cases where there are no children.

The issue of gendered representations in the video if such a provision is implemented seems likely to be subject to extensive critical scrutiny. This could impact on the question of the legitimacy of the information meeting more generally. The issue of gender stereotypes and how men and women are to be portrayed remains difficult and, in a sense, irresolvable. We recommend that powerful and misleading stereotypes should be avoided. At the same time, however, it is also important to recognise that certain cultural imaging may have its basis in an empirical reality (e.g. the reality that women constitute the majority of the victims and survivors of domestic violence).

The information pack

The information pack appears, superficially, to offer considerably less scope for such gendered readings, containing as it does a rich body of formally gender-neutral information derived from broader research knowledge about the divorce process. As regards the figures on the cover, which appear in silhouette against differently-coloured backgrounds, it is noticeable that the man/husband is, in all the leaflets, positioned as a taller (and thus a more visually dominant) image. In some leaflets, for example 'Is my marriage really over?', his arms appear to be around the woman, signifying an existing relationship in transition; in others, for example 'Ending your marriage', the man and woman are positioned back to back and apart, the woman thinking, the man turned away. The 'Role of the solicitor' leaflet reproduces the image of the solicitor as an authoritative source of advice and information standing above both woman and man. The 'Domestic violence' leaflet, though formally neutral and recognising that men can be victims and survivors, presents a clear figure of a woman seated with her head down.

Use of the CD-ROM

Providing information via CD-ROM has been presented as having a number of advantages in terms of heightened cost-effectiveness, ease of access, greater ease in timetabling meetings, privacy and safety. The potential advantages of CD-ROM provision would thus in one sense seem to be considerable, for both men and women: an opportunity to concentrate on aspects of information they do not understand and to move quickly through the parts they do; a chance to avoid the more problematic aspects of gendered human interactions; and an opportunity to operate at different levels and to meet the different requirements of different users. It is clear, however, that the use of the CD-ROM raises questions which call for an engagement with gender at a number of levels. A considerable, and growing, literature has sought to explore gender differences in attitudes and experiences relating to computing. Recurring themes in this work have included an exploration of the stereotyping of computing as a white male activity and an engagement with the different perceptions that women and men are seen to have in relation to computing. Research has suggested, for example, that men tend to have had more opportunity than women to gain access to computers; and that men, generally, hold more favourable attitudes towards computing than women. Research also suggests that ethnic groups have very little experience in using computers when compared with white males.

Given that this is an area in which perceptions are changing fast, it is perhaps difficult to assess how women and men will relate to IT provision in this context in the future. Yet it is important that under an implemented system any use that is to be made of CD-ROM provision will address and be sensitive to cultural assumptions; and that it will, importantly, engage with the diverse levels of knowledge/expertise held by individuals. Consideration needs to be given to the fact that gender issues are themselves mediated by questions of race/ethnicity and class. It is clear that, despite rapid change, the computer revolution has not affected all groups in society equally and in the same way. If information meetings are to be targeted at the person intending to apply for a divorce, it is likely that this will mean more women than men encountering CD-ROM provision (with women, as we have seen, outnumbering men during the pilots). However, it also appears that women are less likely to have had computing experience than men (although only 15 per cent of men and 16 per cent of women said they had never used a computer at all). Computer technology has entered the workplace, although it is notably in office and service sector employment that it is associated with women. Nevertheless, male attendees still appear more likely than females to have used a computer at work (58% against 48%), a finding which may itself reflect the general socio-economic bias and employment profile of the sample.

Owing to the currently high political status of IT and, in particular, the emphasis which is being placed on the internet as both a source of information and an educational tool, this is an area in which social attitudes are themselves changing rapidly. What research does exist on perceptions of computing may itself, there is reason to believe, date particularly quickly. The argument that, because computing and the CD-ROM have in the past been associated with male activities and cultures, they are less likely to be used by women and ethnic minorities has itself been questioned. At the same time, however, the potential dangers of creating a 'technological underclass' in this area are all too real. As a general finding, it seems that CD-ROMs have the potential to become an effective way of providing information and can, contrary to expectations, be accessed by people with low levels of computing experience with minimal instruction and support. The suspicion remains, however, that the world of computing continues to be culturally associated for many people with white male (and, for some, adolescent) culture, and that the relation of women and girls to computing is itself more instrumental than that of males.²⁷ As a minimum, the gender analysis supports the conclusion that neither of the existing CD-ROM programmes is suitable for an implemented system.

Training and Presenters: General Issues

One of the research objectives has been to advise on the training requirements of information presenters. The research suggests that neither male nor female attendees expressed any significant preferences as to the gender of the information meeting presenter to whom they were allocated. One interpretation of this might be that the apparently limiting function of sticking to the script impacted on the potential for the presenter-attendee interaction to take on more overtly and obvious gendered dynamics; how could gender be of significance given what is essentially a formal presentation of information offering little scope for interaction? Yet despite the lack of any strong

²⁷ Keisler, S., Sproull, L. and Eccles, J., 'Poolhalls, chips and war games: women in the culture of computing', *Psychology of Women Quarterly*, vol. 19 (1985), pp. 451-62.

preference on the part of attendees in some situations at least (most notably domestic violence), the gender of the presenter clearly is an issue. It is difficult to imagine, for example, interaction between a female survivor of sustained abuse and a male presenter being qualitatively similar in any way to that which would take place if the presenter were female. If indications about the 'dark figure' of violence within marriage are accepted it is possible, of course, that violence could be a factor in a far greater number of cases than was evident in the pilots. It follows from the general theoretical frame that, while gender might not be the most experientially significant element of any interaction, the information meeting will itself inevitably be gendered to the degree that it involves an interaction between situated social subjects regardless of whether they are of the same gender.

Our recommendation is that – as a minimum – gender awareness be more successfully integrated into the training. For example, gender differences can inform the identification of 'difficult interpersonal situations' which the training identifies as potentially arising. While attendees describe most presenters as friendly, they have been critical of those they saw as being too formal, impersonal, unable to answer questions, patronising and hesitant, or as having stuck too rigidly to the script. Group presenters have placed a great deal of emphasis on training as a strategy to solve the problems they identify in giving prescribed information. As such, an awareness of gender issues could easily be included in the context of factors to be considered when planning a session: for example, in understanding the emotional climate.

Gender Equity, Access to Justice and the Political Legitimacy of the Information Meeting

Concerns surrounding family law reform, and public debate surrounding specific legal provisions, are issues which have long been central to more general questions about what is now widely known as the terrain of 'sexual' or 'gender' politics. The overtly political nature of gender difference in this context is an issue which has itself come to have an increasing cultural salience during the past decade. In relation to family law, questions of gender equity and access to justice are now well-established across a number of areas. They operate, for example, in relation to concerns about the treatment of women and men by the courts and the legal profession;²⁸ in relation to ongoing debates around the legal status of unmarried fathers;²⁹ and, most visibly in recent years, in relation to the controversy which has surrounded the workings of the Child Support Agency.³⁰ The already existing nature of gender equity as a 'live' political topic therefore, alongside the fact that it is an area which is systematically subject to considerable media scrutiny, presents a number of issues for the assessment of the information meeting. For instance,

²⁸ Collier, R., 'From women's emancipation to sex war? Men, heterosexuality and the politics of divorce', in S. Day Sclater and C. Piper, *Undercurrents of Divorce*, Ashgate (1999); Collier, R., "'Coming together?": post-heterosexuality, masculine crisis and the new men's movement', *Feminist Legal Studies*, vol. 4, no. 1 (1996), pp. 3–48; Fay, R., 'The disenfranchised father', *American Journal of Family Law*, vol. 9, no. 1 (1995), pp. 7–33.

²⁹ Bainham, A., 'When is a parent not a parent? Reflection on the unmarried father and his child in English law', *International Journal of Law and the Family*, vol. 3, no. 2 (1987), pp. 208–39; Deech, R., 'The unmarried father and human rights', *Journal of Child Law*, vol. 4 (1992), p. 3; Pickford, R., *Fathers, Marriage and the Law*, Family Policy Studies Centre/Joseph Rowntree Foundation (1999).

³⁰ Wallbank, J., 'The campaign for change of the Child Support Act 1991: reconstituting the "absent" father', *Social and Legal Studies*, vol. 6, no. 2 (1997), pp. 191–216.

the perceived political legitimacy of the information meeting under an implemented system might be informed by concerns and debates around questions of gender equity and access to justice. These issues can be framed in terms of a broader question of quality assurance and the importance of the idea that, theoretically, every user should get the same quality of service.

Gender equity: general issues

The research has provided a number of examples of the ways in which these issues of gender equity and access to justice might potentially play out within an implemented system. For example, the research suggests that if it is the case that only one party is required to attend an information meeting, this party will in most cases be the wife. It can, however, be argued that this may mean that considerable numbers of husbands will then be less well-informed about the divorce process more generally. Not only does this militate against the broader success of the FLA in terms of its stated aims, but also any imbalance in access to information in practice has the potential to impact on broader perceptions of the equity and legitimacy of the measure. A related concern can be expressed concerning the provision of mediation and the MWMC. Given that the dominant situation within the pilots has been one in which women have largely attended without their male partner, and given the strong likelihood that such a position would be replicated under an implemented system, not only does the absence of men militate against the obvious success of those options which require commitment from both spouses, but also, men could be distanced from the broader process of promoting conciliatory divorce as a result of non-attendance.

A number of additional points can be made. Although strictly outside the bounds of the information meetings research, questions of gender equity can also be seen to inform the consideration of publicly-funded mediation and legal aid in the context of the FLA. It is not difficult to predict that different levels of legal aid entitlement between women and men will be perceived as benefiting one sex rather than the other. If this is the case there is reason to assume that opposition and criticism will be widespread. Importantly, this is an issue which has the potential for being taken up across a range of media discussions, given the sensitivity of a number of campaigning groups to such issues. Such perceptions of family law are not simply expressed at the extremes of fathers' rights and men's rights groups. A considerable number of male attendees made comments along the following lines:

I have to go to considerable expense. She can just sit on her laurels and have everything paid for her and I have to go to expense just to see my children, even though I'm supporting them. (M)

If it were the case, more generally, that certain information meeting sites and local cultures, if not individual presenters themselves, were to be perceived as favouring one sex over the other it is likely that the reputation of local information meeting cultures might be damaged. This points to the related issue of the respective numbers of male and female presenters under an implemented system. Although presenters during the pilots were recruited from a wide range of backgrounds, the majority were female. The extent to which information presenting might be perceived as a 'female' profession might well prove problematic.

Equity issues and the information meeting in the context of broader developments in family law

It is necessary, in a discussion of gender and the information meeting, to consider briefly a related area, that of parental contact with children, in which the information meeting research can be seen to have a number of implications for assessing some broader developments in family law. There now exists a considerable literature on the issue of contact, in particular in relation to cases in which violence is present in some form.³¹ This is an issue which has itself been subject to a major recent consultation.³² The question of how violence would be dealt with under the FLA has itself been subject to a critical literature.³³ A concern to protect people from violence is fundamental to the aims of the FLA and domestic violence is, like child abuse, entirely inconsistent with the concept of parental responsibility underlying the FLA. Because of the ways in which men's parenting is practised via the relationship men have with the mother of their children, it has been argued that the presence of violence is an issue which cannot be segregated from an understanding of men's parental role more generally.

There is evidence to suggest that contact might itself serve in certain circumstances to fuel conflicts between divorcing parents.³⁴ Sociological research has for some time suggested that notions of familial responsibility and obligation – ideas which are central to the information meeting – are complex and open to negotiation.³⁵ There is some suggestion that the information meeting has itself had an effect in this area. There is evidence from interviews at follow-up stage that a number of parents (usually resident mothers) perceived themselves as having being persuaded, for a number of reasons, to be more generous to the non-resident parent (usually the father) with contact time:

[The information] takes it for granted that contact with the father is a good thing. But where's the balance? I know it's good to see him regularly, but what does regular mean? (mother of child aged 1)

I found the meeting quite upsetting and narrow when it came to the children, because they gave us this dogmatic rule that the basic rule for contact is short and frequent, and the fact [is] that my husband lives over a hundred miles

³¹ Burton, S., Regan, L. and Kelly, L., *Domestic Violence: Supporting Women and Challenging Men*, Policy Press (1998); Hester, M. and Pearson, C., *From Periphery to Centre: Domestic Violence in Work with Abused Children*, Policy Press (1998); Hester, M. and Radford, L., *Domestic Violence and Child Contact Arrangements in England and Denmark*, Policy Press (1996); Hester, M., Pearson, C. and Radford, J., *Domestic Violence: A National Survey of Court Welfare and Voluntary Sector Mediation Practice*, Policy Press (1997); Hester, M., Humphries, J., Pearson, C. *et al.*, 'Domestic violence and child contact', in A. Mullender and R. Morley (eds), *Children Living with Domestic Violence*, Whiting & Birch (1994).

³² Advisory Board on Family Law, Children Act Sub-Committee, *A Consultation Paper on Contact Between Children and Violent Parents: The Question of Parental Contact in Cases Where There Is Domestic Violence*, Lord Chancellor's Department (1999).

³³ See e.g. Piper, C. and Kaganas, F., 'The Family Law Act 1996 s1(d): how will "they" know there is a risk of violence?', *Child and Family Law Quarterly*, vol. 9, no. 3 (1997), pp 279–89.

³⁴ See Hewitt, K., 'Divorce and parental disagreement', *Family Law* (June 1996), p. 368; Jolly, S., 'Implacable hostility, contact and the limits of the law', *Child and Family Law Quarterly*, vol. 7, no. 4 (1995), pp. 228–35. Compare Willbourne, C. and Geddes, J., 'Presumption of contact: what presumption?', *Family Law*, vol. 25 (1995), pp. 87–9.

³⁵ Finch, J., *Family Obligations and Social Change*, Polity Press (1989).

away, so obviously that is totally irrelevant and really I thought it was stupid of them to give such a guideline. OK, it was suitable for those who live in the same town, but I don't know many cases of those that do live in the same town. (case involving disclosure of domestic violence)

One parent believed that the meeting suggested that contact with both parents was automatically considered a 'good thing', something which she strongly disputed. The following is typical of the comments made in this context:

They are not used to their dad living around them anyway ... They are only ever used to him coming and going. He's always been away so they are not used to him being here. (mother of children aged 4 and 6)

Policy and the Provision of Information: Issues Arising

It has been a central argument of this chapter that sensitivity to an attendee's personal situation will involve addressing, among other things, a social situation which is mediated by gender. It is suggested that the idea of gender relevance is one which has some potential use as a guide or framework in the consideration of information provision, whether in the specific context of the information meeting or in a broader sense. Adapted from recent initiatives in schools and education, as well as other contexts involving gender equity and health awareness, gender relevance involves an approach which is sensitive to existing gender differences in a context which does not seek to reproduce structural inequality (the criticism which has been levelled at gender neutrality in practice). Gender-relevant programmes are marked by an attempt to thematise and to bring to light for examination and discussion the gender dimension in social life. At issue, it has been argued, is ultimately the development of a gender-inclusive pedagogy which involves the promotion of qualities not dissimilar from what may be seen as the end-points of successful mediation and conciliation: for example, an appreciation of the position of the other partner, the ability to see the world from standpoints normally regarded as other, respect, trust and, ultimately, acceptance. It is this perspective of gender relevance which has framed the various suggestions and recommendations made thus far. The idea of gender relevance is compatible with comments made elsewhere about the need to develop a more sensitive script, one which might have the potential to address the wide variety of situations from which attendees come as well as, in so doing, addressing the needs of those for whom the meeting will be unwelcome.

The gender analysis supports the argument that the 'one size fits all' approach to the provision of information is not only limited in terms of achieving stated objectives, but also misguided politically in terms of its potentially divisive and exclusionary consequences. Integrating sensitivity to the way in which gender difference mediates the experience of the divorce process (and, thus, assessments of individually relevant information provision) involves developing an appreciation of the need for flexibility, diversity and heterogeneity within the provision of information. It involves a critical assessment of what is understood as information in the first place. Accordingly, the gender analysis has added further weight to suggestions that acknowledging the personal situation, however minimally, is a key concern for both male and female attendees, that attendees should be offered choice as to the mode of presentation which might be best suited to them, and that the 'one size fits all' model will not work. There is no one typical attendee, no one kind of (disintegrating, reconstituting) family life which is coming before the gaze of the law in the information meeting. The everyday lives of attendees are complex and far from routine.

Connecting information: linking across policy contexts

Gender-relevant approaches already inform many areas of government policy in relation to the family. They have been particularly prominent, for example, in relation to initiatives aimed at encouraging and supporting 'active fathering', both during marriage and in the post-divorce and separation scenario. In the information piloted, although formally gender-neutral, the practical provision and monitoring of information on domestic violence has already involved a clear recognition of gender difference (for example in the involvement of women's groups). This relates to the broader question of how the provision of gender-relevant information provides an opportunity to link up policy developments across areas. One example might be a more overt recognition and integration of the insights of research into post-divorce parenting and gender difference: for example, the factors which might facilitate or constrain active fathering on the part of men. To incorporate such issues in a more coherent and consistent way into the provision of information is not to suggest that gender-specific leaflets are either desirable or a positive way forward. It is rather to open out the way in which gender is seen to inform information provision. This is itself an issue which a number of attendees addressed, and the following sentiments were common:

I would say the literature is general and it didn't cover certain topics, particularly a man's right to see his children ... It needs to have a core of information, then have available information for specific groups ... A lot of information about support groups was not well covered. (M)

Another example of an area in which information provision might clearly link into other policy agendas concerns the case of domestic violence. Here, there exist possibilities to integrate into the information material drawn from a range of recent Home Office initiatives designed to tackle and to raise awareness of domestic violence.

The wider provision of information: the example of unmarried parents

During the pilots group presentations were available to non-married parents who met certain criteria. Relatively few non-married parents took up the opportunity to attend, with a drop-out rate significantly higher than that for married people. The research did find, however, that resident fathers who had made an appointment to attend an information meeting were more likely to keep it than were resident mothers. In addition, parents involved in proceedings about residence were more likely to keep appointments than those in proceedings about contact. In terms of gender, this case of non-married parents is one where it is important to link up consideration of the provision of information to broader developments taking place in this area, notably the ongoing debate around parental responsibility.³⁶ Given evidence of widespread ignorance on the part of many unmarried parents, male and female, about their legal responsibilities,³⁷ this is an area in which the provision of information can be seen as a pressing need. A number of examples of ignorance of the law emerged in the research. In one revealing case, a man, who had lived in what he described as a 'common law marriage' lasting eleven

³⁶ *Court Procedures for the Determination of Paternity: The Law on Parental Responsibility for Unmarried Fathers*, consultation paper, Lord Chancellor's Department (1998).

³⁷ Pickford, R., *Fathers, Marriage and the Law*, Family Policy Studies Centre/Joseph Rowntree Foundation (1999); Pickford, R., 'Unmarried fathers and the law', in A. Bainham, S. Day Sclater and M. Richards (eds), *What Is a Parent? A Socio-Legal Analysis*, Hart (1999).

years and resulting in three children, believed that he needed, and was surprised to find he did not, a divorce. Bearing in mind the importance of the issue of unmarried fathers' legal positions, the debate is clearly gendered in a number of ways. The issue of unmarried parents relates to broader questions about how wide information provision should be and, in particular, to whether it is appropriate that such information should, in the light of existing and projected demographic trends, be confined to divorcing couples. There is a strong argument to be made that information should be made available for men and women who are not married, and in particular, though not necessarily exclusively, to parents: '... the focus of the discourse should be on both marital and non-marital relationships with children, and the impact of both divorce and non-marital separation'.³⁸ At the very least, it seems the group presentation needs to be rethought in a way which will also embrace separating couples who are not married. In such circumstances it seems important that the content is made relevant to the circumstances of non-married parents, integrating a recognition of the diverse and frequently complex reasons why couples *choose* not to marry.

It is important to remember that there are currently a multitude of sources through which information about marriage and divorce is available: daily newspapers, magazines, television, 'self-help' books and guides and, importantly and increasingly, the internet. Some of the more obvious options for wider information access include doctors' surgeries, the World Wide Web, libraries and other public locations such as supermarkets and information centres. There already exists a plethora of sources of general, technical and standardised information about divorce relevant to specific jurisdictions. The information meeting ties receiving such information to a legal requirement.

Mediation, the MWMC and Inter-agency Co-operation

Perhaps one of the most obvious and important of the many gendered dynamics of information meetings pilots raised by the research relates to an issue which has a direct bearing on a central objective of the FLA: the expectation that the information meeting might serve to encourage people into marriage saving or divert them into alternative modes of dispute resolution. The research findings have highlighted a number of relevant issues: that perceived expense has been a factor dissuading many people, male and female, from going on to use counselling, mediation and legal services; that while some felt mediation could reduce costs and minimise the risk of increasing acrimony and antagonism, many others, both women and men, continued to view solicitors as more likely to represent their interests; and that some more practical factors, such as limited local availability and long waiting lists, were deterring others from going to see a counsellor or mediator. It is in relation to two other issues, however, that questions of gender difference can be seen to have impacted in a particularly clear way. First, the unwillingness of a partner to agree to attend marriage counselling or mediation has deterred many attendees from using those services; and, secondly, the suggestion that a reluctance on the part of a number of attendees to discuss personal or private issues put some people off going to see a counsellor or mediator.

In view of the gender distribution of attendees and the dominant model of proactive woman/reactive man, consideration of the unwillingness of a partner to agree to attend counselling or mediation would clearly appear to have a gendered aspect: that is, this

³⁸ James and Richards (1999), *op. cit.*, p. 35.

finding has been reached largely on the basis that it is predominantly (though certainly not exclusively) male partners who are reluctant to attend, with the result that the female attendee has then been deterred from pursuing such a route. This is not to say that there were gender differences in either the attitudes expressed by attendees towards mediation or the impact of the information on their knowledge about it. At issue here is finding ways of persuading the most reluctant partner – usually the husband – to participate; and, of course, it is difficult to know how that is to be achieved if that partner does not have to attend the meeting. The following is common to the accounts female attendees gave of the attitudes of their husbands:

I think a third person would probe us and ask us the questions that we're needing to ask each other really ... [My husband] just says its not his kind of thing, talking about emotions and stuff, and he just ... panics. (F)

In a number of other respects it is possible to identify some broad similarities between women and men. The MWMC was appreciated by both female and male attendees. And for both there appeared to be some confusion around what mediation is – and is not.

Domestic Violence

It is important to recognise that violence in the home (the vast majority of which is perpetrated by men against women) is itself one of the most highly gendered aspects of married life. One of the issues raised by attendees concerning the provision of specific information related to whether information might be provided that is addressed to the violent spouse. In terms of broader cultural change, an argument can be made that the provision of information aimed at both the victim/survivor and the perpetrator of violence is needed. There are some established sources of support in this area, and information about them could easily be included within any information materials. There is a more general argument to be made that addressing the social problem of domestic violence involves engaging in a cultural strategy involving the reorientation and re-education of men, not only as to what is, and is not, socially permissible but also in relation to the psycho-social dynamics of anger management. Given the well-documented gender disparity in this area, and the correlation between divorce and violence, it seems clear that such a strategy must be gender-specific and gender-relevant. That the state has a clear role in this area, as both a moral and a public health agent, is now generally accepted.

A case can be made that information about support groups, helplines and so forth must be local in nature wherever possible (including information for perpetrators of domestic violence). Concerns are compounded by the knowledge that violence has been seen to increase in the post-divorce scenario, and is itself often precipitated by the woman leaving. The research has noted what has become a difficult and contested issue in this area: that it cannot be assumed that the attendee will be the abused partner and that, in some cases at least, the violent partner will not be the man. The research suggests, in addition, that no assumptions should be made about whether the subject of domestic violence is relevant to any particular attendee.

Within the training presenters were prepared for addressing domestic violence as a subject and a general awareness and sensitivity around the issue was promoted. Yet many female and male presenters and attendees found the section of domestic violence difficult

to address. There is anecdotal evidence that the information meeting itself reinforced gendered assumptions in a number of respects. The domestic violence information in the pack was seen by several attendees to be biased towards females. Male sufferers of domestic violence were, some attendees argued, 'nowhere to be seen', with no information available for them. The information meeting was thus seen to be not recognising these men, although a number of men expressed concerns for their safety. The prevalence of domestic violence is such that, under an implemented system, it is possible that the proportion of domestic violence cases will be higher. Moreover, as dominant ideologies around family privacy suggest, the number of 'undetected' domestic violence cases could be considerable. The research found evidence, however, that information on domestic violence was often either skimmed over or ignored, the general picture emerging being one in which the presenter refers to domestic violence and the attendee states, briefly, that it is of no personal concern to them.

Making Sense of Contradictions: Gender, Policy and the FLA

Running throughout this discussion of gender and the information meeting have been a number of tensions or contradictions, each of which can be seen to have encircled and framed the recent history of family law in a more general sense: for example, and most notably, between ideas of welfare and rights, rules and discretion, autonomy and coercion, and between what has been seen as the inherent normalising and pathologising of divorce contained within the FLA.³⁹ These are ideas which themselves, unsurprisingly, pervade the accounts of attendees as they seek to make sense of the experience of divorce and the information meeting. There exists, of course, a voluminous literature addressing the FLA more generally in which inherent tensions and contradictions within the Act have been discussed at length. Yet there is a sense in which, as Dewar⁴⁰ has recently suggested, such tensions can themselves be seen to be 'normal' elements of family law, part of the inherently chaotic, contradictory and incoherent nature of the field.⁴¹

It is, perhaps, no wonder that the research has highlighted something of the way in which divorcing women and men appear to be caught up within a maelstrom of competing discourses around divorce. The related tensions are evident in the accounts which they give of the divorcing process. The beliefs about marriage and divorce, as well as about gender, expressed by attendees do not appear necessarily coherent and are frequently uneven and contradictory. As we have noted in the first chapter, the information meeting can itself be seen to exemplify the way in which family law operates, not by direct physical coercion or 'brightline' rules, but by 'indirect symbolic controls' which 'radiate messages'.⁴² The point, however, is that family law does not necessarily operate in any consistent or clear-cut manner. Thus, whilst the attendees' experiences of the information meeting are marked by ideas of conciliation, discretion, individual empowerment and notions of welfare, other aspects of family law which they encounter in the process of divorce – for example, engagements with the CSA – are framed by rules, notions of standards, guidelines and so forth which appear more fixed and inflexible. On the one

³⁹ See Bainham (1998), *op. cit.*, pp. 11–12.

⁴⁰ Dewar, J., 'The normal chaos of family law', *Modern Law Review*, vol. 61, no. 4 (1998), pp. 467–85; also Dewar, J., 'Reducing discretion in family law', *Australian Journal of Family Law*, vol. 11 (1997), p. 309.

⁴¹ Dewar (1998), *op. cit.*, p. 468.

⁴² Dewar (1998), *op. cit.*, p. 470.

hand the information meeting seeks to facilitate private decisions. At the same time, however, it also seeks to influence the form that such decisions will take. Behaviour change thus involves a clear loss of party control or autonomy.

Gender and the Information Meeting

If I'd known then what I know now [after the information meeting] I would never have got married. (F)

I think it's a disease of modern society. I've met so many people who have gone down the same road, but when you look at people, say my mother and father's generation, it was virtually unheard [of]. Maybe they fought a lot harder to keep together – they didn't take the easy option. Or maybe just society changed perhaps. It's a different society. I think now the woman tends to go out to work more. OK, my mum's worked, but in her day she was at home bringing up the children and maybe that has something to do with it, I don't know ... I wouldn't say it would be giving the woman more freedom, but they go out and meet other people and maybe they're influenced by society. (M)

... all this thing about blameless divorce is just ridiculous; only a man could come up with that one. (F)

In terms of the implications of this discussion of gender for policy, it is possible to make a number of points by way of concluding remarks. The well-documented issue of the demand for individualised information involves addressing social situations which are, it has been argued, inescapably gendered. In situating attendees as social subjects, gender has been seen as one factor to be considered. Being 'sensitive to an attendee's personal situation', it has been argued, will involve addressing, among other things, a social situation mediated by gender. The question of what might be relevant to an individual attendee's needs will depend on the social situation of the woman or man in question. It is in this context that the concept of gender relevance has been presented as informing an approach which might be sensitive to existing gender differences in social context. The challenge of such an approach, however, is that it pushes information provision towards an individualised, and away from the standardised, model. It could be argued that questions of gender might usefully be addressed in a more explicit manner in a number of contexts.

The research has pointed, ultimately, to an appreciation of the interactive, dynamic, strategic and meaning-making quality of law and legal institutions. The consideration of gender issues presented in this chapter cannot be confined to questions of theoretical and conceptual development. These issues are not set apart from discussion of policy. Integrating insights from scholarship in the fields of family, law and gender, and from a range of jurisdictions, disciplines, perspectives and paradigms, has shed considerable light on the information meetings research. It has been a central argument of this chapter that family law, whether conceptualised in terms of specific provisions or particular legal processes, cannot be conceptually separated from the values, interests, goals and understandings that shape and comprise social life. The information meetings research has provided powerful testimony to the force and influence of a range of cultural beliefs and ideologies around gender which are integral to contemporary ideas about marriage, divorce and family life. It has been argued that engaging with these beliefs is itself an inescapable part of any attempt to change the culture of divorce. It is, however, difficult to see how this cultural change might be achieved solely by legislative intervention.

7

Looking to the Future

7. Looking to the Future

It was always the previous government's intention that various models for the provision of information should be tested prior to full implementation of the Family Law Act. It was not anticipated that this would result in a perfect model, since the information meetings would doubtlessly require revision and improvement in the light of their interaction with the Act after it was in force.

Our primary remit has been to conduct an evaluation programme which would assist the Lord Chancellor's Department in its planning for implementation of Part II. Early in the evaluation we noted tensions in the way in which the information meetings had been conceived and constructed in the pilots, and we pointed to factors which would need reconsideration. In this last section of our report, we draw together the findings, and discuss the issues and concerns which should be considered and addressed before policy decisions can be made.

One of the distinct elements in our research programme has been to develop a dedicated Geographic Information System in order to explore the number of information meeting sites that might be required, and to determine the geographic locations for information meeting provision on the basis of different implementation options. Presentations relating to this work have been made on several occasions to policymakers and government advisors, using the latest techniques in modern computer technology, but unfortunately we cannot reproduce these here. A discussion of the detailed work undertaken to map information provision can be found in Chapter 31.

The Family Law Act has implications for the roles and responsibilities of a range of legal and divorce-associated professionals. Although most divorce-associated professionals welcomed the thrust of the reforms, not all have been convinced about the wisdom of some of the provisions, including the mandatory information meeting. In Chapter 32 we discuss the views of members of these professions who are already having to adapt their practices in response to the implementation of Parts I, III and IV. In Chapter 33 we reflect on the mandatory nature of information meetings. In Chapter 34 we review the remedies and experiences in other jurisdictions which can inform deliberations about implementation.

In the penultimate chapter of this report, we reflect on the research findings and the policy issues which have arisen in the course of the research with respect to the way in which the principles of the FLA might best be supported. In the final chapter, we outline the way in which information meetings could be implemented. Our research has led us to conclude that none of the models tested should be implemented, but that a new model could be developed, based on the substantial learning from the experiences of the 7,690 people who attended an information meeting and took part in the research, the presenters who delivered the information, and others who participated in the organisation and management of the pilots. We describe this new model which we believe would more effectively meet the varying needs of those who would have to attend an information meeting in an implemented system. It should be tested and refined before a decision is taken on how best to implement Part II. In addition, we consider a number of alternative options for information provision, on the basis of the learning from the pilots should the Government decide not to implement Part II.

Chapter 31

Identifying Sites for Information Meetings

Mike Coombes and Simon Raybould

A key feature of this government's approach is that the people who use services should come first. Public services should be provided for the benefit of those who need and use them, and not for the convenience of the organisations that deliver them.¹

In this chapter a rather distinct strand of the research is outlined. The basic premise is that one model of information meeting is to be implemented nationally; the research question which follows concerns the number – and location – of sites at which information meetings would need to be provided. In referring to 'sites' here we are focusing on decisions about which towns or cities should host information meetings, rather than on the selection of specific streets or premises. The question of the number of sites arises in part from the need to estimate the cost of implementation, because it can be expected that the cost of providing any specified number of information meetings will be higher, *ceteris paribus*, if they are dispersed across many sites rather than concentrated in a few.

A decision to cut implementation costs for the Lord Chancellor's Department by using few sites is likely to impose higher costs on the people who attend the information meetings, simply because in certain parts of the country some people would have to travel further to reach a site than they would if meetings were to be provided at more sites. In other words, the Department's decision regarding the number of sites has a direct impact on the accessibility of information meetings, and potentially the access to divorce itself. It might be argued that, having chosen to regulate the essentially private institution of marriage, the state is obliged to provide unrestricted access to the facilities which it deems to be essential for people going through divorce proceedings. A similar line of reasoning led to the Government's establishing many hundreds of Job Centres across the country so as to ensure that few people had to travel far in order to sign on and thereby to access the state benefits to which they were entitled. It is for the Department to decide how far this logic applies to the siting of information meetings, or whether it considers that the Government is no more obliged to provide local access to information meeting sites than it is, for example, to provide a university in every locality.

Given this trade-off between, on the one hand, the higher implementation costs (if information meetings are provided at many sites) and, on the other, the higher costs for people attending (if there are fewer sites) the key challenge becomes one of identifying sites whose location minimises the distances people will have to travel to reach them. It can be seen at the outset that the geographical distribution of the population makes this site selection problem complex. It may be *fairly* obvious where a network of just half a dozen sites should be located (e.g. in six of the largest cities), but if most people are to have a site nearby there will need to be quite a large number of them, so the permutations

¹ The Service First User's Charter, *Service First: The New Charter Programme* (July 1998), <http://www.servicefirst.gov.uk/introduce/sfuersch.htm>

of alternatives become very numerous. The research addressing this site selection problem is outlined here step by step.²

Many existing public services are provided through networks of local sites: examples range from the various kinds of court provided by the Court Service through to other local facilities (e.g. Job Centres and Benefit Offices). These networks have typically evolved over many years, gradually adjusting to changes in their roles and also to any new patterns of demand such as the development of new towns. Each of these networks is different, having been developed to meet its own service's needs, so none of them provides a blueprint for the selection of information meeting sites. The task here would have been simplified if a decision had been made to implement by co-locating information meetings alongside a pre-existing service (e.g. by linking the delivery of information meetings to the family court welfare service), but to date no such decision has been made, and so the problem of site selection remains.

Although the networks of sites used by other public services are the products of long periods of adjustment, sophisticated methods of analysis have increasingly become available to help ensure that these adjustments maximise the sites' accessibility to their users. For example, a 1991 study³ illustrated the value of a *location-allocation model* in helping to inform decisions about reductions of the overall number of courts in the North West region while minimising any increase in the distances people had to travel to reach their nearest court. This element in our evaluation can be seen as tackling a similar challenge, but in the highly unusual situation of planning for the immediate creation of a full national network of sites: more a case of a 'big bang' than of evolution. Rapid new developments are rather more familiar in the private sector than in public services, although even the most vigorously growing new commercial services such as multiplex cinemas have in fact been developed over several years. It is notable that location-allocation modelling has been extensively adopted for site selection in the private sector.⁴ The key requirement in the private sector would probably be to find the set of sites close enough to sufficiently large concentrations of people for the likely level of demand to make as many sites as possible profitable; by contrast, the public service motivation comes closer to minimising the difference in the level of service provision across the whole country. The general framework of location-allocation modelling provides for choices to be made between these different objectives so that the analysis can be made appropriate to each particular application.

The analyses reported in this chapter build up the information which is needed for a location-allocation model to identify a suitable network of sites, on the basis of the criteria relevant to the implementation of information meetings. The first preparatory analysis centres on the key concern about people's probable reluctance to travel far to attend information meetings; the task here is to analyse data from the pilot information meetings in order to estimate the extent to which people are deterred from attending if they have to travel a longer distance. It is this distance deterrence analysis which provides one of the crucial inputs to the location-allocation model's selection of sites. If people are very strongly deterred, the onus will be placed on reducing the minority of very long

² See Annexe 9 for fuller technical details.

³ Thomas R., Robson B. and Nutter R., 'Planning the work of county courts: a location-allocation analysis of the northern circuit', *Transactions of the Institute of British Geographers*, vol. 16 (1991), pp. 38–54.

⁴ See e.g. Ghosh, A. and Harche, F., 'Location-allocation models in the private sector: progress, problems and prospects', *Location Science*, vol. 1 (1993), pp. 71–106.

journeys in more remote areas, as opposed to making smaller reductions to the journeys of very many more people by locating additional sites in heavily populated areas.

The second preparatory analysis is termed ‘demand modelling’, because it attempts to estimate the distribution across the country of people who may attend information meetings. These estimates are needed partly because the ‘population at risk’ of attending information meetings remains rather unclear, since anyone who is married can attend if they believe their marriage to be in trouble, and partly because insufficient information is available on the current whereabouts of the relevant population groups. As a result, the demand modelling needs to use the information which *is* available to provide localised estimates of people likely to attend information meetings; the location-allocation modelling can then identify sites so that they are near to most of the people who are likely to use them.

The third preparatory set of analyses provides a set of suitable candidate sites for the location-allocation model, so that, for example, the mountainous centre of the Lake District could not emerge as the ideal site to serve the whole of Cumbria simply because it is equidistant from all the county’s population centres (which lie in an arc around the periphery of the Lake District from Kendal through Barrow and Workington to Carlisle). The type of site location favoured by people attending information meetings during the pilots provides a ‘blueprint’ of the characteristics which suitable sites need to possess; the analysis here identifies all sites possessing the majority of these characteristics.

All these preparatory analyses, together with the location-allocation modelling, rely upon a Geographic Information System (GIS), which can provide a high level of accuracy by recognising over 9,500 separate areas across the country (*viz.* the local government wards existing at the time of the 1991 Census). This level of detail means that there is very little loss of accuracy when the population of each ward is analysed as if it were all located at the ward’s population-weighted centroid, and when distances between wards are represented by the straight line distance between the respective centroids. All models simplify some of the complexity and peculiarities of the real world; the important task is to portray the main underlying patterns because these set the conditions for the modelling of various future scenarios.

Having developed a framework for analysis, the modelling explores the site requirements of a *central case* of implementation in which it would be a prerequisite for people petitioning for divorce to have attended a ‘one-off’ individual face-to-face information meeting at least three months previously. It should be stressed that the methods could also be applied to explore a range of alternative strategies for the delivery of information. The Department provided a planning guideline of up to 400,000 information meetings per year, based on attendance by every petitioner and respondent. This figure has been adopted here to quantify the model’s outputs, although it is worth stressing that the *geographical* pattern of the results would be exactly the same no matter what the total figure was assumed to be. (For example, if the analyses and modelling here suggest that Swansea is the twentieth-most-suitable site for holding information meetings, that answer would hold true – as would Swansea’s predicted *share* of the numbers attending information meetings nationally – *regardless* of the number which is predicted as the total throughput.)

A final preliminary point here concerns timing. To enable a possible procurement exercise to be planned within its preferred timetable, the Department requested that an

appropriate set of sites should be devised before the end of 1998. Clearly this timetable meant that those analyses which relied upon data from the research in the pilot areas could only draw on information from the earlier parts of the research database derived from the first pilots. In practice this was less of a problem than it might have been, because much of the later research involved types of information meeting – such as group meetings and CD-ROM meetings – which are not relevant to the form of implementation which is explored here. Even so, it is appropriate to note that some elements of the research reported in this Chapter are based on a relatively early subset of the research data.

Distance Deterrence

The first preparatory analyses concern the extent to which people are willing to travel to reach an information meeting site. The modelling term *distance deterrence* indicates that the analysis measures the degree to which a longer journey makes people more likely to refuse to travel. Even when implementation of information meetings makes attendance compulsory, the fact that people might have refused to travel longer distances is important information because it could undermine the acceptability of the new provision if large numbers of people felt that unreasonable travel burdens had been imposed upon them. The likely level of reluctance to travel to information meetings can be estimated here by considering the behaviour of people in the pilot areas. Some of those who registered an interest with a pilot did not eventually attend an information meeting, so the extent to which it was people who lived further from an information meeting site who proved to be more reluctant to attend can provide the basis for distance deterrence modelling.

Table 31.1 examines the question of accessibility, or more precisely proximity, to information meeting sites. The first row presents the distribution of distances, for the people who attended information meetings, between the site of the meeting and their home address. The median distance was just under 6.5 km (approximately 4 miles). The next row measures the distance between the same people's home locations and their *nearest* meeting site. The difference between the values in the two rows is rather modest, suggesting that the vast majority of people are attending their nearest meeting site,⁵ although nearly 10 per cent in fact travelled over 20 km when there was a nearer meeting site. The third row shows the distance to the nearest site for those *non-attende*es whose home location is known. The implication of the results is that the distance people live from the nearest meeting is not necessarily the major influence on the likelihood of their attending: if non-attendance had been very substantially fuelled by remoteness of meeting sites, a noticeably higher proportion of non-attende

es would have been found in the longer-distance categories.

Table 31.1 can also be seen to provide an overview of the kinds of distances which people might be prepared to travel to attend information meetings. More than 1 in 8 of the people attending pilot information meetings attended sites more than 20 km from their homes, and over a third attended sites over 10 km away. Very little was said in the

⁵ Some of the early evidence on travel to information meetings was mapped in Ch. 13 of the Second Interim Evaluation Report. See Coombes, M. and Raybould, S., 'Mapping and modelling in the pilots', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998).

interview or follow-up material about the location of information meetings posing a substantial difficulty, so it might hesitantly be concluded here that for *most* people a journey of 15 km is unlikely to be out of the question.

Table 31.1 Distance from meeting sites

	% by distance band (km)					
	0–1	1–2	2–5	5–10	10–20	over 20
People who attended information meetings:						
<i>distance to information meeting site attended</i>	2.7	7.8	29.0	26.8	20.9	12.8
<i>distance to nearest information meeting site</i>	4.5	10.0	35.4	30.7	16.0	3.4
Non-attendees:						
<i>distance to nearest information meeting site</i>	4.7	10.9	36.1	29.7	15.9	2.8

Of the potentially important influences on travel behaviour, gender proved relatively unimportant, with little difference between the median distance travelled by women and men (6.3 and 6.6 km respectively). Less surprising is the slightly higher median distance travelled by car users (7.3 km), with the users of each of the other methods of travel – except train – showing a median distance of 5 km or less. This contrast serves to draw attention to the lower levels of mobility which will be more commonplace among less affluent people. Figure 31.1 uses the Townsend Index of deprivation⁶ and calculates an average Index value for people attending information meetings, grouped according to their distance from the meeting site attended. A dramatic contrast emerges, in which people attending nearby meetings are much more often living in deprived neighbourhoods than people who have travelled further. This result will be at least partly due to many deprived areas being in inner cities and so tending to be near to information meeting sites (which in the pilots were mostly located close to town or city centres). The importance of the result here is that if people from more deprived areas are indeed less likely to attend information meetings, the fact these same people tend to live *near* to information meeting sites could confound the distance deterrence analysis, which is based on the assumption that refusal to attend is more prevalent among people with longer distances to travel.

The relationship between the level of deprivation of a person's home neighbourhood and the likelihood of their attending information meetings can be examined directly by drawing on the evidence about people who had made themselves known to pilot projects. Table 31.2 shows that the majority of people known to the research are from non-deprived areas: the three left-hand columns, which cover people from non-deprived areas, include around 65 per cent of all people in the pilot research dataset. The second row then reveals the proportion of people from each type of area who did attend meetings. There is a consistent, if unspectacular, pattern in which the most affluent groups are more likely to have attended a meeting while those from the most deprived areas are the least likely to

⁶ Townsend, P., Phillimore, P. and Beattie, A., *Health and Deprivation: Inequality and the North*, Croom Helm (1988). This index was used in Ch. 6, on generalisability and the influence of differing levels of affluence.

have

attended.

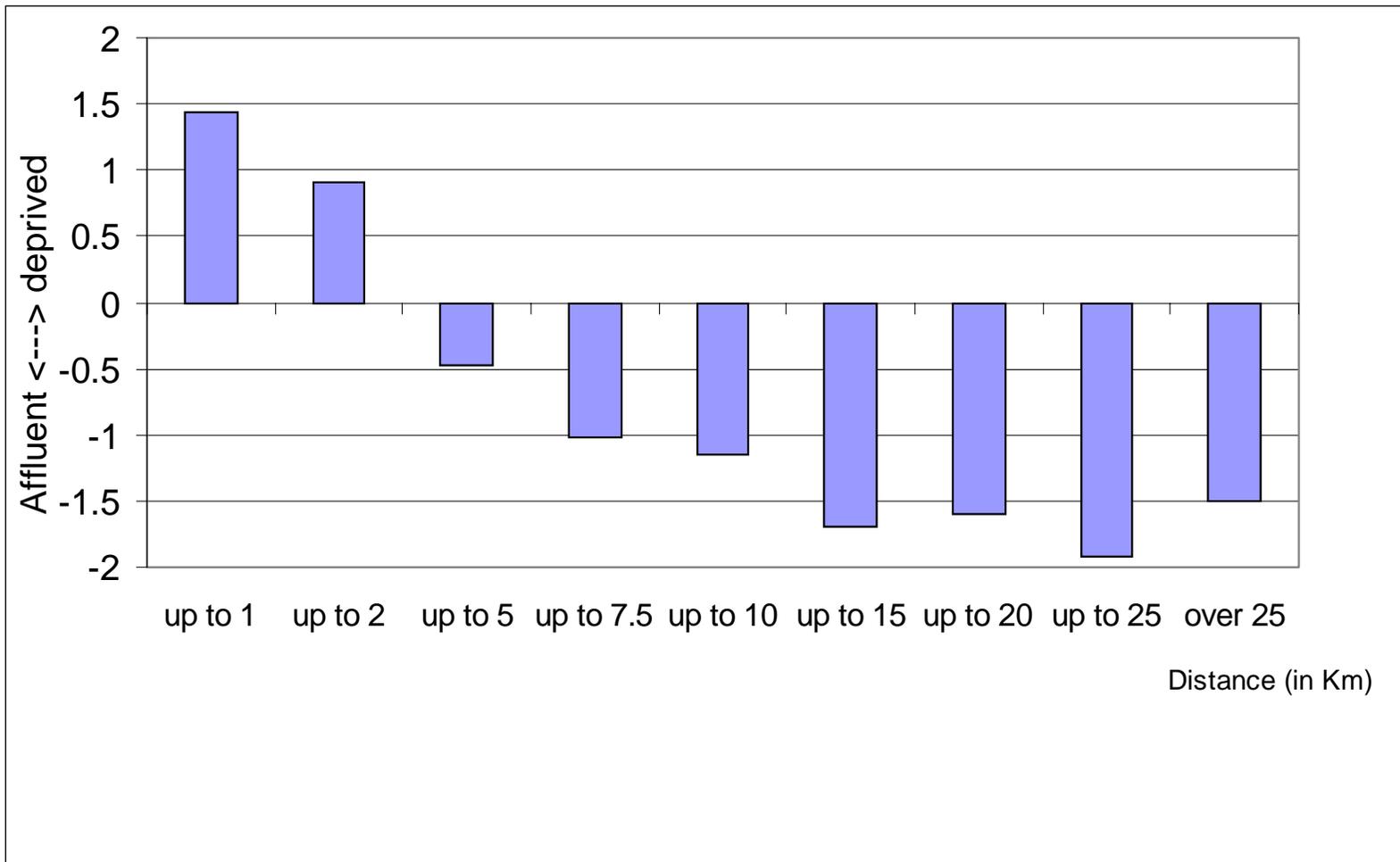


Figure 31.1 Distance from nearest pilot information meeting site by Townsend Index of deprivation

Table 31.2 Home neighbourhood and likelihood of attending information meetings

	Townsend Index values					
	up to -4	up to -2	up to 0	up to +2	up to +4	over +4
(% of all who registered)	(12.4)	(28.7)	(23.5)	(15.3)	(10.0)	(10.0)
Probability of having attended	0.85	0.83	0.82	0.81	0.77	0.69

Table 31.2 expresses the likelihood of people attending pilot information meetings as a probability, and this provides the basis for the distance deterrence modelling. In effect, the model measures the rate at which the probability of people refusing to travel increases with the distance of the journey involved. In mathematical terms, this probability is regressed against the distance measure; an exponent is applied to the distance measure and the task of the regression is to find the value of this exponent. For many datasets, the best fit has often been found to be a model with an exponent of approximately 2 (i.e. the model which best fits the data on people's resistance to travelling has the distance squared). Rather more everyday activities such as commuting tend to have rather high levels of distance deterrence (e.g. the probability of refusal to travel may best be modelled by the cube of the measure of distance), whereas the 'one-off' nature of information meeting attendance is more likely to provoke a lower level of distance deterrence, so that an exponent value nearer to 1 might be expected.

Tables 31.1 and 31.2 had indeed suggested that distance deterrence is not an acute influence on likelihood of attendance at information meetings in the pilot projects. Regression analyses of the whole research sample population do indeed yield a distance deterrence value slightly below 1, *but* it is appropriate here to sub-set the data according to Townsend Index scores so as to follow up the earlier finding on the different willingnesses to travel of those who live in deprived/average/affluent areas. These subgroups' exponent values show the variation which would have been expected: the more deprived group's value is 1.206, while the affluent group's is 0.903 (and that of the average group 0.963). Given that the policy concern is likely to be that the information meeting sites should be accessible to *all* groups, it seems appropriate to use the more deprived group's deterrence value in the location-allocation model. In other words, the location-allocation analyses will assume that everyone attending information meetings has the higher resistance to travelling which was found among those living in more deprived areas. This approach also protects the analysis somewhat from the probability that many of the people included in the research data do not appear to be so deterred from travelling longer distances simply because they are 'volunteers' who come from more affluent backgrounds. Even so, the relatively low level of the deterrence values which have been found here was broadly to be expected, given that information meetings are concerned with such major issues in people's lives.⁷

⁷ The distances here have all, in effect, been calculated on the assumption that people have travelled from home to information meetings. There is evidence in the research data on the pilots that some people attend information meetings as part of a multi-purpose journey, or travel from work rather than from home, so the distance actually travelled may be rather different from the one estimated here.

Demand Modelling

The location-allocation modelling requires as input the number of people in each small area of the country who might be expected to attend information meetings each year if implementation proceeds on the assumed basis. Over 9,500 wards were analysed separately to maximise the accuracy of the modelling. The need for demand modelling stems from the limitations of available local data, together with the uncertainty about exactly which groups of the population will attend information meetings. As a result, the modelling creates a set of local area predictions by which to 'share out' the estimated national annual number of people attending information meetings (which has been calculated separately by the Lord Chancellor's Department).

At the outset, some objective information is needed on geographical variation in the processes leading to attendance at information meetings. The single most important process must be divorce, so attention turns to the geography of divorce. With remarkably little published evidence to draw on, a special analysis has been carried out using records from each divorce court. Figure 31.2 shows the pattern produced by dividing the number of divorces registered at each court by the number of married men in that area. The first point to make here is that this analysis required preliminary research to estimate the catchment area of each court.⁸ The second point is that the divorce data do not identify where each petitioner comes from, although it is known that people do *not* always use their local court. The only practical assumption is that the numbers of people moving around the country to petition for divorce roughly cancel each other out, so that the number registered at each court should be a fairly close approximation to the number of petitioners who live in that court area.

Given that the 180 divorce court areas are far too large to provide the detail needed by the location-allocation model, the demand modelling strategy is to find a statistical relationship between the courts' numbers of divorces (the dependent variable) and their catchment areas' population sizes and characteristics (the independent variables). This relationship can be expressed as a mathematical equation which predicts the number of divorces at any court, on the basis of the values of the independent variables related to the population in that court's catchment area. Once this equation has been derived, it becomes possible to predict the number of divorces likely to arise from each ward's population, because the size and characteristics of each ward's population is known. These ward-level predicted values can then be used to locally 'share out' the number of people who are thought likely to attend information meetings across the whole country.

The dependent variable is *the number of divorces per thousand married men*, while *the percentage of married men aged under 45* is an example of an independent variable. The variables are generally defined in terms of male characteristics because some of the potentially important factors (such as unemployment) are not so well-measured for women. There is not a huge literature on the factors which may be important in shaping the rate of divorce in this country, although a recent review⁹ has provided a valuable summary. There are also notable limitations to the available official statistics, not least

⁸ See Annexe 10.

⁹ Clarke, L. and Berrington, A., 'Socio-demographic predictors of divorce', in J. Simons (ed.), *High Divorce Rates: The State of the Evidence on Reasons and Remedies*, Research Series 2/99, vol. 1, Lord Chancellor's Department (1999).

because divorce registration procedures date back many years and do not, for example, record either party's

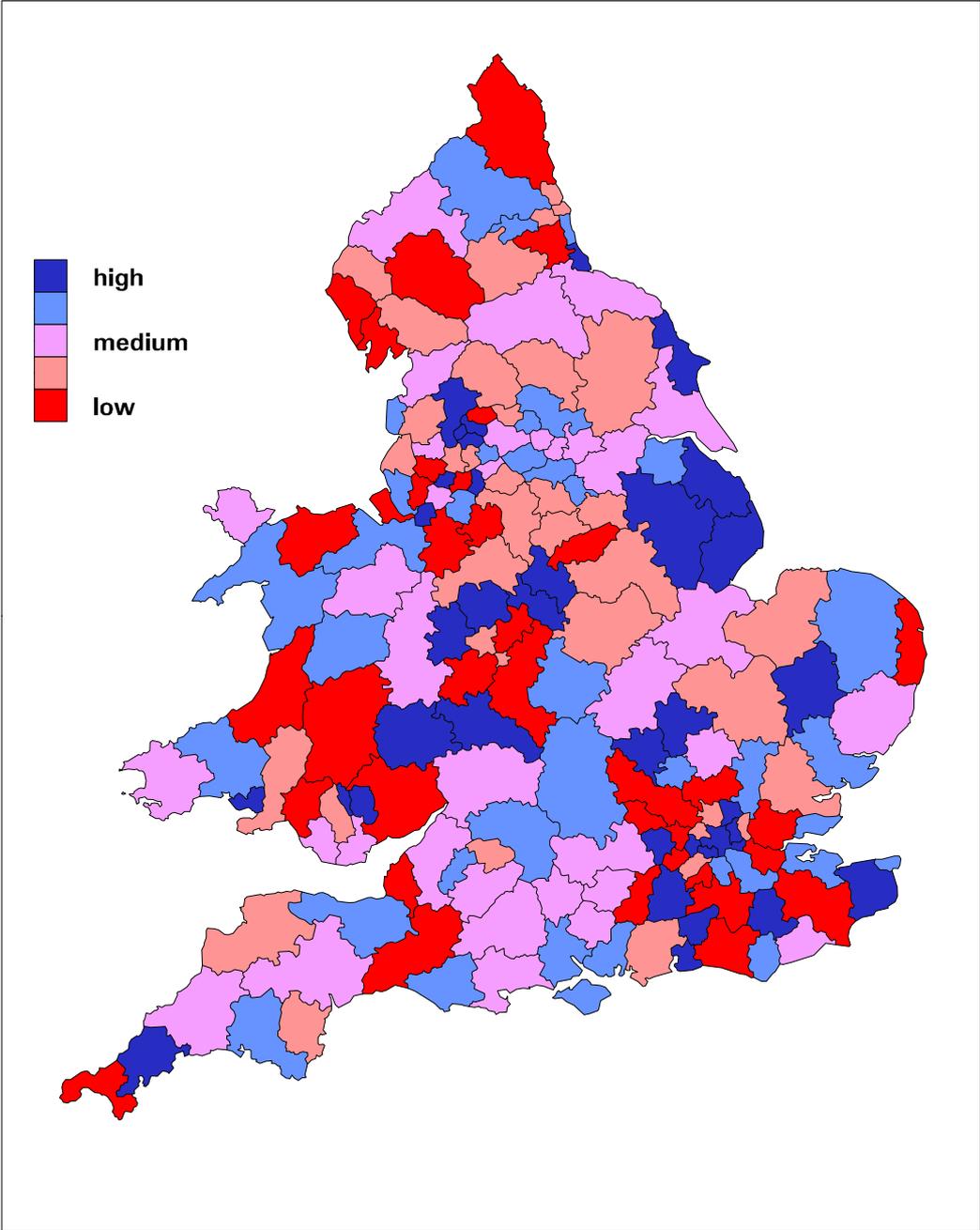


Figure 31.2 Divorce rate

date of birth, and this makes some longitudinal analyses of divorce more difficult.¹⁰ Among the key factors of interest here are likely to be:

- age (partly as a proxy for duration of marriage)
- ethnicity (some minority ethnic groups are more likely than white people to divorce and others less likely)
- economic position (or a more general indicator of the risk of poverty)
- occupation (more specifically, membership of the armed forces or employment in any other job classified as ‘security-related’)

Annexe 11 summarises the complete set of independent variables which were included in the demand modelling process.

After considerable experimentation with the detail of the independent variables, along with a number of methodological variations, we included in our final model four components:

- a constant, which can be seen as the ‘background level’ of divorce
- a factor which raises the divorce rate according to how many of the local married men are aged 44 or under
- a factor similarly raising the rate in relation to the proportion of men who are low-skilled (and who are therefore more at risk of unemployment and/or poverty)
- a factor lowering the rate according to the proportion of the younger men in the area who are currently married

It should be noted that the ‘background level’ is not to be interpreted as an *average* in any sense. The constant is the divorce rate which the model would predict for a hypothetical area with a zero value for all the independent variables (i.e. an area where no younger men were married and no men are low-skilled). The last-mentioned factor in the model – the proportion of young people who are married – was one of a set of variables which aims to represent those influences on an area’s divorce rates which are not so much compositional as contextual. Whereas a *compositional* variable seeks to reflect the fact that, for example, wherever they live younger married men are more likely to get divorced than older married men, a *contextual* variable is one which aims to measure the way in which an area’s divorce rate may be affected by local factors in a more general sense. The interpretation of contextual variables is often less clear-cut as a result: thus the variable here *may* suggest that in areas where many of the young men are not married there is a lower level of reluctance towards getting a divorce, but there may well be other interpretations of the real world process or processes which the variable represents statistically.

¹⁰ See e.g. Kiernan, K. and Mueller, G., ‘Who divorces?’, in S. McRae (ed.), *Changing Britain: Families and Households in the 1990s*, Oxford University Press (1999).

To check the sensitivity of the modelling, the analyses were run on each of two separate years' data, as well as the two in combination. The results were encouragingly consistent in the selection of variables as significant, and in the calibration of those variables. There is also no clear pattern to the residuals from the model which would call for additional variables to be included (Figure 31.3). The model has therefore been taken to be sufficiently robust to provide the basis for the location-allocation modelling. In practice, the model's predictions do not widely diverge from an alternative set of results based purely on the number of married people living in each area: this is seen as reassuring, if a little disappointing in its implication that the efforts devoted to modelling have not provided a dramatic improvement in the accuracy of predictions *vis-à-vis* those which could have been obtained by assuming a simple *per capita* divorce rate.

Site Selection

The remaining preparatory research sought to establish whether certain places would make much more suitable sites for information meetings than others. For example, a site in the countryside equidistant between three nearby towns might seem to be a fair solution, but would this be appropriate? In particular, would such a site be suitable for people without access to a car? In the absence of comprehensive public transport service information, the search for suitable information meeting sites could be restricted to places within a certain distance of a major road, but the assumption that all such roads have a reasonable level of public transport services may well not be a particularly safe one. By contrast, it *is* likely that all town and city centres, including major suburban centres, have fairly high levels of public transport services from their catchment areas.

Another possible limitation on the selection of sites would arise if there were any key services which should be located near to each potential information meeting site. One example of a potentially relevant service could be solicitors, but they are so numerous and widespread that it can be assumed there is at least one near to every plausible information meeting site. At the other extreme, an acute constraint on site selection would be imposed by requiring, for example, that every information meeting site must be located near to support services for Islamic couples owing to these services' very restricted distribution across the country. In the end the Department took the decision not to require any other services to be near to information meeting sites, not least because such a requirement would effectively disallow information meeting sites in those rural areas which are *already* disadvantaged through not offering local provision of other services.

The characteristics of a place which make it most likely that that place will have a reasonable level of public transport provision can be summed up as those that characterise a 'high street' of a town or city centre, or a major suburban centre. This approach to site selection was reinforced by the findings from the pilots in which people concerned about safety issues indicated a preference for information meeting sites located in busy areas to which people go for a variety of purposes.¹¹ Considerable data analysis was required to implement this strategy because there is no 'off-the-shelf' list of appropriately-defined town centres. After some experimentation, we defined candidate sites as having or providing at least two of the following characteristics:

¹¹ See e.g. Walker (1998), *op. cit.*, Ch. 11.

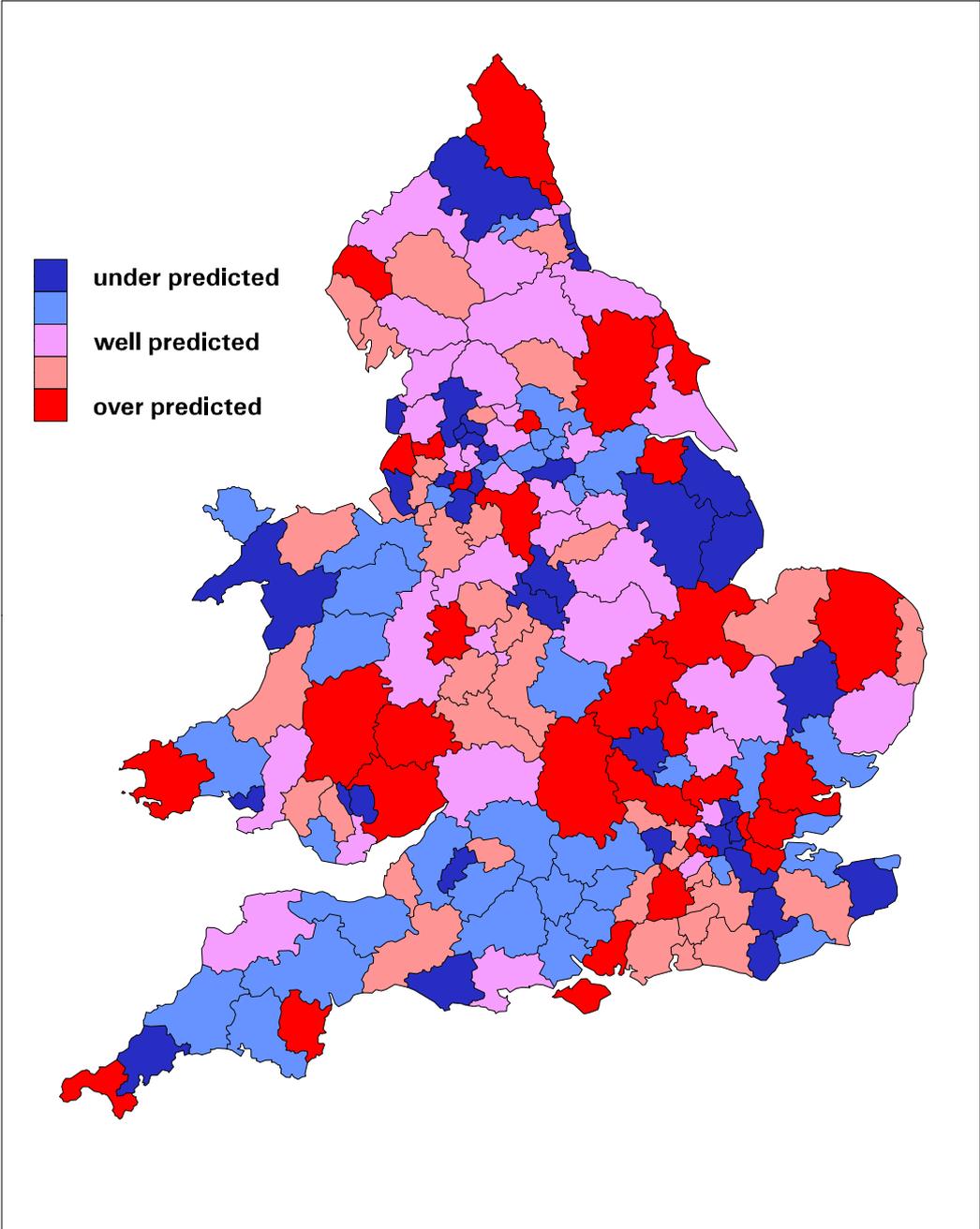


Figure 31.3 Residuals from the demand model

1. A Benefits Agency office.
2. A market (open or covered).
3. A substantial focus for commuting flows.

The list of Benefit Offices used here does not include ‘neighbourhood’ Benefits Agency offices, which would have provided a much longer list but would not have been suitable for indicating ‘high street’ locations. Market towns were identified as locations holding a retail market – on days other than Sundays or Bank Holidays – more often than once a month. No source provides an up-to-date comprehensive list, so the method we adopted was to include any town recorded as holding a market in one or more of four different sources (ranging from a general-purpose gazetteer of towns to the developing internet site of the National Market Traders’ Federation). This inclusive approach was necessary in order to minimise the risk of missing a town – which thereby might not be identified as a plausible site – simply because of incomplete data.

Defining the set of commuting foci involved analysing over 2 million flows between wards in the 1991 Census commuting dataset. Wards whose centroids were no more than a mile apart are considered to be parts of the same location. The analysis then identified all locations with substantial in-flows – that is, flows of at least 100 people from at least one other ward – as commuting foci.

There were over 2,000 locations in England and Wales with at least one of these three features – as Figure 31.4 illustrates for the North East – but the requirement that at least two of them must be co-located leads to just 647 plausible candidate sites being identified. Figure 31.5 shows that, together, these candidate sites provide comprehensive coverage of the country, with only a few of the more remote upland areas including wards which have no site within 25 km.

Location-Allocation

Within the location-allocation model, distance deterrence – the extent to which people are less likely to attend information meetings if they are held further away – is taken into account by weighting longer-distance journeys rather more heavily. As a result, the model is not simply trying to define the network of sites which minimises the total distance which all the people attending information meetings will have to travel. For example, if distance were *not* weighted, a site which causes 4 people to travel 10 km each would be equally as good as one to which one person has only to travel 1 km while the other 3 travel 13 km (because the total distance travelled in both cases would be 40 ‘person km’). In practice, the distance deterrence weighting leads to the model favouring the former alternative, because the latter involves several people travelling longer distances.

A possible refinement to the location-allocation modelling can take into account the feasible workload which any information meeting site can deliver. For example, some information meeting sites might be rejected as too costly to provide if their throughput is likely to be below a minimum level, even though such sites will be in more remote rural areas so that the consequence is likely to be long travelling distances for the small number of people affected. The emphasis here on avoiding anyone having to travel a very

long

distance

meant

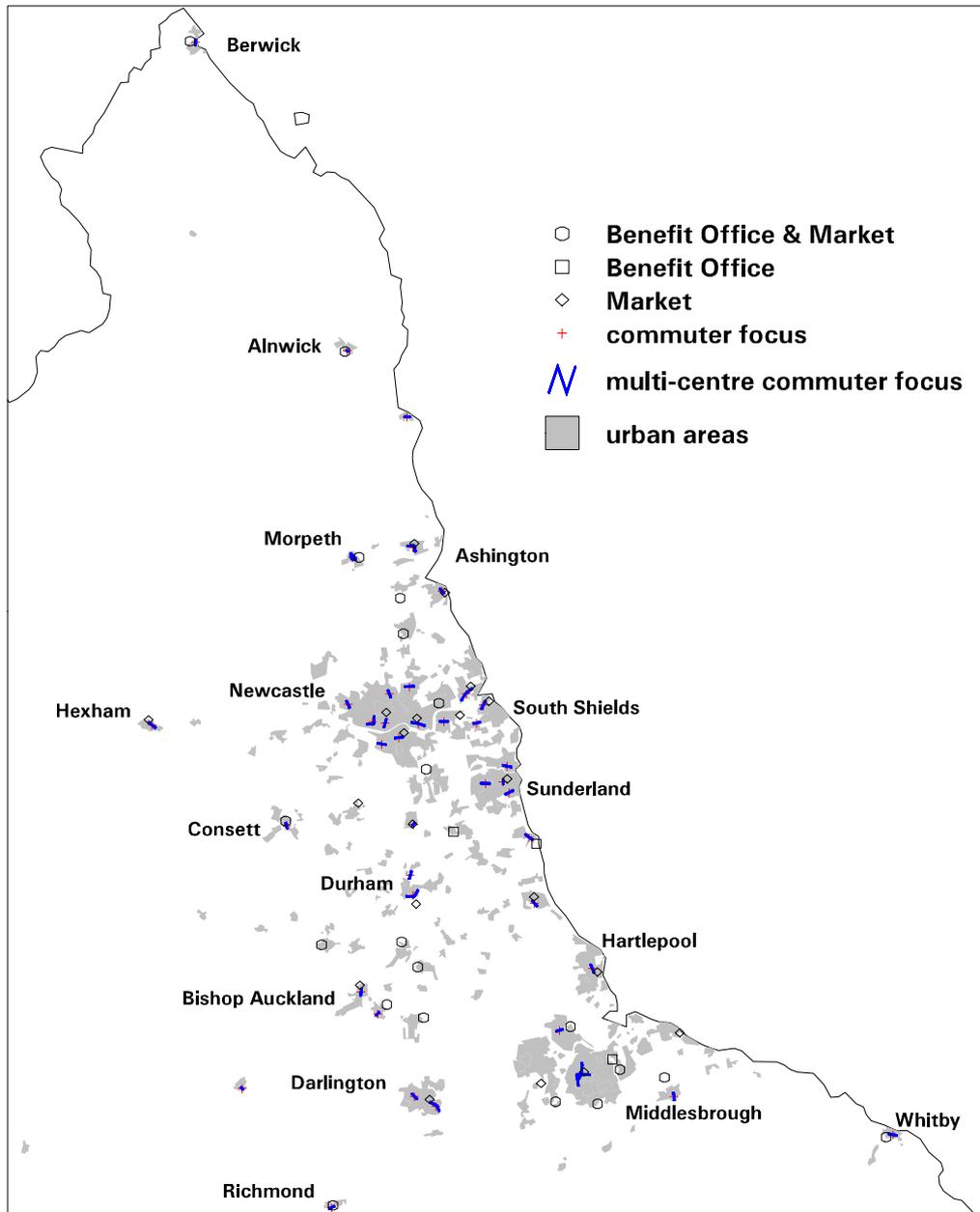


Figure 31.4 Site selection parameters in North East England

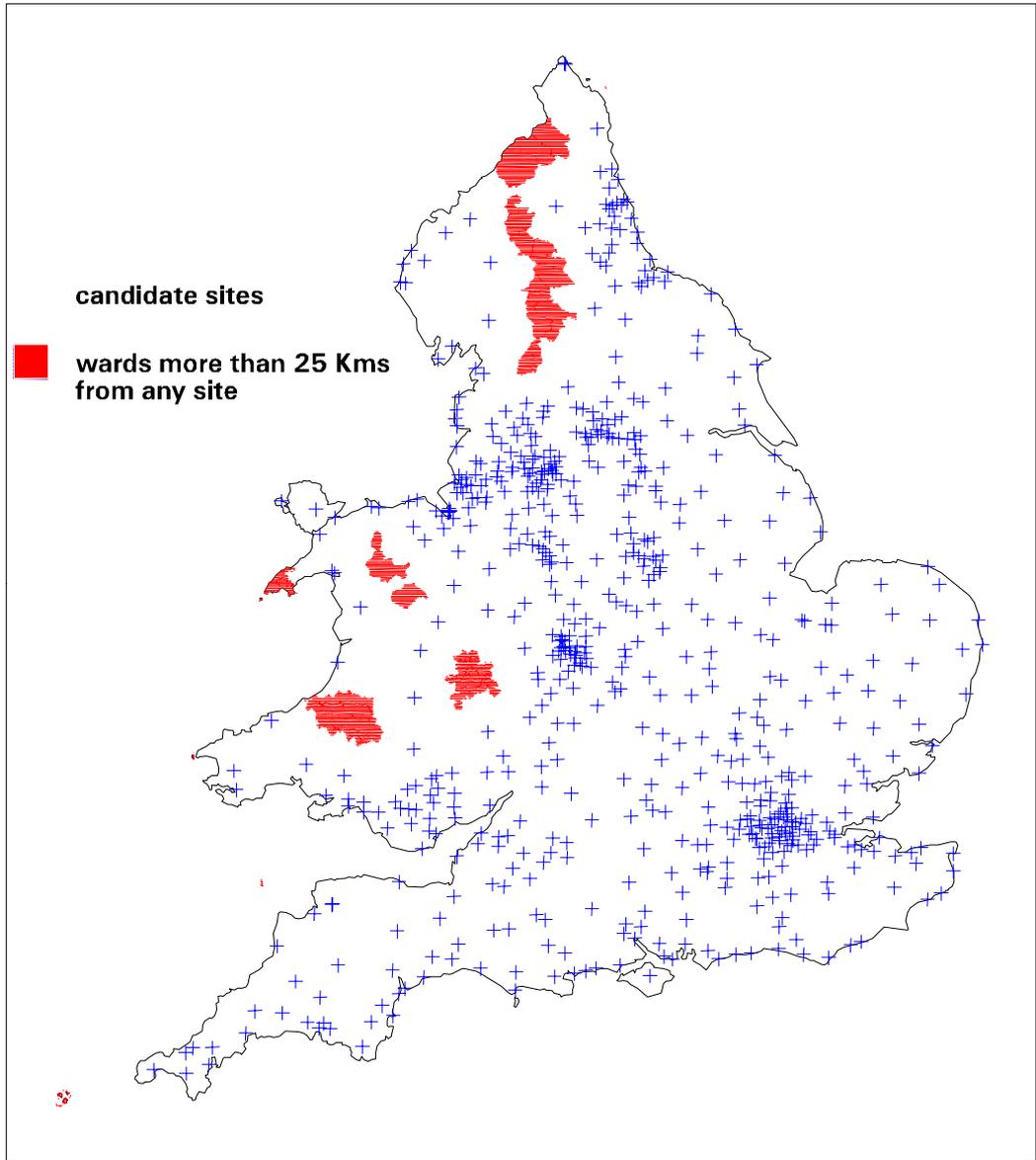


Figure 31.5 The 647 candidate sites

that this option was not pursued. At the other extreme, it is possible that there may a maximum practicable throughput of people attending information meetings at any one site. If a single site became overloaded it might be more efficient to operate several separate nearby sites. It is notable that the modelling here tends automatically to produce several sites in inner London in particular, so the overcrowding problem does not arise in practice.

The modelling strategy involves deciding on a number of sites (out of the 647 candidate sites) and the model then minimises the total *weighted* distance travelled by the estimated 400,000 people attending nationally in the first year of implementation. Very many analyses have been carried out, exploring a wide range of alternative numbers of sites, in order to assess the extent to which increasing the number of sites substantially reduces the travel burden on large numbers of people. Figure 31.6 presents a summary of the results visually, reporting the distances which people would have to travel to reach their nearest information meeting site on each option. Rather surprisingly perhaps, increasing the number of sites much above 250 makes relatively little difference to the proportion of people attending who have to travel rather long distances. As an extreme extension to these analyses, it was found that over 2,500 sites might be needed for less than 5 per cent of people to have to travel over 8 km (5 miles).

In response to this information, the Lord Chancellor's Department chose to explore in detail, as a possible basis for the proposed procurement exercise, the 250-site option, which ensures that 95 per cent of people attending information meetings will have a site no more than 16 km (10 miles) from their home. Figure 31.7 shows the location of these 250 sites, together with the other 397 plausible sites which the modelling had considered but not selected. As a further input to the proposed procurement exercise, twenty Management Regions were defined.¹²

The earlier discussion of distance deterrence emphasised that a key assumption at that stage was that people tend to travel from home to attend information meetings. The reason for this assumption was the pragmatic one that the demand model relied upon data based on where people live, and so home location has provided the basis for estimating the spatial distribution of the 400,000 people predicted to attend information meetings. It was recognised, however, that some of the research evidence from the pilot projects suggests that many people might travel to information meetings from their places of work rather than their homes. Even many of those who do not work may well include attending information meetings as part of 'trip chains' which include visits to shops or other locations. On this basis, the effective *additional* journey to the information meeting would be from those other locations, rather than from people's homes. As a result, where a great many people are concerned the distribution of jobs (i.e. at workplaces) in an area could be a better guide to the starting-points for their trips to information meetings. In short, where people work (i.e. the 'day-time' population distribution, much of which is in the central areas of cities) can be used as the basis for modelling journey lengths to information meetings, rather than the 'night-time' population distribution which largely finds city centre workers in the suburbs.

¹² See Annexe 12.

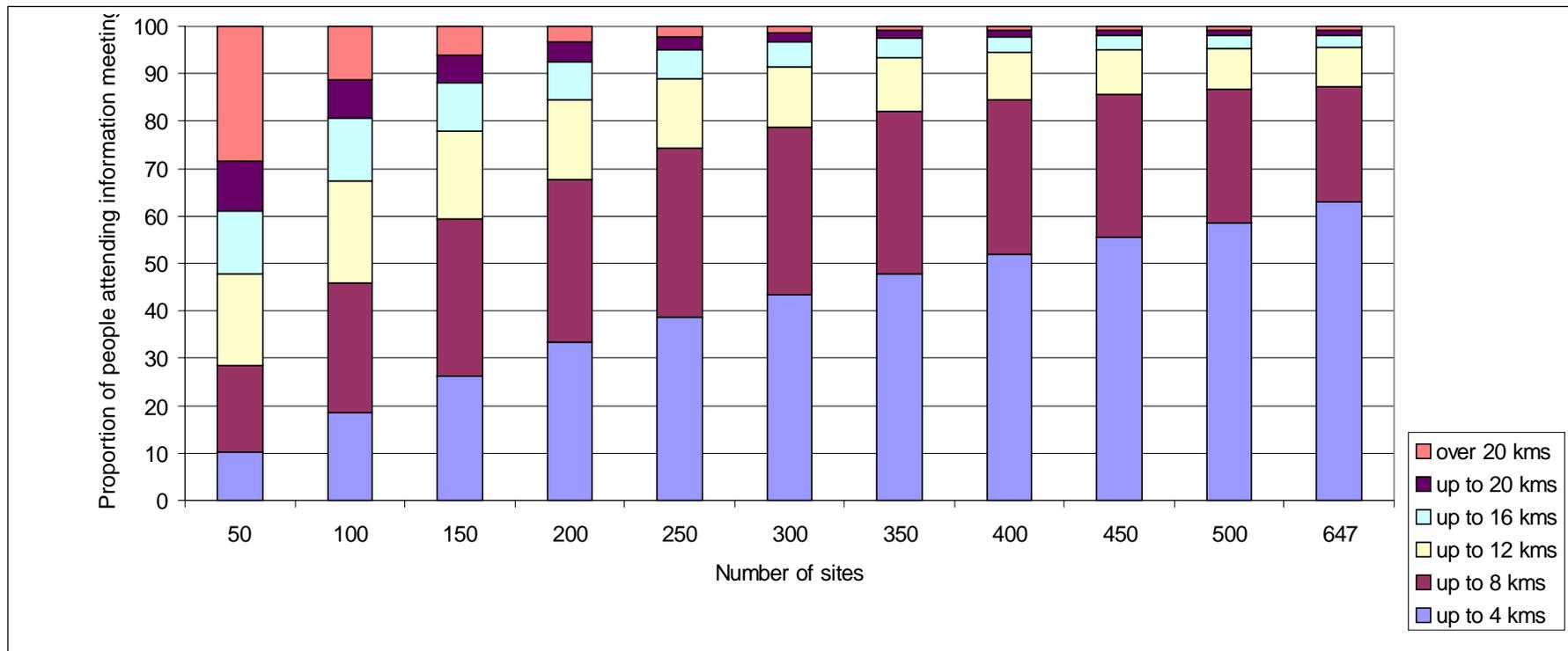


Figure 31.6 Accessibility of sites by the number of sites at which information meetings were provided

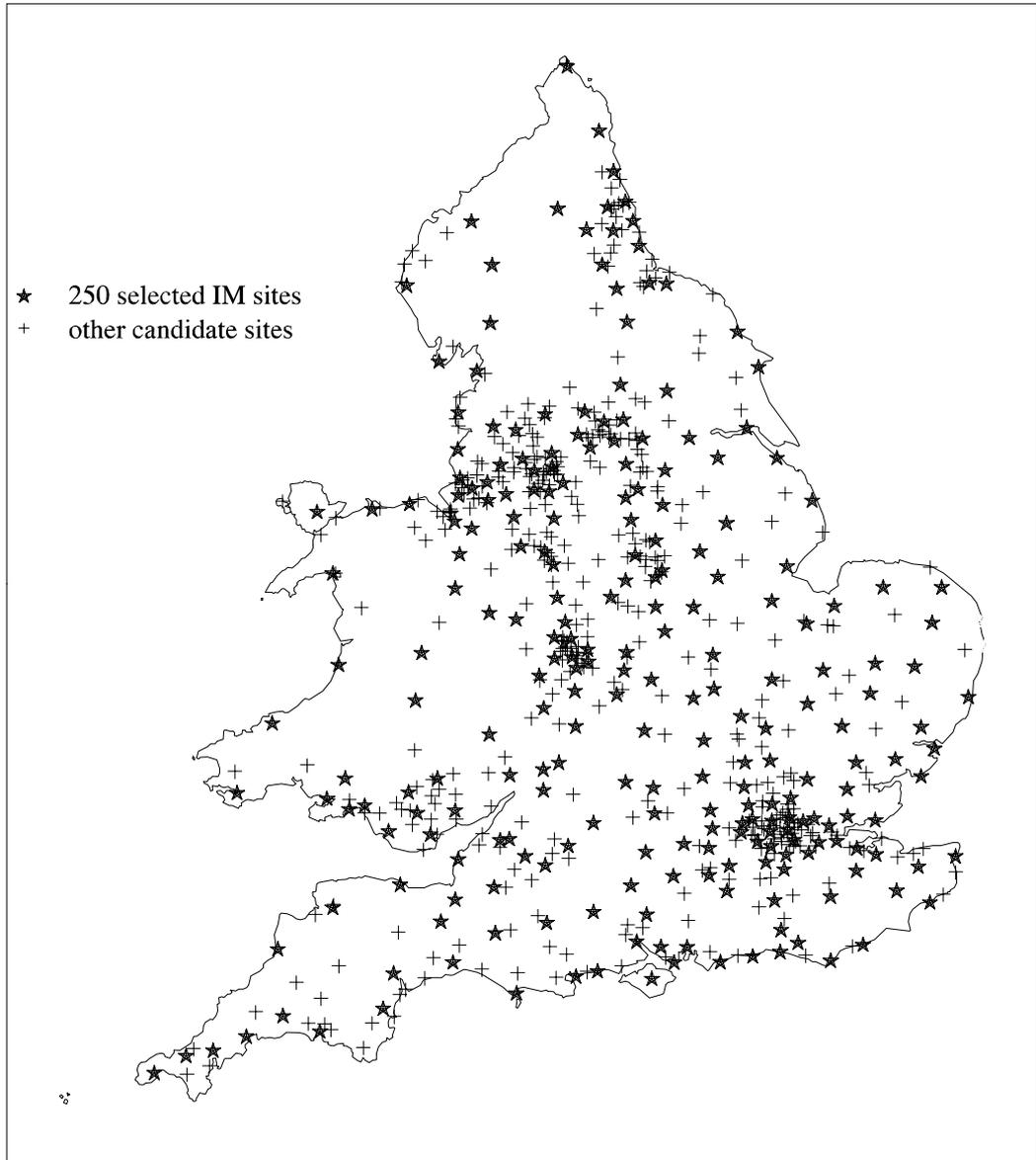


Figure 31.7 Location of 250 sites

A method has been devised to use the distribution of jobs at workplaces to relocate any given proportion of those predicted to attend information meetings in each area. It should be noted that this relocation has been constrained in such a way as to ensure that the total demand in each court area remains constant. The reason for this constraint is simply that there is less economic activity in the north than the south: as a result, if the distribution of jobs were used to relocate the demand for information meetings *without* this constraint, one effect would be to transfer some of the north's predicted demand for information meetings to the south simply because jobs are more plentiful there. The aim here is purely to relocate some people from their homes to their places of work (notably from suburbs to city centres).

The remaining problem is that there is no definitive basis on which to decide what proportion of the demand should be relocated in this way. The approach taken here is that it is probably *most* important to estimate the level of sensitivity of the results presented so far to the assumption that everyone attending information meetings travelled from home. This sensitivity analysis is carried out by selecting a range of alternative assumptions and then monitoring the size of the effect on the results. Figure 31.8 provides this sensitivity test, comparing the results of the analysis on the original basis (i.e. 100% travelling from home, 0% relocated on the basis of the distribution of jobs) with four alternative runs of the location-allocation model (e.g. a '50:50' option in which half the demand in each Court Area has been relocated as described above). Because town and city centres are usually the optimal locations for information meetings *whether or not* people are mostly travelling from the suburbs, the locations of the selected sites tend not to change very greatly between the different alternative runs. At the same time, Figure 31.8 shows that slightly fewer people will have to travel longer distances for options in which a proportion of the people are travelling 'as if from work', because on this basis more of them start their journeys in or near those town and city centres.

Figure 31.9 shows the location of sites, chosen by any of these five options, in the North East region. Sites shown by a circled star were selected by all of the above five options; those shown as just a star were selected by three or four options; those shown simply by a cross were selected by only one or two options. Given that the main spatial difference between the options is that the new alternatives assume that more people start their journeys in or near city centres, it is not surprising that the areas with the most instability are mostly in and around the larger cities. Even so, the effect in several cases is simply to shift a site a mile or two, helped by the fact that quite a large number of the 647 candidate sites are often just a short distance away from each other in the major cities. Inevitably it is the London area which shows the highest level of instability, although in practice very many of the changes there are simply shifting the selected site just a mile or two across the conurbation.

It would be possible to choose one of these alternative sets of sites as the single most satisfactory option but, as already stated, there is no clear basis on which to choose one preferred option. The approach adopted here instead is to use the 'scores' as shown on Figure 31.9 (i.e. the number of times any site appeared among the five alternative sets of 250 sites) and to designate as robustly-defined sites those which score 3 or more. A set of 249 sites is identified on this basis (i.e. these sites all featured in the majority of the sets of sites identified on the basis of the 5 alternatives reported in Figure 31.8). Annexe 13 lists these 249 sites – with the predicted level of attendance at each – and these locations can be seen as the *central case* set of sites emerging from the analyses here.

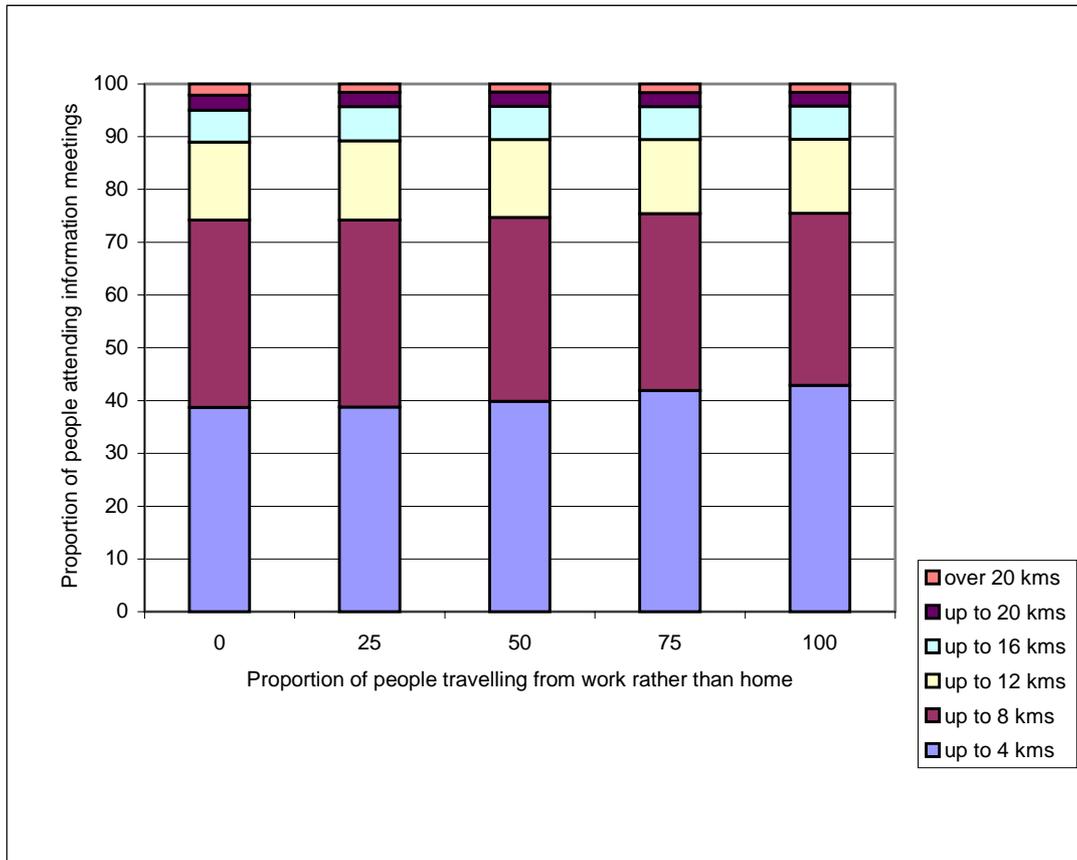


Figure 31.8 Accessibility of sites (varying the proportion of people not travelling from home)

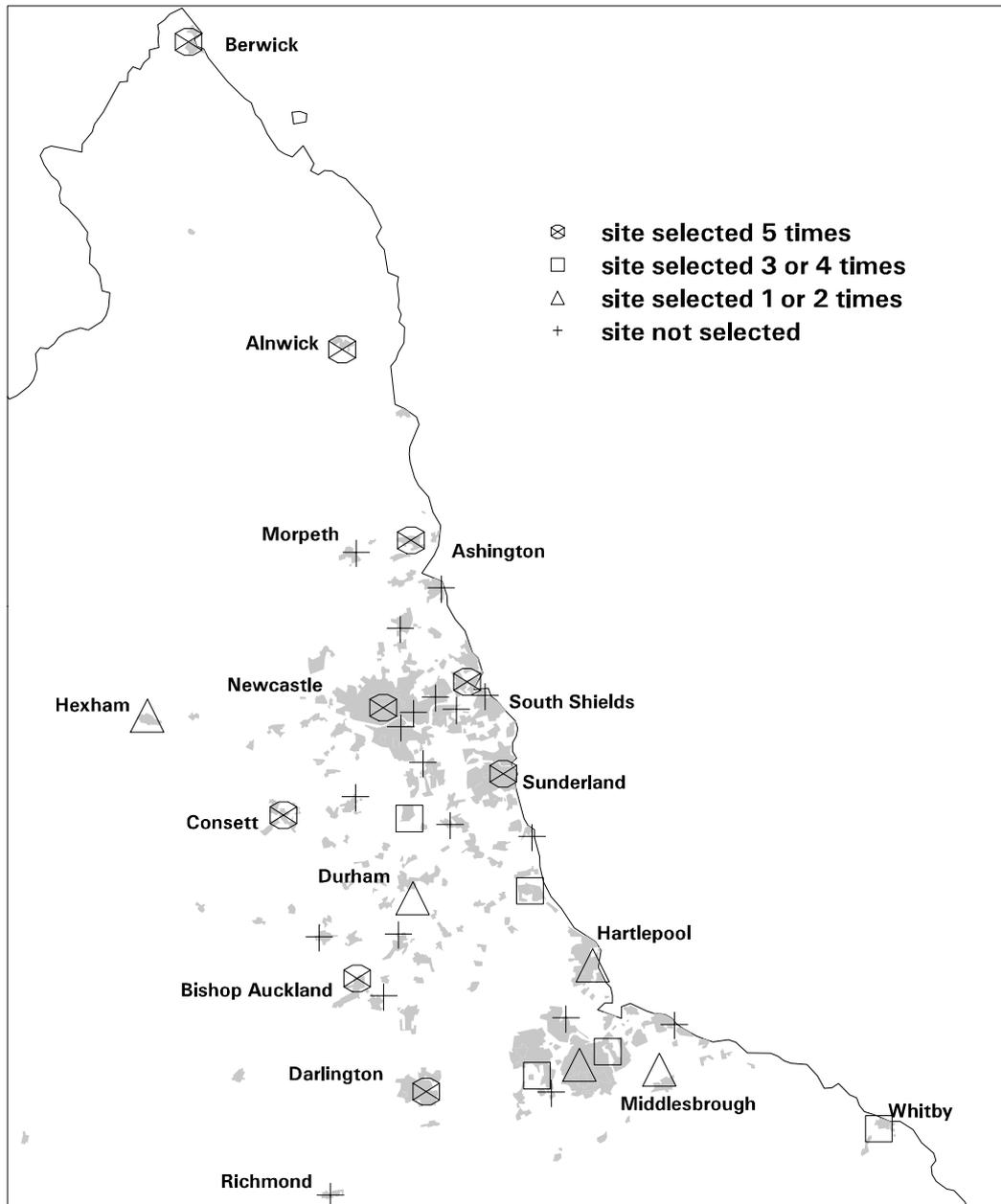


Figure 31.9 Site identification in North East England (varying the proportion of people not travelling from home)

The results of a final¹³ set of analyses which compare the accessibility of sites defined by the analyses here against the accessibility of selected relevant¹⁴ existing networks of service locations are shown in Figure 31.10. Figure 31.11 shows the location of 101 mediation service sites – listed by the UK College of Family Mediators – which provide one such ‘benchmark’ set of existing service locations. The relevant comparison is between the accessibility of these 101 sites, on the one hand, and, on the other, that of 100 sites selected as suitable for information meetings by the location-allocation model. Figure 31.10 shows that nearly 20 per cent of people live within 4 km of at least one of the 100 information meeting sites, and a very similar proportion live within 4 km of the 101 mediator locations. However, substantially fewer people live within the next two distance bands from the mediator locations: the 100 information meeting sites find approximately 45 per cent living within 8 km (5 miles) and 80 per cent within 16 km (10 miles), whereas the equivalent figures are less than 35 per cent and 65 per cent for the mediator locations. Hence the 100 information meeting sites which were selected by the location-allocation model – out of the 647 plausible sites – provide a substantially more accessible set than do those of the comparable number of mediator locations.

An accessibility analysis of 351 locations where marriage support services may be found (Figure 31.10) provides information which is relevant to the FLA’s provision for meetings with marriage counsellors. The list of organisations covered by this analysis was taken from the Department’s internet site. Some of the larger organisations (notably Relate and Marriage Care) each provide services at networks of 100 or more locations, and each of these locations has been included in this analysis. At the other end of the spectrum, many of the organisations operate from a single location. Figure 31.11 shows that the combined set of 351 locations includes considerable localised duplication – particularly in inner London – but this is unsurprising because it is a compilation of different organisations’ networks, many of which are likely to include their own site in each of the main urban centres across the country. Figure 31.10 confirms the accessibility analysis finds that this combined set of sites is noticeably less accessible than the 325 sites which were identified by the location-allocation model as providing a comparator.

Figure 31.10 also provides a similar accessibility comparison between the network of divorce courts and a set of slightly fewer sites selected by the location-allocation model, as well as equivalent comparative analyses of the networks of Benefit Offices and of commuting foci which were part of the analysis to identify candidate information meeting sites earlier in this chapter. In each of these three separate comparisons, there is little difference in the proportion of people who have to travel less than 4 km, but the location-allocation model has consistently defined networks of sites which would cause fewer people to travel long distances. Taken together, these comparative analyses give a substantial degree of reassurance that the 249 sites identified here on the basis of the location-allocation analyses are likely to prove *at least* as ‘fit for purpose’ a set of sites as these

¹³ A wide range of mapping and modelling analyses have been undertaken: those reported in this chapter *either* form part of the analysis sequence building up to identifying the central case set of suitable information meeting sites *or* provide ‘benchmarks’ against which the main results may be compared.

¹⁴ Among other potentially relevant services the Counselling in Primary Care Trust has not been included in the analyses here. The reason for its omission is simply that the Trust has a membership of several thousand counsellors distributed right across the country, and so an accessibility analysis is not particularly relevant because – as with solicitors – it may be assumed that the vast majority of people would be able to find a counsellor nearby.

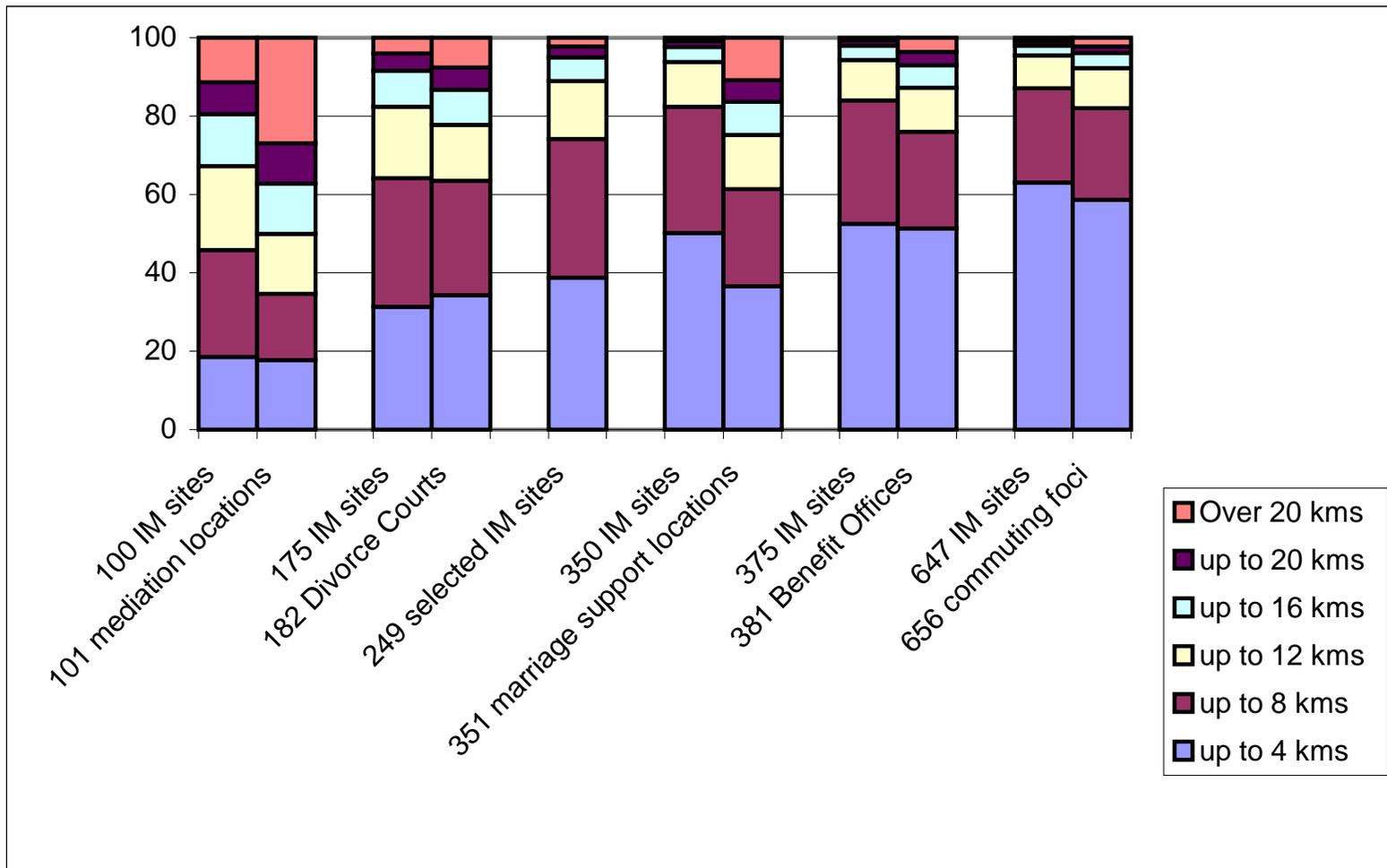


Figure 31.10 Accessibility of selected existing services and similar numbers of potential information meeting sites

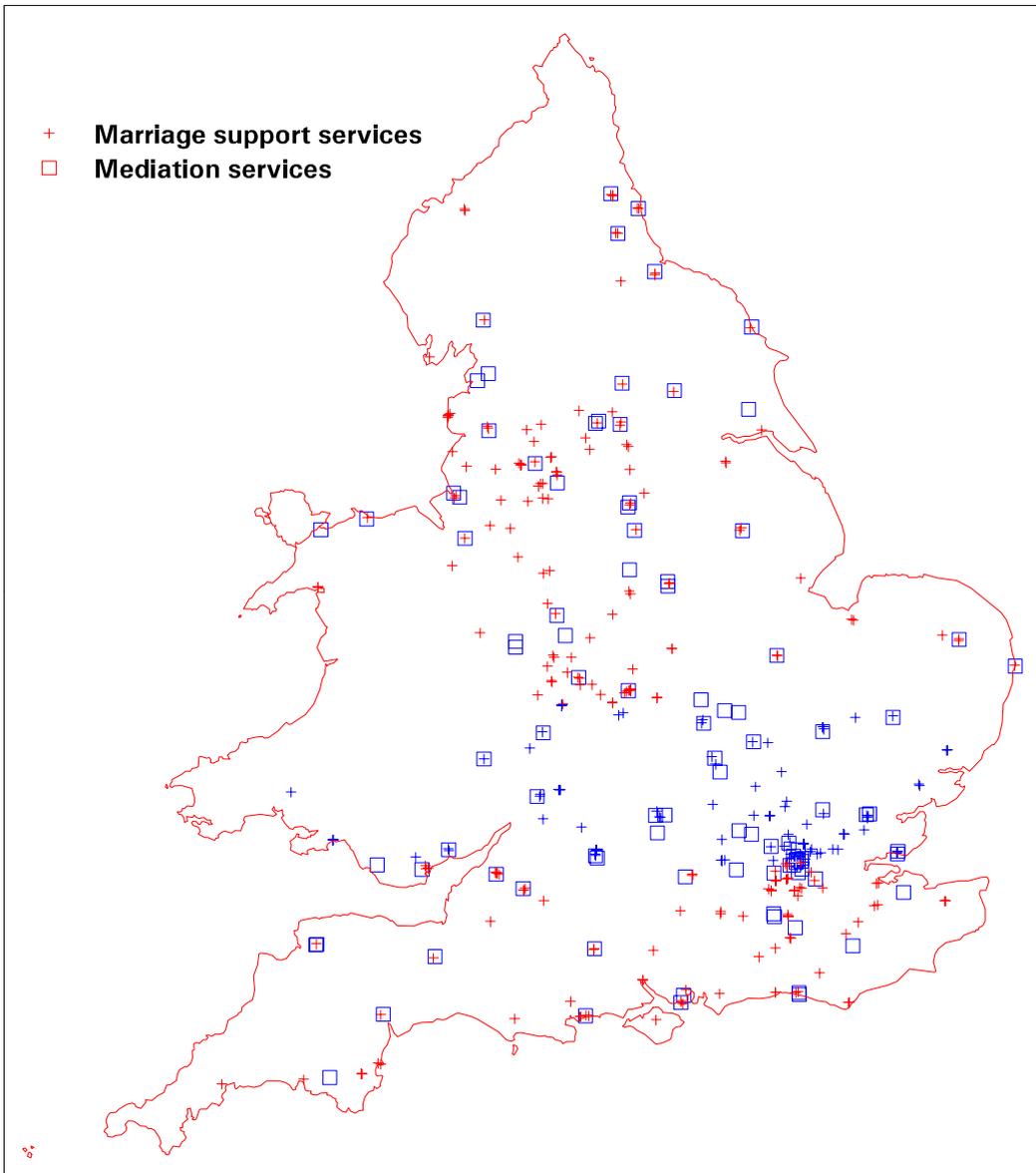


Figure 31.11 Location of mediation services and marriage support services

existing networks of sites (whose level of accessibility appears to be broadly acceptable to the public).

The conclusion which is drawn here is that the site identification *method* which has been developed and applied has indeed proved able to identify appropriate networks of sites. This is not necessarily to argue that the set of 249 sites (listed in Annexe 13) is definitely the best possible network of sites for information meeting provision. The reason for stressing that there is not a single ‘best possible’ recommendation is that research seeks to answer questions which are popularly phrased ‘What if ...?’ More formally put, the results from the analyses are predicated on a specific set of hypotheses and assumptions. Thus the modelling is designed to allow different scenarios to be explored and, as a result, to assess the sensitivity of the results to changes in certain key assumptions. Figure 31.6 provided one illustration of this sensitivity testing, but many other permutations have been explored as an essential element of building up the *central case* which has been described here. One consequence of this approach to the research is that these modelling and analysis systems, and the unique collection of databases, would allow other possibilities or assumptions to be explored should the requirements of the Lord Chancellor’s Department evolve in future.

Chapter 32

The Views of Professionals

Peter McCarthy and John Kain

The Act and its consequential trends and philosophies ... will require in some respects quite different forms of practice and/or practising ... willingness and ability to change, along with ability to perceive the trends, will be essential ...

No one profession will be 'top dog' but instead there will be a working together of several professions for the overall benefit of the client.¹

The Family Law Act requires many changes in the practice of law, and seeks to promote greater interdisciplinary co-operation among those professions who work with individuals, couples and families facing the breakdown of marital relationships. Not all practitioners in the field have felt positive about the changes heralded by the FLA, however. What might be considered a brave new world for counsellors and mediators, for example, may appear to threaten the time-honoured procedures and practices of those who have acted as gatekeepers to the legal process of divorce, namely solicitors.² In this chapter we review the responses of the various divorce-associated professionals to the changes envisaged by the FLA.

The Government's Green Paper

Consultation with professionals about the introduction into the divorce process of compulsory information meetings initially took place following publication of the Green Paper. As we noted in Chapter 2, the Green Paper proposed an 'initial interview', rather than a meeting or a presentation. This interview would take place 'at the time the divorce process is initiated', and would be used primarily 'to explain the advantages of mediation and how it might work'. It was proposed that information would also be provided on marriage guidance, and attendees would be given an information pack that dealt with other issues. They would be advised on the respective costs of services, informed how they might proceed on their own and, if necessary, helped to make contact with marriage guidance organisations and other professionals.

Responses to the Green Paper, which were analysed by Sir Wilfred Bourne KCB QC,³ indicated considerable confusion as to what the interview would consist of, how it would be conducted and who the interviewer would be. Summing up general views about the proposed interview, Bourne suggested that most consultants favoured:

¹ Bishop, G., Hodson, D., Raeside, D., Robinson, R. and Smallacombe, R., *Divorce Reform: A Guide for Lawyers and Mediators*, FL Law and Tax (1996), pp. 227, 236.

² Walker, J., *Divorce Law Reform: A Brave New World for Relate?*, University of Newcastle upon Tyne (1995).

³ Sir Wilfrid Bourne KCB QC, 'Looking to the future: analysis of consultation' (July 1994).

- a) the provision of more widely available basic information from a variety of approved sources;
- b) an optional personal interview with an experienced person capable of explaining the options and of steering the party in the appropriate direction;
- c) the use, for this purpose, of existing facilities rather than the creation of a new independent organisation.⁴

To a large extent, the second of the above proposals is nearest to the information provision tested in some of the pilots. Information presenters endeavoured, within limits, to explain the options available but cannot be said to have steered 'the party in an appropriate direction'. Although the meeting was optional in the pilots, if Part II of the Family Law Act were to be implemented it clearly would not be.

Most of those who responded to the consultation expressed the opinion that an initial personal interview, conducted by a suitably qualified interviewer, would increase the chances of mediation being chosen as a means of resolving disputes. Concerns were expressed, however, that an interviewer might be inclined to 'recommend' mediation when it was not appropriate, and/or 'suppress the option of independent legal advice'. We would suggest that such concerns remained paramount during the operation of the pilots, with the result that the message about mediation was not as forceful as some people may have wished.

Consultants differed regarding the level of skills they felt an interviewer would require, although Bourne suggested that

the consensus is that, if the initial interviewer is to do more than convey basic factual information, he [*sic*] will need to have considerable experience and a wide range of skills.⁵

The feeling among consultants was that a high degree of legal knowledge would be required even if the interviewer's role did not go beyond explanation, since

many of the matters which will need explaining will be complex and technical, and many of the 'clients' are likely to be ill informed and in a state of confusion.⁶

The evidence from the consultation exercise indicated that the information provided would need to cover a wide range of subjects. In the view of consultants, written information would be unlikely to be of value, unless accompanied by an oral explanation. It was also felt that 'abstract' information, particularly about legal matters, would be unlikely to satisfy the needs of parties.

⁴ *ibid.*, p. 62.

⁵ *ibid.*, p. 64.

⁶ *ibid.*, p. 64.

Consultants did not tend to favour the establishment of a new independent organisation to provide information interviews. Bourne set out the main arguments against this as follows:

- a) a new organisation would have to be centrally financed and would become bureaucratic and answerable to the government rather than to the clients;
- b) it would be very expensive; apart from the logistics of accommodation, secretarial help, telephones etc., any system involving a personal interview would require highly trained, and therefore well-paid, staff;
- c) since the necessary facilities and expertise were already in existence it would be better to make use of them;
- d) if uniformity of standards is required, it can be achieved by an ‘umbrella’ organisation to which existing agencies can be accredited;
- e) needs differ so greatly that no one organisation could cover the whole field.⁷

One consultant suggested that the result of the Law Commission’s recommendations would be to make divorce (as distinct from ancillary issues) an administrative process rather than a judicial one. He argued that divorce should, therefore, come under the jurisdiction of the Registry of Births, Deaths and Marriages – an organisation with a network of offices and professional staff who are used to handling detailed paperwork – and that the initial interviewer should be the local registrar, or a member of his staff. This would apparently have the advantage that information provision would be wholly independent of any agency that might be involved in subsequent proceedings. Only one consultant promoted such an expansion of the role of registrars. The suggestion is consistent, however, with more recent government proposals about ‘registrars providing more information and support to couples’.⁸

The Green Paper questionnaire

The Lord Chancellor’s Department distributed questionnaires with the Green Paper, and 492 of these were completed, returned and analysed by MORI.⁹ Three-quarters of questionnaire respondents indicated support for a single port of call for everyone wishing to initiate the divorce process and 68 per cent took the view that a single port of call should include a personal interview. When those in favour of a personal interview were asked what kinds of information should be offered the suggestions were as follows:

- marriage guidance (93 per cent of respondents)
- mediation (95 per cent)
- divorce law (86 per cent)
- divorce procedure (83 per cent)

⁷ *ibid.*, p. 58.

⁸ *Supporting Families: A Consultation Document*, Home Office (1998).

⁹ ‘Looking to the future: analysis of questionnaires’, consultation paper part 2 (July 1994).

- welfare and tax matters (78 per cent)
- other information (27 per cent)

Three-quarters of those in favour of a personal interview felt that the information ought to be provided in a single package, while 38 per cent suggested leaflets should be used and 44 per cent a video.

Sixty-six respondents sent detailed qualitative responses to the consultation document. One of these argued that the information meeting was crucial but warned that funding would have to be set at a realistic level 'to ensure that the benefits of the port of call are maximised'. Another suggested that the interview should involve both parties wherever it was possible to do so. One respondent felt that the person conducting the interview would be unlikely to know 'which agency would provide the most appropriate assistance to the parties' unless the interview were 'conducted in sufficient depth and with both parties'.

Survey of lawyers

We conducted a survey on behalf of the Law Society in June 1994.¹⁰ Consultation was very much part of this exercise. We used the survey to discover lawyers' feelings about some of the essential proposals. Fewer than half of the 344 solicitors who responded to the survey said they were in favour of the introduction of a first port of call at which an information interview would take place. One of the essential areas of concern among those who were not in favour focused on the question of who would be providing the information. Most of those who raised this concern made it clear that in their view the 'interviewers' ought to be lawyers, or if not, 'properly qualified, properly trained and properly remunerated personnel'. One lawyer said:

Provision of information at a one-stop port of call cannot be separated from the need for legal advice. Therefore, if there is to be information at a one stop port of call it should be from a family lawyer.

Another expressed the view that

unless [the interviewers] are fully qualified staff, who will be paid for properly to mediate and advise, it could be a very expensive disaster.

One lawyer described the proposal as simply a 'cheap, shabby, quick fix idea', while another expressed concern that the Lord Chancellor may have had a hidden agenda:

I would expect that the Lord Chancellor's hidden agenda is to provide a one-stop civil service administered bureau – not a full legal service provided by committed qualified lawyers.

Others simply thought it unlikely that one-stop would be adequate:

Frequently clients are not able to take in all the information at one go.

¹⁰ McCarthy, P., 'Mediation in divorce: are lawyers needed?', in *New Methods of Delivering Legal Services: Proceedings from the Annual Research Conference 1996*, The Law Society (1996), pp. 8–13.

The parties require more than one session to be sure that they would wish to proceed. It is not right to have one meeting and expect the general public to fully understand the legal principles straightaway.

The view was also expressed that the notion of a single port of call indicated a failure to understand the complexity of divorce:

The circumstances of marriage breakdown and the needs of any spouse for advice and assistance (about the legal aspects and otherwise) are so varied that no single person or agency can hope to cover all areas of expertise which may be required.

Invariably the first questions are who gets the house? How will I manage financially? The answers depend on the facts subject to evaluation. 'One stop' answers are as likely to ferment discord as not.

Consequently, some lawyers felt that 'several ports of call may give better information' and also that a single port of call could result in conflicts of interest.

Concerns were raised about how the information interview would be financed, with the view being expressed that 'it is pointless to think it would be adequately funded'. One lawyer suggested that it was 'simply a money saving exercise by the Lord Chancellor' which could have dire consequences for those unable to meet the full costs of obtaining independent legal advice. Such concerns were also behind the following comment:

The inherent anxiety shared by a large number of family lawyers in my area is that the Government's proposals are designed ultimately to reduce the legal aid bill in matrimonial cases, restrict a solicitor's role in matrimonial disputes and make access to a lawyer to all but the wealthy virtually unattainable.

Most lawyers expressed the view that independent advice – described by one lawyer as 'the cornerstone of justice' – is best provided by 'properly trained and qualified legal practitioners'. One lawyer in particular felt that the notion of a one-stop port of call did not give due recognition to the distinction between information and advice, and suggested that

information on its own is not always of much use to clients. They need guidance on how to use the information.

One might ask whether such guidance necessarily constitutes advice, especially whether it constitutes legal advice, but it is clear that lawyers think they are an important first port of call because they are able to advise their clients. Such a view is prominent in the following comment, which is representative in a number of ways of the views of lawyers who had doubts at the time about the value of information meetings:

There should not be any independent organisation created for the purpose of providing an initial interview. Those contemplating divorce should not be restricted (either directly or indirectly by being denied legal aid) in their decision as to where they should turn first for advice and assistance. Wherever a person goes, all professionals should be under a positive duty to make sure that he/she knows and understands all the options, including marriage guidance and mediation. There is no need for an independent organisation to be established at vast cost. While clients may benefit from the information

made available, they would invariably still require legal advice to suit their individual circumstances. Legal advice can only be given by lawyers. Divorce is a legal process and this must be recognised. If a party contemplating divorce is assisted at initial interview with information and advice on how best to proceed, this can only be done effectively if the assessment takes into account legal issues. Family lawyers are the best people to provide the service.

Beyond the Green Paper

The notion of an interview as proposed in the Green Paper has since been considerably modified. The pilots offered scripted one-to-one meetings, group presentations and meetings at which information was provided via a CD-ROM. Neither of these latter two ways of providing information can feasibly be described as an 'interview', which involves more of a dialogue than has thus far been possible. The change in emphasis is likely to be due, in part, to the fact that the White Paper dropped the notion of an interview in favour of a proposal that people contemplating divorce would attend a group presentation, a suggestion that led to further resistance, especially from the legal profession. The Law Society, for instance, argued that attending group sessions could be 'humiliating, intrusive and intimidating':

The thought of the sessions might be so frightening for some people that they may not attend. As the sessions may well be a precursor to launching an application for a divorce, individuals in the group will know that everyone else in the group is contemplating a divorce but have not yet taken the semi-public step of launching an application for divorce. The lack of respect for confidentiality and privacy inherent in this and the public knowledge or threat of it which will follow will be difficult for all individuals to cope with. It will operate particularly harshly where individuals are well known or where they live in small communities where interest in divorces is often intense.¹¹

Although the proposal for a group meeting was amended in Parliament, and the Act prescribes a one-to-one meeting, group presentations have been tested in all the pilots except those carried out in Merseyside and Solent, which offered the Model E CD-ROM. Moreover, the consultative document *Supporting Families*¹² raised the possibility of a second information meeting that would consist of a group presentation for parents. Consequently, although group meetings are not part of the Act it is clear that they have never been totally off the agenda.

Survey of mediators

After publication of the White Paper we conducted a survey of mediators affiliated to the Family Mediators Association.¹³ Respondents consisted of both lawyers and non-lawyer mediators. Responses suggested that there continued to be substantial opposition to the information meeting proposal, especially among lawyers. Seventy per cent of the 100 non-lawyer mediators supported the proposal, but only 29 per cent of the 116 lawyers who responded did so. It would seem, however, that much of the opposition that existed at this

¹¹ *Fairness for Families, The Law Society's Blueprint for Resolving Disputes on Family Breakdown*, The Law Society (August 1995), para. 4.18b.

¹² *Supporting Families* (1998), *op. cit.*

¹³ McCarthy (1996), *op. cit.*

time related to the way in which the proposals had developed between the Green Paper and the White Paper. In particular, there was significant criticism of the notion of a public information session (or group presentation). Some of the objectors felt, as did the Law Society, that the requirement to attend a group meeting might be humiliating:

A public information-dissemination session would cause great embarrassment and make confidentiality very difficult, especially in small towns where everyone knows everybody else's business. (lawyer)

The information process is likely to be a waste of time and money. Are they really going to attend together like a class of schoolchildren? What about confidentiality at these meetings? There must be a more adult way of treating people and making sure they are aware of the options. (lawyer)

The present plans for people seeking divorce to be herded together in one room and shown a video are impractical and will provide minimal benefit. People will be embarrassed to have to show their divorce so publicly. There will be a risk of violence to some who attend such a public meeting. It will be a pointless and unnecessary indignity for most seeking divorce. (lawyer)

As the above comment suggests, it was felt that public information sessions would expose some people to undue risk of violence, but a number of comments were made, such as the following, which erroneously assumed that couples would be expected to attend a meeting together:

I am extremely concerned as to what is to happen where breakdown is due to violence and abuse. I am horrified that couples might be obliged to attend together. I am also very concerned about the logistics for women on income support in rural areas who are dependent on expensive public transport for getting to the one-stop centre. (lawyer)

Many of these concerns, however, arose simply from basic lack of confidence in a one-stop procedure being appropriate to the information needs of divorcing people:

Information is only valid to an individual in a way they can understand and utilise. A one-stop port of call is far too blunt and public an approach. Information in divorce and ancillaries is often an evolving and ongoing process. (mediator)

The compulsory provision of information is patronising and – as apparently planned by the government – is not a one-to-one provision of information, but a mass indoctrination session. (lawyer)

Some were sceptical as to whether the presenters would have the necessary knowledge and skills to provide appropriate advice:

I sincerely doubt the ability of the person giving the advice. Having worked in this area for 20 years, experience is needed to understand what a party needs regardless of what they may be saying. (lawyer)

Concerns were expressed that individual interests would suffer through the establishment of a state bureaucracy that would be unable to deliver a quality service:

I fail to see how this could work. It will be bureaucratic, pandering to the masses. And therefore missing the needs of the majority. Unless dealt with very sensitively it will be of no benefit. There is also a concern that if proceedings are delayed by a party not attending an appointment ... delay and more distress will be caused. (lawyer)

Impossible to maintain a quality service on a national scale. Just an extra level of bureaucracy. (lawyer)

My experience of government initiatives in family matters is such that I doubt such a scheme would be properly funded, appropriately administered, or suitable for all. (lawyer)

Several respondents argued that any system for advice giving should provide divorcing people with the freedom to choose where to go, and be sufficiently flexible to cater for different needs and circumstances:

When people first seek advice it can be for all sorts of reasons or situations ... a one-stop response is limited in its application. (lawyer)

There needs to be a range of services to reflect different issues, desires and methods of intervention. (mediator)

People who are divorcing need every bit of advice, information and support that can be mustered. They should be allowed choice. They may trust only certain agencies. (mediator)

I think information needs to be gathered as and when the couple need it and from the sources they feel will benefit them best at various stages. I think this is all part of the 'ending' process. (mediator)

Lawyers, in particular, felt that they were the most appropriate people to provide the information required:

We already provide such a service without the need to spend vast amounts of public money (cf. CSA) on yet another government agency.

Unless this includes any solicitors office that specialises or is on a panel of family law solicitors it is not appropriate.

I think all agencies e.g. lawyers, CABs etc. should be required to provide standardised information, but not a group session or a structure designed to herd people into mediation.

This would be such an enormous job that I consider it totally impracticable. It should be made known to divorcing couples that they can obtain similar advice as to the range of options to deal with their situation from a number of sources, and they can select how to approach this. There is some argument for saying that the legal proceedings option can only be properly advised upon by lawyers.

On the other hand, one mediator had very different concerns:

I am concerned that this might be controlled by the legal profession.

Some lawyers construed the difficulties as arising from the confusion of information and advice:

The difficulty of a one-stop port of call is differentiating between information and advice. Couples do not acknowledge this distinction, as is frequently seen with litigants in person before the judge, where to inform one party can be seen by the other as taking sides.

The one-stop port of call has always seemed to me to be a misguided idea. I do not believe that it is possible to provide information without giving advice, or if one does, that information is likely to be useless. The idea of sessions which numbers of people attend seems bizarre and likely to be resented. Videos explaining the benefits of mediation and the perils of litigation should certainly be funded by the government and made available. This government wants to remove lawyers from the process, which is the idea that generates the first port of call. This is insulting to lawyers and if the first port of call is to be with non-lawyers will lead to huge and pointless expense.

One solicitor objected to the Government's proposals on advice giving and made an alternative suggestion:

I believe that in practice this will cause difficulties in that many clients will object to the compulsory nature of attendance. It would be better to educate and encourage individuals to use such services by at least an initial ... subsidy and making legal aid available until the ideas have been incorporated into the 'collective consciousness' of the public.

Continuing Consultation

The debate about information meetings focused first on the proposed provision of an initial interview, and then on group presentations; and both proposals were more likely to be welcomed by mediators than by lawyers. The compromise in the FLA is a one-to-one meeting, and the one-to-one meetings that were tested during the pilots were too prescriptive to be described as an interview. The CD-ROM meetings were clearly not an interview, although they did constitute a meeting within the terms of the Act. The group presentations that were piloted were clearly not within the remit of the Act. Consequently, there continues to be uncertainty among professionals about how information meetings will ultimately be conducted. There have been suggestions, for instance, that meetings will be conducted by 'trained counsellors',¹⁴ although the LCD has consistently pointed out that the meetings are purely for provision of information and that presenters have been instructed that they must *not* provide either counselling or advice.

Since the format of information meetings has constantly been under development, with various models of information provision being tested, it has been important to ensure ongoing consultation, and this has been an important aspect of the pilots and of the research. There have been three phases to the consultation:

¹⁴ *The Times* (6 October 1998).

1. A survey of professionals in attendance at a consultation briefing.
2. A follow-up survey of lawyers and people from divorce-associated professions.
3. A survey about the information packs.

Phase One: Survey of Professionals in Attendance at Consultation Briefings

One of the responsibilities of the pilot managers was to provide consultation briefings for groups of professionals, the aims of which were to explain the purpose of information meetings and how they would be practised within the pilot area, and to encourage professionals to support the pilot and refer their clients. We used the consultation briefings to find out how much professionals knew about information meetings and to obtain their opinions of the materials being used (the information leaflets and, where appropriate, the video and the CD-ROM). We were also concerned to hear professionals' views about the likely impact of information meetings. A report on the consultation conducted during the first five pilots was included in our Second Interim Evaluation Report.¹⁵

A total of 1,195 people attended consultation briefings and completed our questionnaires. Of these 586 were drawn from legal professions (solicitors, barristers, judges), 222 were involved in divorce-associated professions (counsellors, mediators, family court welfare officers) and 387 were involved in other professions not directly related to marriage and divorce. Those drawn from what we defined as other professions included social workers, probation officers, housing managers, personnel managers, psychologists, health service managers, engineers, doctors, civil servants, health visitors and members of the clergy.

Most of those who attended consultation briefings indicated that they knew little about how information meetings were being conducted beforehand. Most, however, indicated that they were much better informed afterwards. After attending a consultation briefing, 65 per cent indicated that they knew 'a lot' about how the information was presented while 33 per cent said they knew 'a little'. Before the meeting, however, only 9 per cent had known a lot, while 39 per cent claimed to know a little, 25 per cent knew 'not much' and the rest apparently knew nothing at all. Thus, as Table 32.1 demonstrates, the briefings performed an important function in informing professionals about how the pilots were being conducted, and 80 per cent of the people who went to a briefing indicated that they knew more as a result. Two lawyers and two divorce-associated professionals, however, apparently knew nothing, or not much, before the briefing and still knew nothing afterwards. Three 'other professionals' thought they knew a lot beforehand but indicated afterwards that they knew 'not much'.

¹⁵ McCarthy, P. and Kain, J., 'Consulting the professionals', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998).

Table 32.1 Professionals' knowledge about information meetings before and after the consultation briefing

How much professionals knew before briefing	How much professionals knew after the briefing				total (100%)
	<i>a lot</i> %	<i>a little</i> %	<i>not much</i> %	<i>nothing</i> %	
A lot	95.3	2.8	1.9	0	107
A little	73.7	25.5	0.9	0	463
Not much	57.2	42.1	0.3	0.3	299
Nothing	49.8	46.7	2.9	0.6	315
All respondents	65.1	33.3	1.4	0.3	1,184

Only 14 per cent of those who attended a consultation briefing had referred anyone to an information meeting before going to a briefing. Afterwards, 54 per cent indicated they would now be much more likely to refer people to a meeting, and 33 per cent said they were now a little more likely to refer. Ten per cent indicated that attending the meeting had made no difference to their likelihood of making referrals. It seems the meeting had least impact on lawyers' propensity to refer (Table 32.2). Almost one in five lawyers indicated that the briefing had made no difference to their likelihood of making referrals. Moreover, only 36 per cent of lawyers indicated that they were much more likely to refer, as against 64 per cent of both divorce-associated and other professionals.

Table 32.2 Likelihood of referring people after attending the consultation briefing

How much more likely to refer	Legal professionals	Divorce-associated professionals	Other professionals	All respondents
	%	%	%	%
Much more	36.4	63.6	63.6	54.1
A little more	41.5	24.8	28.3	32.1
Less	3.0	1.2	2.2	2.2
Much less	0	1.2	1.1	0.7
Made no difference	19.1	9.1	4.8	10.8
Total (100%)	236	165	272	673

Chi-squared = 59.84; $p < .001$.

Reluctance to make referrals appears to be connected with negative feelings towards information meetings in general, or towards the particular type of meeting on offer. Those who were not persuaded to make referrals tended to continue being negative towards the idea of information meetings. Lawyers, in particular, tended to feel that people going to information meetings were not getting anything they could not have got by consulting a solicitor. As Table 32.3 shows, 46 per cent of respondents from the legal profession, as against only 3 per cent from divorce-associated professions, felt that lawyers already adequately met the need for information. On the other hand, not all members of the legal profession are convinced that they are offering an adequate information service, and three

in ten disagreed with the proposition that lawyers adequately met the need for information.

Table 32.3 Responses to the statement that the need for information is already adequately provided for by lawyers

	Legal professional	Divorce-associated professional	Other professional	All respondents
	%	%	%	%
Strongly agree	12.4	0.5	1.1	6.7
Agree	34.3	2.8	5.6	19.5
Neutral	23.8	11.5	21.0	20.6
Disagree	26.9	54.8	56.9	41.4
Strongly disagree	2.8	30.4	15.4	11.9
Total (100%)	581	217	357	1,155

Chi-squared = 36.78; $p < .001$.

The following comments were typical of those made by lawyers who were unconvinced by what information meetings appeared to offer:

By the time a client is seen they have either already decided the marriage is over, or the spouse has left and [is] living with another person, and it is then pointless to give information to try and save the marriage.

I do not think that clients will gain that much from the information meeting itself – save the leaflets, which would be useful – rather than information which they have obtained from their solicitor. Information meeting would be useful as a first stop for people if they do go there prior to seeing a lawyer. Otherwise I think they duplicate information.

I am very unhappy that the attendee is told they should attempt to resolve financial issues without legal advice first. This is advice, which the information meeting is not supposed to provide, and also the attendee is told they may obtain legal advice once agreement is reached and a court order may be made if they wish. They are not told that any agreement that is not put into a court order is not enforceable. I believe attendees should obtain legal advice or a settlement. I am concerned about the implications if they do not.

I don't believe it really assists anyone. Most people do not choose to end their marriage lightly. The information given has a propaganda feel and in my opinion will only result in more cohabitation and unended relationships.

On the other hand, some lawyers were reluctant to refer people to an information meeting because of how the information was provided. The following comments were made about the use of CD-ROMs:

I find the process very impersonal and find it difficult to imagine that this process via CD-ROM will assist a person who feels their relationship is breaking down, or has broken down.

Feels too complicated for clients to manage. One-to-one is probably more helpful. Computer not always personal enough.

I would only refer those clients that I felt would be able to cope with the ‘do it yourself’ style of the CD-ROM.

There was a feeling that the CD-ROM offered only general information that might not be appropriate to all users. This concern was similar to those relating to scripted individual meetings:

The CD is not tailored to the individual need of the client. Different clients have different needs and approaches. Impossible for a CD to suit every member of society. (legal professional)

Despite the lack of enthusiasm for information meetings that many lawyers demonstrated, most did not feel that providing information about divorce should be the exclusive province of lawyers. As Table 32.4 shows, only around a fifth of the legal professionals agreed with the statement that divorce information should be presented only by lawyers while more than half disagreed. Nevertheless, lawyers were more likely than divorce-associated and other professionals to agree with this statement.

Table 32.4 Responses to the statement that divorce information should only be presented by lawyers

	Legal professional	Divorce-associated professional	Other professional	All respondents
	%	%	%	%
Strongly agree	5.9	0.9	2.0	3.7
Agree	14.5	1.8	2.2	8.3
Neutral	27.5	3.2	11.2	17.9
Disagree	48.2	48.6	56.0	50.7
Strongly disagree	4.0	45.4	28.6	19.4
Total (100%)	581	218	357	1,156

Chi-squared = 299.32; $p < .001$.

The video

The showing of a video was a central element of the group presentations, and the videos used were shown at the consultation briefings in those areas in which group presentations were offered. Two different videos were used. The first was modified as a result of criticisms from various sources, including those raised by professionals who had been to consultation briefings. On the whole, people were positive about the first video, although

some pointed to problems. The main criticisms related to the way in which mediation was portrayed and the way in which the role of solicitors was presented.

When the second video was shown at later consultation briefings, divorce-associated professionals continued to be as positive as they were about the first video. Lawyers tended to be even less impressed by the second video, especially with regard to how well they felt it represented their own role. As Table 32.5 shows, 52 per cent of lawyers felt that the second video represented the role of lawyers poorly, and only 4 per cent felt it represented their role very well. Lawyers were more negative than others in this respect. Nevertheless, there would appear to be a consensus that the representation of the role of lawyers is the least satisfactory element of the video. In total, 46 per cent of respondents felt it dealt with the role of lawyers poorly, while only 8 per cent felt so negatively about the portrayal of mediation.

Table 32.5 Views about how well the second video portrayed the role of lawyers

	Legal professionals	Divorce-associated professionals	Other professionals	All respondents
	%	%	%	%
Very well	4.2	12.1	15.2	7.1
Fairly well	43.9	51.5	54.3	46.6
Poorly	51.9	36.4	30.4	46.3
Total (100%)	189	33	46	268

Chi-squared=13.16; $p < .001$.

There was far from complete satisfaction, however, concerning the portrayal of the impact of divorce on children in the second video. As Table 32.6 indicates, there were mixed feelings among the members of each professional category about the effectiveness of the video in this respect.

Table 32.6 Views about how well the second video portrayed the impact of divorce on children

	Legal professional	Divorce-associated professionals	Other professionals	All respondents
	%	%	%	%
Very well	16.4	8.8	28.3	17.5
Fairly well	54.5	61.8	52.2	55.0
Poorly	29.1	29.4	19.6	27.5
Total (100%)	189	34	46	269

Chi-squared = 6.28; $p = .179$.

Concerns were expressed also about the rather poor attempts to introduce a minority ethnic element into the clips of mediation, which had the unfortunate effect of reinforcing negative stereotypes.

The CD-ROM

Consultations about CD-ROM presentations were provided by the Solent and Merseyside pilots, and a total of 204 professionals attended them. Almost one in four (23%) of those who attended the consultation felt that the CD-ROM conveyed the necessary information very well, while 64 per cent felt it conveyed the information fairly well. Thirteen per cent, however, felt it conveyed the information poorly, and several negative comments were made about the CD-ROM. More than one in five (22%) of those who attended a CD-ROM demonstration felt it was too impersonal and not sufficiently responsive to individual requirements:

Too mechanical. Does not check people have understood what they have been told or that they are acting in their own interest. So called 'benefits' of counselling are totally overplayed. I can point to numerous cases where counselling has caused irreparable mental and financial harm. (legal professional)

The CD-ROM needs to be more specific. It seems to seek to provide information in a 'counselling' medium. Clients need specifics at this stage. (legal professional)

Impersonal, too much information, not interactive in any proper sense, inflexible. Conveys too much information that is untailored – patronising. (divorce-associated professional)

Twelve respondents made the suggestion that divorcing people were being patronised, while seventeen used the term 'condescending':

The narrative ... presumes people who view are stable, articulate and reasonable. Experience shows that by the time people reach the decision, or are considering separation/divorce, those factors are absent on many occasions. The discussion is pious, condescending and patronising, and didn't impress me. It may fail to meet the needs of a proportion of clients. (divorce-associated professional)

The tone of the speakers was quite patronising. The early conversations seemed to assume that the person has not already thought long and hard about divorce proceedings. (legal professional)

Around two-thirds of those who attended a CD-ROM demonstration suggested improvements. Their comments focused primarily on suggestions that the CD-ROM should be less patronising, more user-friendly and more focused on the individual. A few specific suggestions were made for making it more interesting:

If possible, I feel that it would help to use a 'child' on the CD-ROM particularly during the section on the effects of divorce on children. (other professional)

Have a different speaker for each section. (legal professional)

Better graphics design – very old-fashioned format. A less patronising tone needs to be adopted. (legal professional)

Use more people from different classes. Use interviews with real people. (legal professional)

The talking heads are in conflict with headings of information. It was difficult to listen closely, with headings appearing. Some role-play with voice over may make it easier to retain focus on specific issues. (other professional)

Have better music – it's a little irritating – feels a little condescending – but can see it is pitched at the correct level. (legal professional)

Some professionals expressed the view that the presentation could be improved by enhancing the facilitator's role:

The CD-ROM may remain the same, but be complemented by facilitators with a wider brief than at present. (legal professional)

May help if the CD-ROM is used in conjunction with a presenter and facilitators, so that the attendee can follow up other issues. (legal professional)

At a more general level, 42 per cent of respondents expressed the view that the CD-ROM is not an appropriate medium for conveying the information required. The most common reason for this view (expressed by 42 per cent of those who regarded the CD-ROM as inappropriate) was that the CD-ROM was too mechanical and impersonal. A third, however, felt that the CD-ROM would be off-putting to technophobes or people with learning difficulties, and a further 16 per cent felt the CD-ROM to be a medium that would not suit everybody:

What happens if a client clearly does not understand the content of the CD-ROM? To what extent can facilitators explain the implications of decisions made as a result of viewing the CD-ROM? (legal professional)

How can less 'competent' clients be 'informed'? (legal professional)

I feel they assume a level of literacy which is too high. (divorce-associated professional)

I have grave concerns about the ability of many members of the public with little or no legal knowledge to fully understand all the information. (legal professional)

Although the information is extremely helpful, it has an impersonal feel. The CD-ROM may well bring about technical difficulties, on top of the difficulties a marriage breakdown can bring. (legal professional)

OK for the computer literate. What about those who are not, and [are] instantly worried about the CD-ROM aspect, before even going to consider the breakdown. (legal professional)

Technology may intimidate and/or confuse some people. (legal professional)

Although few of those who attended a CD-ROM meeting had problems with the technology, some professionals felt that using a mouse would be much too difficult for some people:

A majority of people are not computer literate, and to expect them to use a mouse, however clear the instructions, will create an obstacle which will defeat the purpose. (legal professional)

Separation and divorce is a very difficult and stressful time for couples and I think having to use a mouse/computer will just add more stress to a stressful situation. (legal professional)

One lawyer suggested an alternative that involved making use of the computer keyboard:

Many technophobes will find it difficult to operate the mouse. Better to have key operations and put coloured slides on the keyboard if needed.

Two lawyers suggested that a CD-ROM might be inappropriate in some circumstances, particularly for older people:

Less suitable for older people with difficulty reading or deaf.

Older clients or illiterate clients may have difficulties.

For some, the problems related to the limited capacity of a CD-ROM to be responsive to individual needs:

Often parties upon the breakdown of a marriage benefit from talking face-to-face to another person, rather than being sat in front of a CD-ROM. (divorce-associated professional)

[I] believe that this information can be given to a client face-to-face by a solicitor so they can ask questions of the solicitor. (legal professional)

I feel the needs of each couple are so different – attention spans vary enormously – that such an impersonal approach is inappropriate. (other professional)

The parenting plan

Parenting plans were not available at the time the consultation briefings took place within the initial six pilot projects. Consequently, only 230 people actually got to see a parenting plan. Most of those who did so were positive about them, however. Ninety-two per cent felt they would be useful for divorcing parents and 80 per cent suggested that they would be useful to them in their professional role. The following comments may serve to reflect the feelings of most professionals about the parenting plan:

I was most impressed by the form. As a trained lawyer-mediator, I believe the plan would be invaluable, both in my solicitor's practice and, moreover, in my mediation practice. I make great use of a flip chart when going through parenting issues but it takes time. This plan would provide a shorter time to gain more information, and concentrate my clients' minds more. Please make it public. (legal professional)

Well designed, and eye catching. Lots of space for scribbling thoughts and ideas, as well as carefully thought out answers. (other professional)

Very clear, and helpful in focusing parents on the future. Helpful to parents who are agreed in principle. (divorce-associated professional)

This is a good, clear way of structuring decision making. (legal professional)

It could be a standard document for solicitors/mediators, and form a basis for all out-of-court child arrangements. Could also be used as a basis for court application if arrangements break down. (legal professional)

Good format. A good way of focusing the adults back on parenting and not battling. (divorce-associated professional)

The format is simple and more capable of digestion than the other leaflets. Clients may complete and agree one, but it raises important issues that are not always considered at the outset. (legal professional)

Despite the obvious enthusiasm for the parenting plan, some people expressed concerns:

Parents using the questionnaires alone could find them patronising and misunderstand certain questions or think them irrelevant. They could possibly raise more problems. (legal professional)

A glossy attempt to produce an all-embracing package, which will lead to formula use, i.e. mechanical processing without particular emphasis on the special problems of the couples and children involved. (legal professional)

I am encouraged by it. However, on the other hand, there is something about it that is unreal. It is somehow too good to be true and I can imagine parents throwing it at each other. (divorce-associated professional)

It may raise issues not considered initially, leading to possible disputes not already thought about. (divorce-associated professional)

I suspect it bears little relevance to most parents who have split up and are fighting over the children. (legal professional)

One lawyer was positive about the parenting plan, but questioned whether it was enough to enable parents to make appropriate arrangements for children:

Elizabeth Koopman has been doing something similar in the USA for many years, BUT they give parents about six sessions with a worker to sort out parenting plans. We give them a booklet and DIY!

Phase Two: Follow-up Survey

As a second stage in the consultation, we sent questionnaires to 730 people who were either lawyers or divorce-associated professionals and who had indicated interest in being involved in further consultation. Two hundred of them returned completed questionnaires. Of these, the majority (131) were employed as solicitors, barristers or judges (described here collectively as lawyers). The rest had experience in family court welfare, mediation or marriage counselling.

Fourteen respondents had been members of a Local Interdisciplinary Forum (LIDF) during the operation of the pilots. All but one of these felt that the LIDF had been a useful means of keeping the relevant professions informed and of exchanging information. As one LIDF member suggested:

An interdisciplinary approach seems the most likely to deliver the range of expertise and knowledge required in family/divorce issues.

Some negative comments, however, were made. One LIDF member, for instance, felt there was a need for 'more openness and sharing about the content of the sessions'.

Almost a third of respondents had apparently referred someone to an information meeting. Most of these were unsure as to whether the person they had referred had found the information meeting useful, but a third of those referred were known to have found it useful. Only one respondent had referred someone to a meeting who then indicated that they did not find it useful.

Seventeen per cent of respondents said that they had been contacted in their professional capacity by someone who had been to an information meeting, and 58 per cent indicated that the attendee had found the information meeting useful. One in eight of those who had been to a meeting had apparently indicated to the professional that it had not been useful. There was a difference between lawyers and other professionals in terms of whether they felt clients gained advantages from attending an information meeting. Only one out of fifteen lawyers, as against eight out of sixteen other professionals who had clients who had previously been to an information meeting, felt that these clients had an advantage over others.

Mandatory or voluntary meetings?

As Table 32.7 indicates, there does not seem to be overwhelming support for mandatory information meetings, at least among those professionals who completed questionnaires. A third of respondents were in favour of mandatory meetings for all divorcing couples. Lawyers, in particular, tend to think that not all couples should be obliged to attend, and only around one in four were in favour of compelling all divorcing couples to attend. The data suggests that there might be more support if a mandatory meeting were restricted to parents with dependent children. However, 53 per cent of lawyers and 16 per cent of those drawn from other divorce-associated professions would not be in favour of mandatory attendance whether aimed at all divorcing people or all divorcing parents. There were some key differences within groups, however. For instance, the legal profession included 12 judges, 8 of whom were in favour of mandatory information meetings while 3 supported mandatory meetings for parents. Solicitors were more likely

to be opposed to mandatory meetings than were members of any other occupational group. Sixty per cent of the 106 solicitors who completed a questionnaire were opposed to mandatory information meetings whether aimed at all married couples or only at those with children.

Table 32.7 Views about whether attendance at an information meeting should be mandatory

	Legal professional %	Other professional %	All respondents %
Yes, for all divorcing couples	25.2	47.8	33.0
Yes, for couples with children	15.3	30.4	20.5
No	52.7	15.9	40.0
Don't know	6.9	5.8	6.5
Total (100%)	131	69	200

Chi-squared = 27.41; $p < .001$.

Family court welfare officers tended to favour mandatory meetings for parents. Of the 16 who completed questionnaires 12 indicated that they were in favour of mandatory meetings for parents only. On the other hand, 10 of the 16 counsellors supported a mandatory meeting for all divorcing people.

Exemptions and extensions

Several suggestions were made as to groups of people who might be exempted from the requirement to attend a meeting. Three in ten respondents, for instance, felt that attendance at an information meeting ought not to be required when domestic violence is an issue. Other suggestions included couples without children, those separated for more than six months, those with a long distance to travel, child abuse cases, mentally-ill people, prisoners, people who are easily intimidated, people with learning disabilities and disabled people.

Table 32.8 Views about making information meetings available to non-married parents

	Legal professional %	Other professionals %	All respondents %
Yes, with mandatory attendance	20.0	61.2	34.0
Yes, on a voluntary basis	71.5	37.3	59.9
Not at all	8.5	1.5	6.1
Total (100%)	130	67	197

Chi-squared = 34.23; $p < .001$.

We asked respondents to indicate whether they felt information meetings ought to be made available to non-married parents involved in Children Act proceedings. Few were opposed to this in principle, but most felt attendance ought to be voluntary. As Table 32.8 shows, lawyers were significantly less likely than other professionals to favour mandatory attendance at such a meeting, but 72 per cent indicated they would be in favour if attendance were voluntary. Those who indicated support for mandatory information meetings for either all married couples or those who were parents were most likely to favour a mandatory meeting for non-married parents; 60 per cent of them would be in favour of extending information meetings to non-married parents and making attendance compulsory for those involved in Children Act proceedings.

One or two meetings?

Half the respondents felt that a single meeting would be sufficient for providing the necessary information, but 23 per cent felt a second meeting would be required; the remainder were uncertain about this issue. Non-lawyers (44%) were more likely than lawyers (12%) to suggest that a second meeting would be required. Only a quarter of those who felt a second meeting was needed felt that it should be a group meeting. As regards timing, 39 per cent felt that the second meeting should take place a month after the first, 17 per cent that it should occur two weeks afterwards, 6 per cent that it should occur three months afterwards, and 6 per cent that it should take place after the start of divorce proceedings. Twenty-nine per cent suggested that the second meeting could occur as and when the attendee required it.

Choosing a model

Respondents ranked various approaches to delivering information meetings. Figure 32.1 shows the mean ranking and 95 per cent confidence interval for five different models tested during the pilots. The data suggest that a one-hour meeting (as in Model A) was rated significantly higher than any of the other models, and that a short individual meeting followed by a group meeting was also ranked significantly higher than any of the others.

Thus, professionals would appear to prefer individual meetings at which a single presenter provides the information. Group presentations and CD-ROM meetings tended to be ranked equivalently, and both were ranked significantly lower than models that involved an individual meeting. It would seem that, so far as professionals are concerned, Model A, which consisted of an individual meeting lasting an hour, is considered the most appropriate way of providing the information required by the Act.

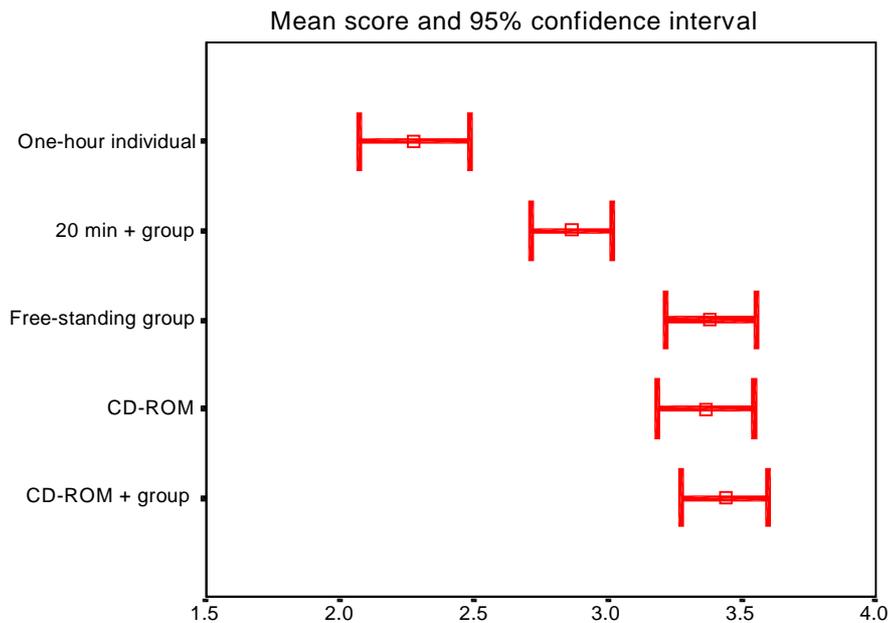


Figure 32.1 Professionals' ranking of various ways of providing information meetings

Answering questions

Forty-seven per cent of lawyers and 37 per cent of other professionals suggested that presenters should not answer attendees' personal questions. The main concern among lawyers was that answering questions might lead presenters into the realm of advice giving. Divorce-associated professionals seemed more concerned about the implications of being drawn into 'personal' problems:

This could draw the presenter into acting in another role, e.g. counsellor, advisor, befriender, which they might not feel qualified or comfortable in.
(counsellor)

Could be drawn into emotive discussions that they are not trained to deal with.
(mediator)

Nevertheless, 47 per cent of lawyers and 58 per cent of other professionals did think it possible to draw a clear line between legal information and legal advice. Some felt there would be safeguards if the information were general rather than personal:

Legal information is describing court procedures and explaining relevant legislation. Legal advice is referring to a person's particular case and explaining how you believe law would operate in those circumstances, and the effects of this. (lawyer)

Generally, information relates to procedures and the statutes applied. Advice is applying that to the individual facts. (lawyer)

Information should be impartial and contain all available options. Giving advice perhaps suggests following up one of these options. (counsellor)

Legal advice is partial, recommends a way forward, and can only be given to one party. Legal information is impartial, offers a range of options, and can be given to each of a couple. (mediator/counsellor)

Management arrangements

There was no clear consensus concerning who should be charged with the management of information meetings. Twenty-nine per cent felt that the responsibility should be allocated to an existing agency, 34 per cent felt that a new agency should be established, and the rest were unsure. Of those who felt that an existing agency should be established, 29 per cent favoured allocating the service to either a marriage counselling or mediation agency, but the most popular option was one that involved the family court welfare service. Twenty per cent felt that the service ought to be managed by the family court welfare service, while 18 per cent favoured a new agency that would incorporate family court welfare. Other suggestions included the Law Society (13%) and the Citizen's Advice Bureau (11%).

Respondents were equally divided as to whether an information meeting service should be centrally managed or organised within regions. Forty per cent were in favour of centralisation and 40 per cent favoured regionalisation, while the rest were unsure. There was no consensus concerning what the regional boundaries would be in a regional structure, but the most-favoured options were existing regional boundaries (35%) and court circuits (21%).

One of our research tasks has been to determine potential locations of information meetings on the basis of acceptable numbers of people having a meeting available within a certain prescribed distance. We asked respondents to comment on what they felt was the maximum distance it was reasonable to expect people to travel to attend an information meeting. Twenty-nine felt unable to answer this question, suggesting it would be dependent on personal circumstances. Among those who did venture an opinion, suggestions as to reasonable travelling distances varied between one and 45 miles, the median distance being 10 miles. Not surprisingly, perhaps, these suggestions related to degree of support for mandatory attendance at an information meeting. Among those who were in favour of mandatory attendance for all divorcing couples the mean reasonable travelling distance was 16 miles, as against 12 miles among those who favoured mandatory attendance for parents only, and 8 miles among those who were not in favour of any form of compulsion.

Phase Three: Survey about Information Packs

The third phase of the consultation programme focused specifically on the information pack. Questionnaires and information packs were sent to 150 Phase Two respondents who had expressed an interest in being involved in further consultation and, in addition, to members of Local Interdisciplinary Fora (they were sent directly from the Lord Chancellor's Department). A total of 90 responses were received. Respondents were generally positive about the packs, although some expressed concerns about the amount of information provided:

The pack contains overwhelming information. It may be best to give information on what the individual wants, and offer the rest if they wish.

Too much information given. The concern should be to provide information that will be read.

I consider that sending people a package of 24 fairly closely-typed booklets is asking them to take in too much information in one hit. I also think the information would be better imparted orally or by modern technology (video/CD-ROM). There is too much focus on how people might be feeling, which should be eliminated to make them more manageable to understand. The people I meet want to know about what they can and cannot do legally. That is the key point of the divorce process.

I feel that the amount of information may be too much for most people to trawl through, and there is a danger that they are so off-putting that none of the leaflets is read.

The information is appropriate and relevant but not helpful for someone who has not got the ability to sift through the enormous amount of information provided in order to find which bits are relevant to their circumstances, and to be able to apply that information to themselves in a meaningful way.

The information is, for the most part, what needs to be known and accurate but the format is confusing. There are too many individual leaflets, some of which overlap. Some look similar and others, which deal with related topics, are defensive.

Indeed, 23 respondents suggested that some items of information could be excluded. The following leaflets were mentioned:

- ‘The rights of the child: guide to the UN convention’
- ‘Children Act guide for parents’
- ‘Children Act guide for young people’
- ‘Is my marriage really over?’
- ‘The role of the family court welfare services in court proceedings’
- ‘How to get low cost or free legal help’
- ‘The divorce process’ (steps 1–5)
- ‘For parents who live apart’

Some respondents made suggestions for multiple exclusion:

Omit all leaflets except NCFP leaflets and parenting plan, because the rest is overload.

There are too many leaflets on the same subject – the information needs to be condensed into one leaflet, e.g. NCFP series ‘Help for the older child’, ‘Help for the younger child’, ‘How can I help my children?’. Also, [there are] three different leaflets on children’s rights.

All of the information about how people feel [should be excluded]. The leaflets for children should not be sent out. A lot of the parents I meet will adopt any means possible to get the children involved in the battle.

The information in the pack is about right but I feel that to present it in the form of 23 separate leaflets makes it appear daunting. I can imagine most people just putting it to one side (as I did). It needs to be pruned.

Those who suggested excluding specific leaflets from the pack, however, did point out that these could be made available from other sources for those who need them:

Regarding Court Service Forms, why not just include leaflets 1, 2, and 3 and leave out 4 and 5, as these can be obtained from the court once a petition is issued by a party[?] The Children Act guides are very helpful leaflets, but are they necessary at this stage? The vast bulk of divorcing couples resolve children's arrangements between themselves, and to even mention court orders and social services is entirely unnecessary, and will probably distress them needlessly. 'Planning for your children's future' was helpful, clear, well presented and informative, but would it not be possible to combine this with 'How can I help my children?', 'Help for younger and older child' and 'The role of the family court welfare service'[?]

Legal aid leaflets have to be provided by a solicitor ... it is surely enough to know that legal aid will be available. The UN Convention leaflet is specialist information that is rarely used. Leaflets 10–14 ['The divorce process: steps 1–5'] can be obtained from the court if the person really is going to start divorce, as with leaflets 8 ['Children Act guide for parents'] and 9 ['How to get low cost or free legal help']. Leaflet 7 ['The role of the family court welfare service'] is premature at this stage. This information can be given if proceedings are a real possibility.

Despite some concerns about information overload, 26 people suggested additional information for inclusion in the information pack. The suggestions included the following:

Probate matters such as amendment of existing wills, or creating new wills, as a consequence of divorce.

[Information about the] cost of solicitors.

[Information about] how health might suffer.

Information relating to children who are adopted or fostered.

More on finances.

Information about the Family Law Act 1996.

Respondents were asked to state whether information about specific subjects required an information meeting or whether it was possible to provide the information via a video or solely within leaflets. Table 32.9 ranks responses according to the numbers of those who regarded face-to-face meetings as essential. The results suggest that face-to-face meetings tended to be regarded as imperative in terms of providing information about marriage support services and about the importance to be attached to the welfare, wishes and

feelings of children. On the other hand, professionals tended to think that the kind of information most amenable to presentation in leaflets only is that which relates to the availability of independent legal advice and to legal aid.

Table 32.9 Professionals' views about how information can be provided

	Information meeting needed	Could be presented via video	Could be presented via leaflets
The importance to be attached to the welfare, wishes and feelings of children	47	33	15
Marriage counselling and other support services	46	26	30
How the parties may acquire a better understanding of how children can be helped to cope with the breakdown of marriage	37	44	18
Mediation	37	36	30
The divorce and separation process	37	30	35
The nature of the financial questions that may arise and the services which are available	37	29	35
Protection available against violence and how to obtain support and assistance	36	32	35
The availability to each of the parties of independent legal advice and representation	18	29	56
The principles of legal aid and where the parties can get advice about obtaining it	15	27	58

Note: some respondents ticked more than one category for some of the items.

The views of these professional respondents suggest that information about how children can be helped to cope with the breakdown of their parents' marriage can be conveyed either face to face or through the showing of a video, but few respondents believed that leaflets alone would be sufficient. Indeed, responses suggest that information about issues relating to children – their welfare, wishes and feelings, and how they might be helped to cope – is least amenable to being presented via leaflets. This suggests that educating parents about the needs of children requires some kind of meeting.

Convincing Professionals

The consultation surveys have indicated that the provision of consultation briefings to relevant professionals was a worthwhile exercise. It facilitated a greater understanding of how information was being provided and offered the opportunity for professionals to engage in discussion about the implications of the FLA. The consultation exercise has, however, identified a degree of opposition from within the legal profession to the introduction of a

new element in the divorce process (information meetings) that would not be controlled by lawyers. Such opposition has of course been prevalent since the publication of the Green Paper, and has been voiced by lawyers' professional associations. The Solicitors' Family Law Association,¹⁶ for instance, responded to the Green Paper by suggesting that initial interviews that gave information about the divorce process and services available should be provided but only on request, not as an essential component of divorce process. If attendance at interviews were voluntary, it was suggested, interviews could be 'conducted by a variety of accredited, adequately-trained persons who should neither provide legal advice [n]or control availability of legal aid'. After publication of the White Paper, the Law Society argued that information meetings would be far too expensive, and that mandatory attendance would 'exacerbate the waste of resources'. They suggested that

some of the individuals attending divorce information sessions will not be interested in the information they are being given while others will learn nothing from the sessions as they will know all the information they are being given already.¹⁷

The concerns of the professional associations representing lawyers are reflected by the views of most, though not all, of the lawyers who responded to our consultation surveys. It seems that concerns revolve around opposition to an interview that might involve inappropriate diagnosis of problems. As Johnson pointed out, the right to diagnose is an essential element of professional identity and the maintenance of professional control:

The diagnostic relationship is used as a control mechanism both within an occupation and in relationship with other allied occupations, for whatever the problem (mechanical, physical, psychological or social) action (plans, therapy or policy) stems from diagnosis and the diagnostician assumes an authoritative role.¹⁸

Around one in five members of the legal profession took the view that only lawyers should provide information about divorce, while approximately half believed that lawyers are already performing that role adequately. The majority of lawyers suggested that if the interviewer's role were to involve diagnosis and/or giving advice it could not be taken on by anyone without some (possibly considerable) degree of legal knowledge. In their view, this would ultimately mean that information could only be provided by lawyers, or by someone whose training involved the acquisition of a considerable degree of legal knowledge. This, of course, raises the question of who decides how much legal knowledge is needed.

In contrast to lawyers, members of divorce-associated professions – court welfare officers, mediators and counsellors – were generally positive about information meetings. For them, information meetings offer the prospect of new opportunities, such as increased use of counselling and mediation services, or a new role as information presenters. Whatever the reasons, it is evident that divorce-associated professionals were more likely than those in the legal profession to be positive about counselling and mediation, and to believe that information meetings would eventually lead to greater use of these services. Moreover, they seemed distinctly more likely to refer people to an information meeting. This may not be necessary if Part II is implemented, given that everyone who wants a

¹⁶ 'The SFLA response to the divorce green paper', *Family Law* (April 1994), pp. 179–81.

¹⁷ Law Society (1995), *op. cit.*, para. 4.18a.

¹⁸ Johnson, T.J., *Professions and Power*, Macmillan (1972), p. 57.

divorce will have to attend an information meeting, but it does indicate commitment to the principle of information meetings.

Our research has suggested that information meetings need to be more interactive and responsive to attendees' circumstances if they are to have a significant impact on what people do afterwards. It seems, however, that considerable effort will be required to persuade the legal profession to accept that information meetings are a positive innovation. Currently, lawyers tend to regard them as a threat, but it is far from clear whether their role will change significantly because of them. Indeed, members of the legal profession seem divided on this issue: 37 per cent of them agreed, while 38 per cent disagreed, with a suggestion that information meetings will restrict the role of solicitors in matrimonial disputes (N = 580).

One might summarise the aims of information meetings as saving marriages, encouraging parties to use mediation and protecting the best interests of children. As regards marriage saving, however, professionals have mixed views as to whether the information meeting will come early enough. As Table 32.10 shows, 48 per cent of the legal profession, 31 per cent of divorce-associated professions and 31 per cent of other professions considered that, in most cases, by the time someone attends an information meeting it will be too late to save the marriage. This, of course, raises the question we have asked elsewhere as to whether a meeting which is tied to the divorce process can provide appropriate help with marriage difficulties at the time it is most needed. Approximately half of those who had attended information meetings during the pilot were already separated from their spouse.

Table 32.10 Responses to the statement 'By the time people go to an information meeting it will be too late in most cases to save the marriage'

	Legal professional	Divorce-associated professional	Other professional	All respondents
	%	%	%	%
Strongly agree	9.7	5.1	2.7	6.8
Agree	38.1	26.3	28.2	32.8
Neutral	20.3	21.2	24.6	21.8
Disagree	28.9	41.5	38.5	34.3
Strongly disagree	3.0	6.0	5.6	4.3
Total (100%)	575	217	358	1,150

Chi-squared = 42.77; $p < .001$.

Almost two-thirds of professionals (63%; N = 1,154) agreed that the requirement to attend information meetings will make it more likely that parents will consider the best interests of children. Again legal professionals were less convinced, but 49 per cent of them were in agreement (N = 580).

The evaluation of pilot information meetings has not produced evidence that attendance at information meetings will necessarily lead to increased use of mediation. As we have pointed out elsewhere, this may be due to the continuance of the old divorce legislation, which is thought to encourage conflict, and to the fact that no particular emphasis was

placed on mediation during the meetings.¹⁹ Nevertheless, there appears to be some disagreement between professionals as to whether greater use of mediation is necessarily a good thing. Tables 32.11–32.14 show responses to various statements about mediation. They demonstrate high rates of approval of mediation among the divorce-associated and other professions, with members of the legal profession being less positive. Nevertheless, what is also demonstrated is the extent of division within the legal profession about mediation. For instance, although 48 per cent disagreed with the suggestion that legal proceedings are appropriate only when parties have failed to reach an agreement in mediation, as many as 40 per cent agreed. It would seem that large numbers of lawyers have come to accept the practicability of mediation as an alternative means of resolving disputes. It remains to be seen whether information meetings will become similarly accepted, but it is clear that large sections of the legal profession are not yet convinced that the FLA 1996 would introduce a better way of managing divorce.

Table 32.11 Responses to the statement ‘Legal proceedings are appropriate only when parties have been unable to reach an agreement in mediation’

	Legal professional	Divorce-associated professional	Other professional	All respondents
	%	%	%	%
Strongly agree	12.5	27.9	27.5	20.0
Agree	27.3	38.6	45.4	35.0
Neutral	11.9	13.0	12.9	12.4
Disagree	37.7	18.6	12.9	26.4
Strongly disagree	10.6	1.9	1.4	6.1
Total (100%)	578	215	357	1,150

Chi-squared = 150.51; $p < .001$.

Table 32.12 Responses to the statement ‘Mediation is an alternative to contentious litigation and thereby minimises bitterness between divorcing couples’

	Legal professional	Divorce-associated professional	Other professional	All respondents
	%	%	%	%
Strongly agree	23.6	44.4	39.8	32.6
Agree	45.8	47.7	47.4	46.6
Neutral	16.8	5.6	9.5	12.4
Disagree	11.8	1.9	2.8	7.1
Strongly disagree	2.1	0.5	0.6	1.3
Total (100%)	577	216	359	1,152

Chi-squared = 90.31; $p < .001$.

¹⁹ See Ch. 19.

Table 32.13 Responses to the statement ‘Mediation can be a coercive process in which parties feel obliged to reach agreements’

	Legal professional	Divorce-associated professional	Other professional	All respondents
	%	%	%	%
Strongly agree	7.1	0.9	3.9	5.0
Agree	38.9	18.4	21.3	29.6
Neutral	19.4	19.8	32.8	23.7
Disagree	28.6	42.9	35.3	33.4
Strongly disagree	5.9	18.0	5.7	8.4
Total (100%)	576	217	357	1,150

Chi-squared = 104.97; p = .001.

Table 32.14 Responses to the statement ‘Mediation can disadvantage a weak or inarticulate party’

	Legal professional	Divorce-associated professional	Other professional	All respondents
	%	%	%	%
Strongly agree	20.0	2.8	5.0	12.1
Agree	44.8	18.4	22.9	33.1
Neutral	12.8	19.8	22.1	17.0
Disagree	19.8	46.5	44.1	32.4
Strongly disagree	2.6	12.4	5.9	5.5
Total (100%)	580	217	358	1,155

Chi-squared = 207.52; p < .001.

The FLA marks an important move by the state into the regulation of ‘private’ worlds through a more carefully managed process of marital separation. The changes that will result will affect a range of professionals who work within or on the margins of the divorce business. The information provided through Section 8 is designed to improve knowledge of the various services available, and thereby increase the choices people have about how to manage their lives during times of transition. Specifically, the FLA draws attention to the differing roles of lawyers, counsellors, mediators and court welfare officers. Hence, Cretney and Masson’s reference to the ‘remarkable collaboration’ between legal process and social work measures.²⁰

In many ways, the Act seeks to bring together all those working with families at risk of breaking up, in a more inter-disciplinary, co-operative environment which allows for the efficient referral to and use of a range of complementary services, all of which will be explained during the information meeting. It has been suggested that this will ‘inevitably

²⁰ Cretney, S.M. and Masson, J.M., *Principles of Family Law* (6th edn), Sweet & Maxwell (1997).

shake up and cause some reorganisation of at least three professions, namely family lawyers, family mediators and counsellors'.²¹

Family court welfare officers are also facing a new future in the new Children and Family Court Advisory and Support Service²² and relatively little is currently known about the extent of their role in family proceedings and how this might change. For solicitors, the FLA has produced inevitable concerns about the loss of their current role as gatekeepers to the divorce process – the first port of call for the majority of the divorcing population – although the evaluation of pilot information meetings suggests that they are likely to continue to have a central role in the divorce process whether part II of the Family Law Act is implemented or not.

²¹ Bishop, G., Hodson, D., Raeside, D., Robinson, S. and Smallacombe, R., 'Divorce reform: a guide for lawyers and mediators', *Family Law & Tax* (1996), p. xi.

²² Criminal Justice and Court Service Bill 2000.

Chapter 33

Reflections on Mandatory Meetings

Peter McCarthy, Janet Walker and Cathy Stark

Such meetings are a radical departure in family law and must be treated carefully ... Couples will often be required to attend information meetings when they are in difficult situations, so they may find that experience traumatic.¹

The Family Law Act makes provision for at least one information meeting per marriage, thereby indicating that the information would be delivered to one or both parties attending singly, or both parties attending together. Only the party wishing to make a statement of marital breakdown is mandated to attend at least three months before the statement can be made. For the other party attendance is optional, unless he or she wishes to contest or make an application (in respect of children, for example). As we have seen, during the pilots the vast majority of attendees went to an information meeting alone. Just six per cent of applicants who turned up for a meeting (N = 7,436) were accompanied by their spouse.

Throughout our evaluation of the pilots we have drawn attention to the disadvantages of providing information to one party only when many of the options being described require the willing participation of both parties. This raises the questions of whether both parties should be mandated to attend (although not necessarily together), and of what efforts should be made to ensure that, at the very least, information is provided routinely to the other party (the party not wishing to make a statement of marital breakdown) via written material, video or CD-ROM.

As we have seen in the previous chapter, the professionals who attended consultation briefings during the pilots were divided in their views about whether information meetings should be mandatory for everyone, mandatory only for parents, or not mandatory at all. Lawyers, in particular, tend to think that meetings should not be mandatory for everyone. Just 25 per cent of lawyers were in favour of a mandatory meeting. The others argued that people who resent attending will gain little benefit. Other divorce-associated professionals were more supportive of mandatory provision: 48 per cent were in favour of mandatory meetings for all those intending to divorce, and 30 per cent were in favour of mandatory meetings for parents with dependent children. There was more support generally for the suggestion that mandatory meetings should be restricted to parents with dependent children (which would exclude 40% of divorce cases from the requirement for one or both parties to attend a meeting). Other commentators have also been sceptical of the mandatory nature of information provision via a meeting. Davis, for example, has described it as 'a none too subtle attempt at indoctrination'.²

In the pilots, attendance at information meetings was, of necessity, voluntary. We believe that it might be helpful to reflect on the question of mandatory provision. In this chapter, we consider the views of information meeting attendees in respect of this issue, and look

¹ Mrs Barbara Roche MP (Hornsey and Wood Green), Official Report (H.C.), 17 June 1996 at col. 624.

² Davis, G., 'Researching publicly funded mediation', in The Rt Hon. Lord Justice Thorpe and E. Clarke, *No Fault or Flaw: The Future of the Family Law Act 1996* (2000), p. 44.

particularly at the experiences of those attendees who went to an information meeting with their spouse.

Attendees' Views about Mandatory Meetings

The pilot information meetings have been appreciated by most of those who have volunteered to access them, but not all users support the suggestion that attendance should be compulsory. While 42 per cent of the 686 attendees who responded to our time-slice survey felt that information meetings should be compulsory for all who apply for divorce, 12 per cent felt they should be compulsory only for people with children and 46 per cent said they should not be compulsory at all. Since these respondents were people who had actually attended a meeting voluntarily, the indications are that compulsory meetings would not be welcomed by most of those who intend to divorce. It should not be assumed that people who chose not to go during the pilots would be opposed to the meeting being compulsory, however, especially since it would not be compulsory for both parties. We received follow-up questionnaires from 91 people who had declined an invitation sent by the divorce court to attend an information meeting, and 37 per cent of them indicated that they would be in favour of compulsory meetings. Thirty per cent of those who were in favour, however, suggested that such a meeting would have been of no use to them.

Those information meeting attendees who were in favour of compulsion tended to recognise that people might resent having to go, but felt that making the meeting mandatory was nevertheless worthwhile in order to ensure that all those who might benefit would attend:

Although it came too late for me, I feel that information meetings are a very important step. Making them a requirement would be the only way to ensure that *all* those thinking of divorce would attend. (M)

People resent many things in this society, like paying road tax or obeying speed limits, but once certain rules are incorporated in our daily legal and social infrastructure, people just have to accept and obey the rules. Thus with divorce. It is a public as well as a private matter, with repercussions well beyond the couple, so if meetings are compulsory divorcing couples will just have to attend. (F)

Some respondents felt that a compulsory meeting might be appropriate in some circumstances. One, for instance, saw the meeting as something that the 'guilty party' should have to attend, a suggestion that seems inappropriate to a system of no-fault divorce:

I did not want a divorce – I never did – but my husband's adultery makes it impossible for me to remain married. Perhaps the offending party should attend the meetings, not the innocent. By the time divorce is the only option, meetings are totally irrelevant; of no use at all. (F)

Some of those who were opposed to compulsory meetings objected to the state being involved in matters that they regarded as private, and there was a feeling that requiring everyone to attend might be a waste of resources:

When a couple decide to divorce, the procedure should be simple, quick and with as little 'interference' from the state as possible. (F)

I feel that the system of compulsory meetings etc. would be a waste of time and resources in many cases. It would I am sure add to the taxpayer's burden, as so many divorces are paid for by the state. (F)

If the government goes ahead with these divorce changes, it is wrong. We live in a democratic society, supposedly, so people should not be forced into going to these meetings. (M)

There were those who felt compulsory attendance could make matters worse for some individuals and couples:

Compelling people to do something is, I feel, potentially inflammatory. It is just not what you need. (F)

Making information meetings compulsory would increase the risk of somebody remaining in an abusive, or adulterous, relationship, as there are enough hurdles to overcome regarding finances, housing, benefits etc. (F)

I did not want to end the relationship, but she did. Forcing people to attend a meeting just makes a very painful situation worse. (M)

As Table 33.1 shows, men tended to be more likely than women to be in favour of compulsory meetings, a finding which leads us to wonder for whom men think attendance should be compulsory. During the pilots, men were significantly less likely than women to attend an information meeting voluntarily, and since women are most likely to initiate divorce proceedings, we assume that more women than men would attend a compulsory meeting. It may be, therefore, that there is an additional tendency among men to feel that wives should have to attend a meeting before they can divorce, rather than that they should themselves have to attend. Survey respondents may have interpreted our question about compulsory meetings in different ways. We asked 'Do you think that everyone should have to go to an information meeting before they can divorce?', a question which may leave the issue of who attends ambiguous. Responses to this question ought not to be regarded as an opinion poll about compulsory meetings, but these responses, together with comments made by respondents, suggest that views as to whether information meetings ought to be compulsory are mixed, even among those who attended an information meeting voluntarily.

Table 33.1 Should information meetings be compulsory for all who intend to divorce?

	Men %	Women %
Yes, everyone should have to go	48.1	39.8
Yes, but only people with children should have to go	15.7	10.0
No, meetings should not be compulsory	36.1	50.2
Total (100%)	216	470

Chi-squared = 12.99; p = .002.

Not surprisingly, views on whether attendance should be compulsory were influenced by people's feelings about divorce at the time they attended the information meeting. As Table 33.2 shows, those who wanted a divorce were less likely to support compulsory attendance than those who did not want a divorce and those who were uncertain about

their marriage. More than half of those who did not want a divorce were in favour of compulsory information meetings, as against one third of those who wanted a divorce. This finding supports our view that people who are not sure whether the marriage is over or do not want to end the marriage may well not know where to turn for help, and the information meeting is thus a welcome opportunity to explore the options.

Table 33.2 Should information meetings be compulsory by feelings about divorce

	Feelings about divorce		
	<i>it was what I wanted</i>	<i>it was not what I wanted</i>	<i>I was uncertain</i>
	%	%	%
Yes, everyone should have to go	33.7	52.8	44.1
Yes, but only people with children should have to go	13.4	10.8	10.6
No, meetings should not be compulsory	52.9	36.4	45.4
Total (100%)	261	195	227

Chi-squared =17.40; p = .002.

People who did not want a divorce were also prone to feel that those who divorce should have to attend a compulsory meeting with a marriage counsellor. Almost three-quarters of them took the same view, as against a third of those who wanted a divorce and 53 per cent of those who were uncertain about their marriage. As Table 33.3 shows, a quarter of those who were not in favour of compulsory information meetings were in favour of compulsory counselling, indicating that they agreed with some form of compulsory meeting, but not necessarily an information meeting. Twenty-six per cent of attendees were opposed to both compulsory counselling and compulsory information meetings, while 33 per cent were in favour of both. This may suggest that when people indicate support for a compulsory meeting, provision of information may not be their foremost concern. Support for a mandatory meeting may arise from a feeling that divorce ought to be more difficult rather than that provision of information is important *per se*.

Table 33.3 Respondents' views concerning whether an information meeting and counselling should be compulsory for people intending to divorce

Counselling should be compulsory	Should information meeting be compulsory?			All respondents
	<i>yes, for all divorcing couples</i>	<i>yes, but only for couples with children</i>	<i>no, meetings should not be compulsory</i>	
Strongly agree	37.2	13.6	3.8	19.1
Agree	39.9	38.3	22.8	31.9
Neutral	11.1	17.3	16.0	14.1
Disagree	10.1	21.0	38.8	24.5
Strongly disagree	1.7	9.9	18.6	10.4
Total (100%)	288	81	312	681

We have no way of knowing what motivates attendees to support compulsory meetings. We did, however, ask the 91 respondents who declined the offer of an information meeting some questions about the divorce process. We found that 61 per cent of those in favour of compulsory information meetings suggested that divorce is 'too easy', while only 10 per cent of those who were opposed to compulsory meetings agreed. This may suggest that some people support the introduction of compulsory meetings since they perceive this to be a way of making divorce more difficult. For them, it may be the hurdle that is important rather than the provision of information itself.

Reluctant Attendees

Despite many respondents having reservations about compulsory meetings, and despite the fact that 52 per cent felt that most people would resent having to attend, there was overwhelming support for the continuation of meetings at which attendance would be voluntary. Almost all attendees (94%) felt that if mandatory meetings were not introduced information meetings should be available for those who wanted to attend. Those who were opposed to mandatory meetings tended to be in favour of continued provision of information meetings, but felt that attendance should be optional:

I feel these information meetings should remain optional, and not be made compulsory. I also feel that the information packs provided at the meeting were very informative and beneficial, but that they should be available without having to attend the meeting. (F)

The information meeting was very useful, but I feel very strongly that it should not be made compulsory. Too much the 'big brother' approach. Sending packs to people and then inviting them to a meeting is a better approach. (F)

The above comments illustrate that the information pack was appreciated, but the indications are that most attendees do not think the packs could take the place of a meeting. Although 28 per cent of attendees suggested it would be better to provide the packs than to expect people to attend a meeting, 50 per cent disagreed with that suggestion, while 22 per cent were undecided.

Clearly, whether or not meetings should be compulsory is an important political issue. The indications are that, if they are not compulsory, few divorcing people would attend. The original intention behind the provision of information was to 'present a fair and unbiased view of the services available to couples and all of the options open to them',³ and this was the basis on which pilot information meetings were established. There is a suspicion, however, that the argument for everyone to attend stems from a belief that people who are made aware of the facts about separation and divorce will act in a 'responsible' manner, which means that they will either decide not to divorce or else will conduct their divorce in accordance with 'approved' guidelines. Seen from this point of view, the aim of providing information is to influence behaviour overtly. Eekelaar has described this as the 'politics of persuasion'.⁴

³ *Looking to the Future: Mediation and the Ground for Divorce: The Government's Proposals*, Cm 2799 (1995), para. 7.21.

⁴ Eekelaar, J., 'Family law: Keeping us "on message"', *Child and Family Law Quarterly*, vol. 11, no. 4 (1999), pp. 387-96.

In his evaluation of Section 29 of the FLA, Davis⁵ has found that people required to attend an intake mediation appointment were less inclined to engage with mediation than those who attended mediation voluntarily. They were also less interested in the process than were volunteers, and Davis suggests that 'mediation calls for positive engagement, not just compliance'. Could it be that the information meeting can only really help those who actively seek information? Or does information have equal value for those who do not actively seek it? Those attendees who made the following comments were not convinced that unwilling attendees would gain much from an information meeting:

I found the meeting very useful and informative and I would like everyone to benefit from them, but people forced to go may not necessarily get anything from them, as they may resist hearing anything useful. (F)

I am not sure that you could force people to attend information meetings, but even if you could, how do you make them listen, or act on any advice given? (M)

It may be sufficient, however, if some of those who reluctantly attend a meeting get something out of it. Attending an information meeting demands a good deal less of a spouse than attending mediation. Mediation requires interaction and negotiation between the spouses; attending an information meeting does not. It is also a much briefer, one-off intervention, whereas mediation usually spans several sessions. How people behave after an information meeting will depend largely on the nature and quality of the discourse between the spouses. Attendees' comments indicate the problems that are associated with trying to change the way in which a couple behaves by providing information to only one of the spouses, an issue to which we have referred many times:

My overall feeling is that despite all the information available, if the partner will not communicate or be willing to review the situation, there is little that can be done. (F)

I feel that the information meeting did not help my situation a lot, because only I attended and my husband did not. This is no reflection on the meeting, but shows that if only one partner tries to make the effort it is probably a lost cause anyway. (F)

Help and information meetings are a good idea, but if one partner thinks that he or she is all right and believes there is not a problem, or truly believes it is the other person's fault, then no amount of counselling or meetings will help. (F)

I, for one, would be very disappointed if it is made compulsory, especially in [the] light of the fact that my marriage breakdown was not my choice. There is no point in forcing couples to think again before divorcing, as most have likely thought long and hard before taking that step. For others they have no choice if their partner has found somebody else, and then it will only cause them more hurt having to attend. (F)

It struck me that information meetings would be suitable if both parties are willing to explore the options together. However, rationality by both parties at this time is unlikely. (M)

⁵ Davis, G., *Researching Publicly Funded Mediation*, Third Interim Report to the Legal Aid Board (1999).

Nevertheless, the following remark of one attendee represents an important point of view in respect of personal safety and domestic violence:

For those in that situation [facing a violent or abusive partner], making meetings compulsory for both parties would deter people ... , i.e. the abused partner, from attending ... From my own personal experience, it can take a long time for the abused partner to admit they are in an abusive relationship – especially where verbal and emotional abuse are present but full physical abuse is minimal – or being abused, and the decision to leave the relationship is delayed, partly due to fears that they – the abused – will not be believed, will be talked into giving the marriage another go, and be hounded by the partner. Compulsory attendance to information meetings by both partners would therefore not work. More importantly, compulsory meetings would stop abused partners from leaving an already dangerous and unhealthy relationship ... through feelings of shame, fears of reprisals by the abusive partner. (F)

Spouses Attending an Information Meeting Together

We note that those attendees who did not want a divorce, or were uncertain about the future, were more likely to support the notion of mandatory attendance at an information meeting. It is, perhaps, significant that it was precisely those attendees who were less far down the road to divorce who were more likely than those who attended alone to be accompanied by their spouse. Only 6 per cent of those who went with their spouse were involved in divorce proceedings at the time, as against 17 per cent of those who attended alone (Chi-squared = 32.96; $p < .001$). Moreover, only a third of those accompanied by their spouse were living apart, which is significantly less than the 57 per cent of those attending alone who were already separated (Chi-squared = 79.48; $p < .001$). On the other hand, those who were accompanied by their partner were significantly more likely than those who went alone to have attended marriage counselling within the previous year: 32 per cent as against 22 per cent (Chi-squared = 21.1; $p < .001$).

As Table 33.4 shows, people who went to the information meeting with their spouse continued to be more likely than those attending alone to be still living with their spouse when we conducted our follow-up interview 5–7 months after the information meeting.

Table 33.4 Comparison of couple attendees with individual attendees in respect of marital status

Marital status 5–7 months after meeting	Accompanied by spouse %	Attended alone %
Divorced	7.9	8.3
Separated	47.5	65.6
Still together	29.7	16.6
Reconciled	13.9	6.3
Unclear	1.0	3.2
Total (100%)	101	1,620

It should not be assumed, however, that this is the final position, since even at that point relationships were still in the process of changing. For instance, of the 30 people who were accompanied to the meeting by their spouse and indicated that they were ‘still together’, 13 indicated that they were planning to divorce, 8 that they intended to separate but not necessarily divorce, and 6 that they were uncertain about what they would do in the future.

People who went to the information meeting with their spouse were more likely than those who went alone to go on to counselling afterwards. Seventy-two of those accompanied by their spouse and 1,269 of those who went alone had not attended counselling in the year before the information meeting, but 28 per cent of the former, as against 11 per cent of the latter, went to counselling after the information meeting (Chi-squared = 18.45; $p < .001$). There was a similar pattern concerning mediation. Twelve per cent of those accompanied by their spouse and 6 per cent of those who went to the information meeting alone attended mediation afterwards (Chi-squared = 5.53; $p = .032$).

In the light of these differences, we have examined the data in respect of couple attendees in order to consider the perceived advantages and disadvantages of both parties attending the same information meeting.

Having a shared agenda

Our follow-up interviews included 78 with people who had attended an information meeting with their spouse, and both spouses had been interviewed as part of our evaluation. Thus we had both sides of the story from 39 couples. We employed the research material generated by these 39 couples to examine in depth the significance of spouses attending an information meeting together as a couple. Sixty-eight of those who went to the meeting with their spouse told us why they chose to attend the same information meeting (Table 33.5). When responses were investigated at the couple level, they showed that in three-quarters of the cases the spouses had gone to the information meeting with similar aims. The nature of this shared agenda varied, however. In some cases it was concerned with obtaining general information, while in others it was about obtaining more specific information – about reconciliation, separation or divorce, for example.

Table 33.5 Reasons couple attendees gave for attending the information meeting

Reasons for attending	Number of attendees
Wanted information in general	25
Wanted to separate or find out about separation	20
Wanted to divorce or find out about divorce	15
Wanted reconciliation or to find out about it	5
Wanted other specific information	3
Total	68

Ongoing dialogue

A shared agenda also suggests that for some of these couples, attending the information meeting might have been part of a broader, ongoing dialogue about the best way to proceed through marital difficulties. The follow-up interviews provided evidence that some couples were still operating as a unit and were still providing each other with mutual support, as the following remark illustrates:

We went together to get help. We have always been open. (M)

The fact that spouses were able to communicate may have meant that they were less dependent on others for support. There was evidence that in some cases it may have been the relative social isolation of a couple from other people, as much as the strength of the link between them, that encouraged them to attend the information meeting together:

My family are out of the country and I don't want to publicise the situation to friends. (M)

I don't want to burden the family and 'our' friends are really my wife's friends. (M)

GP and counsellors are more help than family and friends as I am not close to them. (F)

Maintaining a balanced position

Several attendees expressed views about maintaining a balanced position and not wanting to be seen to jeopardise a consensual process:

I was hoping we could go through the divorce on our own, and the information meeting was to bring my husband up to speed so he felt he had proper information as well. (wife who had already been to a solicitor)

I did not want to be the one accused of refusing mediation. (F)

[I wanted] to avoid any misrepresentation between us. (M)

Influencing partners

At least one spouse wanted to use the information meeting to open up a dialogue about the marital situation, in the expectation that the information meeting would influence the behaviour of the other spouse:

I felt my wife went together [with me] in an attempt to talk me back into the marriage. (M)

When booking an information meeting applicants could arrange for individual or joint meetings. We might have expected the wife referred to above to have preferred an individual meeting given the reference to domestic violence, but, of course, many people in abusive relationships want to be able to stop the violence and save the relationship. We know from telephone interviews that some couples arranged separate meetings, since they were unable to find a mutually acceptable appointment time. There was not, however, a

standard procedure for offering separate appointments to all couple attendees, and we believe that some couples may have been unaware that they could have attended separately, particularly as some have since commented that a separate meeting would have been preferable.

Reviewing outcomes for couples

Two of the underlying principles of the FLA 1996 are that attendees are to be encouraged to save a marriage where possible, or to be helped to end it with minimum distress. It was therefore important to try to judge whether spouses' attending together as a couple had had any impact on the number of marriages saved and on the ways in which the divorce process had been managed consensually. In order to understand whether those couples who had divorced had managed the process in a conciliatory way we looked for evidence of ongoing dialogue and decision-making between the parties. Thirty of the 39 couples we studied in depth appear to have been managing their affairs in a conciliatory manner. A conciliatory approach seems more likely to develop when spouses have a shared agenda at the time of the information meeting. Almost all the couples who attended the information meeting with a shared agenda (N = 25) seemed to behave in a conciliatory way afterwards, although 18 of them were engaged in a process of separation and/or divorce. It seems that couples who share the same agenda at the information meeting are able to go on either to reconcile or to separate in a conciliatory fashion. The couples who went to the information meeting with different agendas appeared unlikely to reconcile or to separate in a conciliatory way. Spouses' attending the information meeting together as a couple, however, does not necessarily mean their overcoming pre-existing disagreements, and some spouses who had had differing agendas at the information meeting felt that their attending together had not been beneficial.

As is clear from the above, spouses who attend an information meeting together are more likely to attend mediation afterwards than those who go to the information meeting alone. It may be that mediation is more likely to appeal to spouses who attend together, share a common agenda and receive the same information. Certainly, one couple who went on to use mediation with apparent success had attended the information meeting with the common aim of an amicable divorce:

We did appear to be likely candidates [for mediation]. [The mediator] has taken us through what we should do ourselves. It's the only thing that's moved us forward. (wife)

We went together to get help. We have always been open. Encourage people to go [to mediation]. It's fantastic, even when you can't talk to a partner. (husband)

We have already noted that people who go to the information meeting with their spouse are significantly more likely to have attempted marriage counselling previously, and also to have attempted counselling afterwards. Not all those who went to the information meeting with their spouse attended counselling with their spouse, however.

Attending the information meeting together means that both partners have access to the same information at the same time, and therefore they may find it easier to take steps which require joint participation such as mediation or marriage counselling. This supposition was supported by some of the comments recorded during telephone interviews. Those who attended alone and felt unable to persuade their partners to

participate in mediation or counselling often felt that their partners might have taken part had they too attended an information meeting. Of course, couple attendance, where both partners attend the same information meeting, is only one type of joint attendance. It is not possible to know if the same outcomes would have been achieved if each spouse had attended a separate meeting.

Perceived benefits of attending as a couple

Asked about the overall impact of the information meeting, 73 per cent of the 78 people who formed our in-depth sample said they had found it helpful, 18 per cent were neutral, and 9 per cent found it of limited or no help. This response pattern is similar to that for the individual attendees. In the case of 27 of the 39 couples, both partners had found the meeting helpful, and only in the case of 2 couples had neither partner found the meeting a great help. Those who were positive made comments such as the following:

I think it has been a good base. We both have the same information which we can trust and reference together rather than doing things and getting information separately – which may lead to misunderstanding and distrust of reliability of information. (F)

Together is better than going singly, so that everything is out in the open. (F)

It was helpful as it prevented us getting the wrong end of the stick or different interpretations. (M)

Yes, it was the best way. I wouldn't have liked to go on my own. (M)

I was able to open up a dialogue with my husband during the meeting and had this continued we might have worked things out. (F)

It got us to talk a bit and I realised how she felt, and that it had gone too far. That helped make my mind up and come to terms with it. (M)

The thing I liked best was sitting in a room with my wife, not arguing, as we hadn't been talking for a while. (M)

After the information meeting my husband knew as much as I did. There is more fairness in the relationship. (F)

I was happy to go with my husband, but I realise others may not be. But I think it is important that both partners attend. (F)

Those few who were not positive about joint attendance made comments such as the following:

Individual meetings would be a help. I would have preferred an individual meeting. (F)

This latter woman identified the information meeting as a crossroads in her life, where she had had to decide whether to stay in a relationship in which there had been unspecified difficulties. Her husband was fourteen years older than her, and she needed more specific information about pensions as well as about emotional guidance. The couple were living together at the time of the information meeting, but since then the

husband has had a heart attack and other health problems and at the time of the follow-up interview was convalescing in a hospital in a different town. Others told us:

Because we went together it meant we couldn't talk about our situation very easily, so the presenter wasn't able to get a clear idea of our situation. (M)

I disliked being in a room with him, but I felt I couldn't refuse. I don't trust him. (F)

I would have liked the opportunity to speak to someone one-to-one with my specific queries in a more appropriate and informal setting. (F)

It seems that attendees who were glad they had attended the information meeting with their spouse tended to be behaving in a conciliatory manner already. Conversely, couples in which the partners would have preferred to go as individuals were in situations which were less conciliatory. These partners' attending together as a couple had not helped them to diminish the distress of their situation. Their personal situations were such that they could not express their individual concerns at a joint meeting. We have noted that this could be a particular problem for couples attending a Model C meeting, where information is targeted according to the attendee's account of their situation. The partners may not necessarily have reached the same point in the process and may not feel able to discuss their own agenda freely in front of each other. We were aware also that some presenters provided a single information pack for the couple. Some couples explained the problems this caused them even when they were doing things together quite amicably:

We could have done with one [pack] each as we are now separated. (F)

I want my husband to read the pack, but I need it myself and don't feel able to let it out of the house. (F)

It seems also that the information on domestic violence was not always included in the pack given to a couple. One husband told us that he felt the information on domestic violence should not have been left out of the shared pack, simply because of the statements that the couple gave at the information meeting. Even though domestic violence was not an issue in his situation, he felt that the policy of taking out information from the pack may have been implemented in such a way as to have denied important information to some people for whom domestic violence was relevant, though neither partner was prepared to admit this in the meeting. There were couples for whom domestic violence was an issue although they attended the information meeting together.

Implications for the future

One in ten of the 7,863 people who attended an information meeting were attending with their spouse. It seems there was a particularly high proportion of couples attending together in East Anglia, where Models A, B and D were provided. The East Anglia pilots processed 18 per cent of the attendees but 40 per cent of the couples. This may be because its publicity gave more emphasis to couples than that used in other pilots. The 39 couples in our small qualitative sample tended to regard joint attendance as beneficial. They were generally positive about their attendance, and most were glad they had gone. Three-quarters seemed to be working together in a conciliatory manner when we talked to them several months later and they were more likely than individual attendees to have made use of mediation services. The question remains as to whether their conciliatory manner

had been influenced by their joint attendance at the information meeting, or whether these were simply conciliatory people who would have resolved their situations in this way no matter how the information had been presented. Many of them had already worked through issues in marriage counselling. Joint attendance seems to have been particularly successful when couples shared the same agenda at the time of the information meeting, and in these circumstances it worked well. Couple attendance could be routinely offered as an option to individual attendance, but attendees should be treated as individuals rather than as a unit during booking procedures and the provision of the information pack. Information on domestic violence should not be removed from the individual packs given to couples at a joint meeting.

Making Information Available for Both Spouses

Concerns have been expressed during the pilots that in most cases information may be provided to only one spouse, and that the other spouse may be at a disadvantage. Moreover, the use of certain services – such as mediation – depends to a large extent on both parties understanding what is on offer. When someone attends an information meeting there will be no way of knowing whether they will go on to initiate divorce proceedings. In some cases, no application for divorce will ensue, while in others divorce proceedings will be initiated by a spouse who has also been to an information meeting.

It is clear that some people who do not intend to initiate divorce will attend an information meeting because their partner has made an application for divorce, or because they feel that their partner is considering making one. For instance, 349 of the information meeting attendees who responded to our time-slice survey indicated that they had become involved in divorce proceedings since having attended the meeting, but in a third of these cases the proceedings had been initiated by their spouse. Fifty-seven per cent of the 107 males who had become involved in proceedings and 21 per cent of the 242 females were not themselves the petitioner: further evidence that females are more likely than males to take the active role in ending a marriage and that the party who does not attend an information meeting will in most cases be the husband.

In some cases, of course, distinction between petitioners and respondents is not particularly meaningful. If both parties agree to divorce, they may have agreed on who will make the application or, under the FLA, the statement together. However, 41 per cent of the men, and 36 per cent of the women, who became respondents in divorce proceedings had indicated that they had not wanted a divorce when they had attended an information meeting. It seems, therefore, that the divorce proceedings were going ahead against their wishes. All the divorce respondents, however, were clearly aware of the possibility of their marriage ending, and some clearly attended an information meeting because they knew divorce proceedings were imminent. They were likely to express a sense of urgency about obtaining information, and one told us:

I thought your information packs were very well presented, but I needed them soon. I had already been separated for about six months.

We attempted to compare people who had petitioned for divorce after the information meeting with those who were divorce respondents. We were, however, unable to detect any differences regarding opinions about the information meeting and neither group appeared more likely to make use of mediation, counselling or a solicitor. This suggests that the information needs of petitioners and respondents are broadly similar. Analysis of comments made, however, suggests that respondents, especially men, seemed apt to

express feelings of bitterness and resentment that clearly need to be worked through if they are to continue to have a relationship with their spouse after divorce:

I am concerned regarding the ease with which one partner can apparently 'opt out' of a marriage. Although my wife cited 'unreasonable behaviour' as the reason for divorce, the majority of allegations were either exaggerated or untrue. (M)

Having been through a divorce which I did not want, and was not responsible for, I strongly feel that it should be less easy to get a divorce. (M)

My wife divorced me on the grounds of unreasonable behaviour. The grounds were punitive to say the least but I never had the finances or the enthusiasm to fight these accusations. (M)

My ex-husband was granted a divorce citing my unreasonable behaviour. This was totally untrue. I feel that such allegations should have to be proved. (F)

Why is the law sided with the female partner? Why can a woman get away with stealing child access so easily? (M)

Throughout all the legal process, I have found it very biased towards women, including social services who refuse to help because I am a man. Divorce is never easy but finding the system against you makes it worse. (M)

Female respondents were more likely than males to express feelings of lingering sadness over what they felt was 'rejection' or 'failure':

[Divorce] is the worst thing that can happen to you, especially to be rejected in love. Worse than death, as every time you see your ex-partner all kinds of feelings are brought to the surface. (F)

I was surprised to find out how quickly it was over and wish I had more time to come to terms with things ... I am not sure I will ever get over it. (F)

Such comments lend support to plans to move towards a no-fault divorce system, and suggest that divorce respondents, in particular, require information that will assist them in coping with their anger and/or sense of rejection. Nevertheless, the following comment testifies to the importance of information to people whose spouse takes the initiative in divorce proceedings:

The meetings are a good idea. The information I received in the pack helped me. Just knowing that my wife cannot walk all over me with her demands. I find it hard to believe that my unreasonable behaviour (I bought an expensive book and only worked part-time) could be considered as bad as adultery (which she has done). (M)

If Part II of the Act is implemented, there will be nothing to stop people whose spouse initiates divorce proceeding from attending an information meeting, and our findings suggest that some will indeed attend one. Others, however, will need to be encouraged, and we would suggest that they ought to be informed about their rights to attend a meeting and given guidance on other sources of information when they are informed by a divorce court that their spouse has begun divorce proceedings. Under the terms of the Act, they cannot be compelled to obtain information, but in our view they should be strongly advised of the importance of doing so, and advised as to how to go about it. In

order to facilitate them accessing information it would be advantageous for it to be available in a range of different media. It is clear from the parliamentary debates about information provision that most contributors to those debates anticipated that information would be provided to both parties so that ‘couples’ could reflect on whether their marriage was saveable and access support services if they wished. The assumption that information would be a joint venture was reinforced in the Home Secretary’s consultation document *Supporting Families*, which proposed ‘a new separate group presentation to give couples information about children, finance and property issues and to explain the helpfulness of mediation’, which would be offered at a later date, after ‘couples’ had attended an individual information meeting.⁶ Contrary to the assumptions being made here, the FLA does not require ‘couples’ to attend information meetings or to receive information. This is, perhaps, one of the most serious weaknesses in the Act as it emerged from Parliament.

During the pilots attendance at an information meeting was voluntary, and a relatively small proportion of people who were divorcing or contemplating divorce actually attended a meeting. Those who did tended to find the experience worthwhile, said the meeting was useful, and indicated that they would recommend attendance to others. Few, however, indicated that their attendance had helped them to save their marriage, and attendance did not lead to wide-scale use of mediation. Nevertheless, the indications are that attendance did, for many, lead to increased knowledge about marriage support, the issues connected with separation and divorce and the options available. At this level, provision of information meetings seems worthwhile. Although there remain doubts as to whether people who attend an information meeting reluctantly will reap the same benefits as those who choose to go, improving the aggregate level of knowledge of the divorcing population, and thereby increasing options and enabling divorcing people to establish greater control over the process, seems a worthy objective. It is not possible, however, to predict what people armed with extra knowledge will choose to do. Our research suggests that the link between knowing more about a service such as mediation and actually using it is a tenuous one.

If meetings are voluntary, it seems likely that most people who divorce will not attend one, yet there is not overwhelming support for mandatory meetings even among those who have attended an information meeting voluntarily and have indicated that for them the experience was worthwhile. There is, however, a resounding message that information meetings should continue to be available. It may be that if information meetings were more flexible in content, with a greater degree of personal tailoring to provide information considered to be relevant at the time of delivery, and if the content took account of the stage an attendee has reached in the process of marital breakdown, then even those who may be unwilling to attend would reap some benefit. If Part II were implemented, however, and the culture of and approach to divorce changed over time, people might be inclined to go to an information meeting much sooner, when marital problems are less acute.

⁶ *Supporting Families: A Consultation Document*, Home Office (1998).

Chapter 34

Evidence from Other Jurisdictions

Janet Walker

Although cultural and ethnic differences are vitally important and to be respected, what men and women and children have in common in relation to family breakdown fully justifies the growing international co-operation in the development of family law ... with sincerity and humility we must continue to search for improved ways of supporting families and protecting children when marriages fail.¹

The trends in marriage and divorce which have caused concern in England and Wales have been experienced in most western countries, many of which began to reform their divorce legislation some years ago. In English-speaking jurisdictions (Australia, Canada, New Zealand and the USA) and in most Western European and Scandinavian countries, there has been a consistent move towards no-fault legislation, together with an increased focus on the use of mediation. More recently, several countries have introduced parenting programmes in order to promote continuing contact between parents and children after divorce, and to encourage parents to reduce the conflict between themselves and work co-operatively for the best interests of their children.

Divorce legislation in most other countries reflects principles similar to those enshrined in the Family Law Act in respect of promoting conciliatory divorce, encouraging continuity in parenting, and protecting family members from violence. In all cases, the best interests of children are paramount. What divorce legislation in most countries does not seek to do in any major way is to save marriages. In this respect the FLA is more complex in its construction than the majority of other legislation. This does not imply that the other countries do not share concerns about the ending of marriages, but most have not attempted to address these concerns through legislation which is designed to deal with the consequences of marriage breakdown, primarily because most legislators have no confidence that commitment to marriage can be reinforced through divorce law. Some countries in Europe (e.g. Belgium, France, Iceland, Italy and Switzerland) have requirements for the couple to attempt reconciliation before they can proceed to divorce. There is no evidence that these mechanisms are effective, however, and in most jurisdictions attempts at encouraging reconciliation are accorded little real effort or prominence. The view in many jurisdictions is that rendering divorce apparently more difficult (through an excessive focus on saving marriages) might result in fewer people getting married, a risk to which Cretney and Masson refer in respect of the FLA.²

It has never been part of our remit to consider the ground for divorce, and we do not presume to comment on the wider question of the future of divorce law itself. As Rebecca Bailey-Harris has rightly commented,³ our research brief was confined to examining how best to implement Section 8 of the FLA. Nevertheless, as she points out, the evaluation has revealed the complexity of the issues involved in information meetings. Furthermore,

¹ Walker, J. and Hornick, J.P. (eds), *Communication in Marriage and Divorce: A Consultation on Family Law*, BT Forum (1996), p. 69.

² Cretney, S.M. and Masson, J.M., *Principles of Family Law* (6th edn), Sweet & Maxwell (1997).

³ Bailey-Harris, R., 'Information meetings and divorce reform', *Family Law*, vol. 30 (May 2000).

it has brought the challenges of supporting the Principles in Part I into sharp relief. Hence the value in looking at how other jurisdictions have tackled similar matters. When considering the steps taken elsewhere, however, it is important to bear in mind that the provisions are almost always enacted within a framework which does not revolve around fault. California was the first state in the USA to introduce no-fault divorce legislation in 1969, and the other states followed over the next twenty years, although some have continued to operate a system with both fault and no-fault grounds available. Some countries, such as Australia, Finland, Germany, The Netherlands and Sweden, operate no-fault procedures while others, such as Canada, and many European countries, operate a mixed system. In reality, however, it seems that, unlike in England and Wales, fault-based grounds are rarely used because they offer no obvious advantage to the parties since they do not speed up the process of divorce, and there is a general recognition that alleging fault can escalate conflict and hostility. Most countries rely on a period of separation as evidence of irretrievable breakdown. We simply note the fact that whatever the criticisms of Part II of the FLA, there has been virtually universal agreement among divorce-associated practitioners here that no-fault divorce should be introduced as a matter of urgency in order to support the principles and philosophy of the Act.⁴

Acknowledging, then, that it is not sensible to take ideas from other countries without understanding the context and culture in which they operate, we believe that experience elsewhere can shed light on the findings of our evaluation, and that there are lessons to be learned from the ways in which other jurisdictions have attempted to change the culture and practice of divorce process. We review the most pertinent of them here as they relate to the provision of information, and to the promotion of conciliatory divorce and co-operative post-divorce parenting.

Information Sessions in Australia

Although there was no blueprint for individual information meetings, Australia provided the blueprint for the provision of information to groups of people, and this experience influenced the proposal for a group information session put forward in the White Paper and the Family Law Bill.⁵ The Family Law Act 1975 established the Family Courts and the court counselling service in Australia. Information sessions were an initiative adopted by the Family Court of Australia in May 1992 following a visit to the United States by Chief Justice Alastair Nicholson where he saw similar sessions in operation. Attendance at a group information session is required for all those making an application to the Family Court for ancillary matters. Attendance may be ordered later, usually at the first Directions Hearing. In Australia, dissolution applications are heard separately from ancillary applications, which predominantly involve disputes over children and property disputes. Significantly, attendance records are not kept, but it is thought that at least one partner from about 50 per cent of all divorces or cohabitations that are ending attends a session, which lasts about an hour. These sessions are open to anyone who wishes to attend irrespective of whether they are making an application to the Family Court. Indeed, prospective parties are encouraged to attend an information session prior to filing an application.

⁴ Lady Justice Hale DBE, 'The way forward', in The Rt Hon. Lord Justice Thorpe and E. Clarke (eds), *No Fault or Flaw: The Future of the Family Law Act 1996*, Family Law (2000).

⁵ We are grateful to Margaret Harrison of the Family Court of Australia for the description of how the Australian system operates.

Until recently, two presenters, usually a court registrar and a court counsellor, have used a standard presentation kit, which consists of a series of overhead projector slides and points that should be made during the meeting. A number of topics have been covered, many of which are similar to those covered in the pilot information meetings here. Attendees without children can leave the meeting before information relating to children and parenting is presented. The messages that have been given are that the Family Court encourages people to reach their own settlements and provides services to facilitate and support this. A significant part of the session is devoted to giving information about when it might or might not be appropriate to use solicitors and the costs of using them. Attendees are told that it is not normally appropriate to use solicitors for negotiations with the other spouse. They are told which things they can realistically do for themselves without legal intervention, thereby enabling them to save costs. Attendees are encouraged to take a friend with them when they see a solicitor. We note that some of those who responded to the UK Government's Green Paper objected to parties being given general information about the relative costs of different services, expressing concern that this would be misleading and might tempt people to choose the cheaper course of action without being certain that such a course was the right one for them.⁶ In the information meeting pilots, however, attendees were given indications of the cost of mediation and counselling, which led some of them to regard these services as too expensive. By contrast, they were not given an indication of the cost of using solicitors. It is almost certainly not helpful to give partial information about costs. In Australia, the information on costs for each of the options is given unashamedly in the meetings, and is publicly available on the Family Court website.

The other notable feature of the Australian meetings has been the significant amount of time spent on talking about emotional processes relating to separation and divorce, and on considering the needs of children. Participants are invited to ask general questions, but if they ask for information specific to their own case they are invited to make an appointment to see a court counsellor. Typically, attendees do ask questions, which often result in the presenters elaborating on the information given. At the end of the session, a standard set of leaflets and handouts is given to each attendee.

Between ten and thirty people may attend an information meeting in the large registries, although there are fewer attendees in smaller registries where sessions are not held on a daily basis. We have observed these meetings to be friendly, but businesslike. Special arrangements are made to protect people who feel at risk of domestic violence. Such arrangements are felt to be easy to impose since most meetings take place in court buildings (or other multi-purpose public buildings in rural areas). Recently, the Family Court has successfully piloted and is now implementing a new information session run by an administrative staff member who is specifically trained to deliver the sessions. New scripts have been produced which give less emphasis to procedural matters and more emphasis to emotional issues. All those who attend a session take away the following publications: the *Family Court Book*; *Costs of Family Law Proceedings*; *Questions and Answers about Separation for Children*; *Children and Separation: a Guide for Parents*; a *Service Charter*; and a *Resources Directory*. The *Family Court Book* has been developed to replace most of the individual publications previously produced by the court. The simple message is that litigation is not the way to go.

In Australia, a flexible approach is adopted to the provision of information, such that if people find it difficult to attend court officers will provide the information (and counselling) over the telephone, or at counters in the courts, and the leaflets are mailed

⁶ The White Paper, *op. cit.*, p. 58.

out. Information is also available on the Family Court website. Many of the publications are available through solicitors and other sources. The Family Court also produces videos as supplementary to the information session, and these are also available through a variety of outlets. The material provided by the Court is available in many languages, usually the 23 languages which are offered on a free national interpreter telephone service. Audio tapes in minority languages are also available as many minority language groups have high levels of illiteracy within their own languages. The Australian model offers information provision to both married and unmarried parents (as did the group presentations offered in the information meeting pilots), because the Family Law Act gives the Family Court jurisdiction to hear and determine disputes involving ex-nuptial children. No legal distinction is made between children born to married or unmarried parents. The needs of non-married parents were raised on many occasions during the pilots, and concerns were expressed that they are not provided for by the FLA.

There has been no extensive independent evaluation of the Australian information sessions, but they have been subject to internal reviews on a number of occasions. The Family Court monitors the sessions and updates the information material through a working group consisting of counsellors, registrars, public affairs and publication staff. The current view is that in the past too much material was included in the sessions and attendees could not absorb all the information that was presented, hence the recent shift to a simpler meeting given by a single presenter. All registries will deliver information sessions in this way in the near future. The problems associated with trying to cover too much material were also experienced in the group presentations here, and we have noted that there was often too little time, or no time at all, for attendees to ask questions. Plans are under way to use a multi-media approach in information sessions to support the presenter's script, including video, overheads and computer graphics. Take-away printed materials are seen as essential and are continually being revised and updated. The move in Australia to a more focused presentation is in line with our proposal for a new information meeting model, albeit on an individual basis, which we discuss later, in the next chapter.

In June 1996 a number of important changes to the Family Law Act 1975 came into operation in Australia. These were embodied in the Family Law Reform Act 1995 and are intended to alter the ways in which parents think about and make arrangements for children following parental separation, by reducing disputes and promoting co-operative parenting. The reforms were significantly influenced by the Children Act 1989. Other changes were aimed at promoting ongoing relationships between parents and children and ensuring that these do not expose children and their carers to family violence. Parents are encouraged to reach private agreements and mediation and counselling services are promoted as the primary dispute-resolution mechanisms. The new Act also provides for the registration of parenting plans which can be converted into court orders, although the court can refuse to register a plan not considered to be in a child's best interests. Under the new law, parents have responsibilities and children have rights. At the time of its implementation, some commentators were sceptical about the capacity of the reforms to affect behaviour.⁷ Others predicted positive changes, believing that fathers may play a greater role in post-divorce parenting.⁸ Concerns were also expressed that the right to contact and the principles of shared parenting would result in women having to agree

⁷ Ingleby, R., 'The Family Law Reform Act – a practitioner's perspective', *Australian Journal of Family Law* 48, vol. 10 (1996), p. 49.

⁸ Arndt, B., 'Parents should move on without relocating', *The Age* (21 March 1997).

contact arrangements that would place them at risk.⁹ These concerns are similar to many that have been raised in England and Wales during the pilots.

A research project has been tracking the changes since 1997, during which time more rigorous legal aid guidelines have been introduced and supervised contact centres have been established in some areas. Some of the findings of the study are particularly relevant to our discussion of information meetings.¹⁰ Solicitors, for example, were generally more cynical than other divorce-related professionals about the reforms, and these different views have been played out in the advice the various professional groups give to parents and the explanations they provide about parental responsibility. The research shows that personal views impact on professional responses:

By and large, the legal profession has not embraced mediation or private agreements to any greater extent than before the reforms, and indeed, some solicitors were delighted with the increased opportunities for dispute that had been provided by the changes.¹¹

The researchers have found that litigation has increased, and there is little evidence that the shared parenting presumption is reflected in how families exercise parental responsibilities after divorce. Moreover, the concept of the right to contact sits uneasily with the principle of protection from domestic violence. The overriding flaw in the new Act is described as being the assumption of a particular, idealistic model of parenting which does not take into account the complexities and diversities in post-divorcing living arrangements.

The expectations that people will behave in prescribed ways if the legal framework tries to influence behaviour are being shown to be unrealistic, and in this sense the outcomes of reforms in Australia do not match up any more closely to government expectations there than they do to expectations held about the Family Law Act here. The overwhelming message from the Australian study is that it takes more than new legislation to change the ways in which families manage divorce and organise parenting responsibilities.

In May 2000 the Attorney-General and the Minister for Family and Community Services established an advisory group to find ways of improving the pathways for families through the family law system. The Australian Government

recognises that when families begin to breakdown, they need access to clear information and support as soon as possible ... it is clear we need to develop a more coordinated approach to helping families in distress.¹²

The advisory group is tasked with formulating recommendations on how to :

⁹ Behrens, J., 'Ending the silence, but ... family violence under the Family Law Reform Act 1995', *10 Australian Journal of Family Law* 35 (1996); Nygh, P., 'The new Part VII – an overview', *10 Australian Journal of Family Law* 4 (1996).

¹⁰ Rhoades, H., Graycar, R. and Harrison, M., *The Family Law Reform Act 1995: Can Changing Legislation Change Legal Culture, Legal Practice and Community Expectations?*, interim report, Family Court of Australia (1989); Rhoades, H., 'Child law reforms in Australia – a shifting landscape', *Child and Family Law Quarterly*, vol. 12, no. 2 (2000), pp. 117–33.

¹¹ *ibid.*, p. 132.

¹² Attorney-General and Minister for Family and Community Services, Joint News Release, Family Law Pathways Advisory Group, 17 May 2000.

- provide stronger and clearer pathways to early assistance
- help families minimise conflict and manage change more successfully
- improve the co-ordination and accessibility of client-focused information and support for families during transition
- better co-ordinate delivery of a range of services

It is expected to report to the Government at the end of the year 2000.

Private Ordering In New Zealand

The New Zealand Family Proceedings Act 1980 introduced no-fault divorce and was designed to decrease adversarial procedures and strengthen reconciliation and mediation processes. The Act provided mechanisms which allowed for early intervention in a troubled marriage. Thus couples, both married and cohabiting, can apply for help through the Family Court and gain access to free counselling and mediation services. Proceedings relating to separation, custody and access are commenced by a simple application, intended to provide basic information for the court. A major objective of the whole process is to facilitate resolution by the parties of their own disputes and keep them in control of their lives.¹³

Under the Family Proceedings Act both legal advisors and the courts have a duty to promote reconciliation and family mediation. When divorce proceedings are commenced, the parties are referred to counselling unless there has been a history of violence. Counsellors assist with reconciliation if there is a chance that the marriage might be saved, or mediate disputes if the couple are proceeding through divorce. There is, therefore, a considerable degree of flexibility in the service offered.¹⁴ Early research¹⁵ found that it was important to get both parties to see the counsellor, and to arrange the first appointment as quickly as possible. Reconciliation was achieved by about half of those for whom it appeared possible; and counselling undoubtedly contributed to the ability of those who stayed together to repair the relationship. When couples were destined for divorce, access arrangements were made during counselling in about 20 per cent of cases, and general agreement was reached in about half the cases when issues relating to property were discussed.¹⁶ The research has indicated that counselling appears to be most effective in assisting with access issues, in moving parties towards custody agreements, and in dealing with personal psychological issues.

The 1980 legislation created a new ethos around the dissolution of marriage in New Zealand. The Family Court system assists people to resolve disputes through a variety of different services which can be tailored to the diverse needs of the people using the Family Court. New Zealand has, it seems, successfully developed a client-focused

¹³ Judge Patrick Mahoney, 'Family law provisions and outcomes: an overview from three countries', in Walker and Hornick (eds), *Communication in Marriage and Divorce*, BT Forum (1996).

¹⁴ Renouf, J., in Walker and Hornick (eds) (1996), *op. cit.*

¹⁵ Maxwell, G.M., *Family Court Counselling Research Report 1: Family Court Counselling Services and the Changing New Zealand Family*, Department of Justice (1989).

¹⁶ Maxwell, G.M. and Robertson, J.P., *Moving Apart: A Study of the Role of Family Court Counselling Services – An Overview of the Findings and their Policy Implications*, Department of Justice (1993).

approach which avoids bureaucratic procedures.¹⁷ Free access to counselling and mediation has put an emphasis on early intervention. The focus has been on supporting parents primarily, and thereby supporting children indirectly. The focus is now shifting on to the needs of children themselves, and to offering them direct support.

Parenting and Separation in Canada

The Divorce Act 1985 introduced marriage breakdown as the single ground for divorce in Canada, based most often on a separation period of at least a year (fault-based grounds still exist in the legislation but are rarely used), and 1985 is recognised as the beginning of no-fault divorces in Canada. The Act requires lawyers to enquire as to the possibility of reconciliation and to advise clients of marriage counselling services. Moreover, lawyers are under a legal obligation to inform their clients about the advisability of negotiation and of using mediation services. There is not, however, any obligation on the part of lawyers actively to refer clients with disputes to mediation.

Rising public concern about the economic, social and emotional consequences of divorce for children led to the development in 1997 of a Special Joint Committee on Child Custody and Access to examine arrangements for children, with a special emphasis on how to meet their needs and best interests following parental divorce. The Joint Committee reported in 1998¹⁸ and made wide-ranging recommendations for amendments to the Divorce Act. One of these was that

all parents seeking parenting orders, unless there is agreement between them on the terms of such an order, be required to participate in an education program to help them become aware of the post-separation reaction of parents and children, children's developmental needs at different ages, the benefits of cooperative parenting after divorce, parental rights and responsibilities, and the availability and benefits of mediation and other forms of dispute resolution, providing such programs are available.¹⁹

It was recommended that attendees would require a Certificate of Attendance before they could proceed with their application. The Committee further recommended that divorcing parents be encouraged to attend at least one mediation session to develop a parenting plan for their children. Family courts would be encouraged to provide a range of support services, including family and child counselling, public legal education, parenting assessment and mediation services, an office responsible for hearing and supporting children experiencing difficulties after parental separation and divorce, and case management services. The Canadian Government published its response to the report in May 1999.²⁰ It proposes a strategy for reform rooted in four key principles:

1. The child's perspective must be at the forefront of reforms, which must themselves be child-centred.

¹⁷ Judge Patrick Mahoney, *op. cit.*

¹⁸ The Hon. Landon Pearson and Gallaway, R. (joint chairs), *For the Sake of the Children*, Report of the Special Joint Committee on Child Custody and Access, Parliament of Canada (December 1998).

¹⁹ *ibid.*, p. 30.

²⁰ Justice Canada. Government of Canada's Response to the Report of the Special Joint Committee on Child Custody and Access (May 1999).

2. Governments (Federal, Provincial and Territorial) must work together to co-ordinate projects (including parent education and mediation).
3. A holistic approach to family law reform must include a broad range of measures to support families and promote conflict-free co-operative parenting.
4. One size does not fit all, and the unique characteristics of families mean that reforms must allow flexibility to meet the best interests of children. This principle recognises that no one model of post-separation parenting will be ideal for all children.

The Government has shown itself to be supportive of many of the recommendations of the Special Joint Committee, including that parents be encouraged to develop parenting plans, but believes that further study is needed as to how they should be incorporated into the family justice system. Furthermore, the Government is committed to developing a range of interventions including parenting education programmes and mediation, both at government level and involving non-governmental organisations.

Parenting after separation in Alberta

Parenting education programmes are proliferating across Canada. Some 140 were documented by the Special Committee, but most are local, voluntary programmes. Some, however, have become mandatory, and it is these which are relevant to consideration of our findings on information provision. The Province of Alberta took the lead in developing the first Parenting After Separation Seminar (PASS) course in Canada, and in making attendance mandatory, after a period in which attendance was voluntary. The mandatory programme was piloted in one city for a year before it was extended across the Province. The objectives of the programme are:²¹

1. To provide information regarding:
 - (a) the stages and experiences of separation and their effects on parents;
 - (b) the effects of separation on children;
 - (c) changes in family relationships;
 - (d) ways of communicating more effectively;
 - (e) the legal aspects of separation and divorce when there are children involved (e.g. custody/access and support);
 - (f) parenting plans – how they are formed, what is included, the benefits;

²¹ Sieppert, J.D., Lybarger, D.S., Bertrand, L.D. and Hornick, J.P., 'An evaluation of Alberta's parenting after separation seminars', *Canadian Research Institute for Law and the Family* (December 1999).

- (g) mediation – how it works, who goes, why, and what resources are available;
 - (h) child support guidelines.
2. To encourage parenting plans as a means of resolving disputes between the parents over how their children are to be cared for, including:
 - (a) contact with children;
 - (b) decision-making;
 - (c) where the children will live;
 - (d) any other issues that relate to the children.
 3. To promote mediation as a way of helping parents to resolve the parenting issues in dispute between them and develop a parenting plan.

Any parent who wishes to bring an application before the Court of Queen’s Bench in a divorce action where there is an issue concerning child support, custody or access must, by order of a Judicial Practice Note, have a Certificate of Completion for the PASS course. Most petitioners in a divorce case that includes children are told by their lawyers that they must attend prior to receiving a court order or final divorce. The Provincial Family Court also refers people to the seminars. People may be exempt from mandatory attendance prior to a court order, as in requests for an interim custody order where there is domestic violence, or in cases of kidnapping or unilateral changes in *de facto* custody. However, these people must attend within a month of obtaining a court order. The defendant in a divorce action must attend a seminar within two months of receiving a notice of mandatory attendance at a seminar or face the possibility of being refused the right to make submissions to the court. Other persons, such as a new partner, family members or interpreters, can attend voluntarily. The course is recommended to people involved in other family proceedings. It is mandatory only in divorce cases.

The PASS is six hours in length, and may be experienced in one sitting on a Saturday or in two three-hour evening sessions on weekdays. The seminars are held in courts or other public buildings, and participants sign in and are given their participants’ manual and other handouts. A security guard is on duty at all seminars, and spouses are discouraged from attending the same seminar. The seminar, which we have observed in its entirety, is a mix of lecture-style presentation, personal exercises and videos. Opportunities are given throughout the meeting for participants to ask questions both in the group or individually in breaks. At the end of the six hours, Certificates of completion are given out to the attendees by the presenters, of whom there are two, usually a lawyer together with a psychologist, family therapist, mediator or social worker. One presenter is male, the other female. Although presenters must be experienced in their field, very little formal training is given, and quality assurance is variable. Each presenter is paid between £135 and £180 per six-hour seminar.

The seminar is highly structured in content, but our observation of it suggests that presenters modify the scripts to fit their own preferred style of delivery, and improvise to

bring the material alive, often illustrating it with cases drawn from their own professional experience. Up to around sixty people may attend a seminar, but the average attendance is 20–30 people. The cost of delivering 203 seminars in 1998–9 was calculated to be about £20 per participant. About 7,530 people across Alberta attend each year.

The PASS programme was evaluated during 1999²² and the research methodology was developed in conjunction with us, enabling useful comparisons to be made. The researchers were limited, as we were, in not having a control group, but they had the advantage of being able to monitor a mandatory provision. The study involved 1,179 attendees, 56 per cent of whom were mothers and 44 per cent fathers.

The findings are consistent with many of those relating to our evaluation of information meetings. Overall, participants were positive about the programme, valued it highly, and found the information provided both relevant and useful. Even though not all had wanted to attend the majority found the experience helpful. There appears to have been little resistance to the fact that attendance is mandatory – people attend because they are referred, usually by their lawyers. The levels of satisfaction are very similar to those of volunteer attendees at the pilot information meetings here. Eighty per cent of PASS participants agreed that the information would help them deal with their children better and would help them co-parent in the future, and 87 per cent believed that the programme should remain mandatory. One of the most highly rated information areas was that on the topic of mediation. People felt more knowledgeable across a range of topics, however, much as did attendees in the information meeting pilots.

When we consider the extent to which PASS meets its other objectives, however, we can observe some more key parallels. Very few parents (12%) reported using parenting plans although they like the idea of the plan. Most participants (72.5%) said they would be willing to consider using mediation services, although only 10 per cent actually went to mediation. By contrast, 81 per cent had consulted a lawyer since attending PASS. The majority of those who had not used mediation indicated that they did not need it, or that ongoing conflict (including violence) precluded it as an option. Participants felt more able to limit conflict and that they were coping better than before they had gone to the seminar. In general, participants felt more satisfied with child support arrangements, although women were less satisfied than men.

The researchers have concluded that parenting plans and mediation may prove to be helpful in particular situations, but not in others. They recommend that less emphasis should be given to outcome measures such as the increased use of parenting plans and mediation as indicators of the effectiveness of PASS:

At present the workshop is presented with a colossal challenge. This challenge is to directly alter the behaviour of separating/divorcing parents through a six-hour workshop, in a period when conflicts, tensions, frustration and legal issues can be intense. More realistic objectives might focus on providing information about parenting plans and mediation to participants, and then to focus on how the strategies and techniques of parenting plans and mediation can be used on a more informal basis between parents. This would not preclude encouraging parents to use parenting plans or seek mediation. These would become secondary objectives – an extra benefit to an already solid program.²³

²² *ibid.*

²³ *ibid.*, p. 69.

This is a most significant recommendation in the light of our findings in respect of the use of mediation and parenting plans. If an intensive six-hour programme does not significantly change behaviour, even less should be expected of a one-hour information meeting.

There is no doubt from our observation that participants were receptive to the information provided, and that they were encouraged to ask questions. Many did so, and only rarely did presenters indicate that they could not provide answers because they were not able to give legal advice. One of the critical elements in the seminar is that devoted to child support issues. The new Canadian Child Support Guidelines are explained and participants are helped to work through tables in order to see how the guidelines might work for them. The importance of non-resident parents paying child support is linked to messages about responsible parenting, and there is some evidence that compliance may be increased. This would be a particularly important topic in information meetings when new child support measures are introduced in England and Wales during 2001.

Participants frequently chatted among themselves, and confidentiality and privacy did not appear to be problematic issues. We also note that some of them had travelled a very long way to attend the seminar, although people in remote rural parts of the Province can have the information sent by post. There seems to be support for PASS among all professional groups and the innovation is considered to be a success. There are few exemptions to attendance. Those that there are relate to people who are very ill, who are in hospital long-term, or have no understanding of the country's main languages.

Parent education in Manitoba

In 1995 a pilot programme on parent education for separating and divorcing parents was established in Manitoba together with an evaluation project.²⁴ Attendance is voluntary, but parents wishing to use mediation which is publicly funded must take the programme as the first step in the process. There are two mediation options: the first is affiliated to the family court and deals with access and custody issues; the second offers all-issues mediation and is offered by lawyers and social workers in co-mediation. Mediation is provided free on completion of the parent education seminar, and around eight sessions are provided over a few months. Divorcing parents are not obliged to attend the parent education seminar if they do not wish to go on to mediation, but couples in high conflict are often advised to attend by lawyers and judges. The original programme lasted three hours, during which parents received information on children's reactions to separation and divorce and how parental behaviours can affect the adjustment and well-being of children. The stress was on co-operative parenting and the reduction of conflict. In line with attendees at information meetings here, parents opting to attend the programme were likely to have younger children (41% had pre-school children and 43% had children aged 6–12). The focus of the programme was on children, and unlike in Alberta, limited information was given on legal and financial issues. As elsewhere, a lecture-style presentation has been used (originally with one presenter) employing a range of materials, including a video. The attendance rate after registration was 77 per cent in the first year, and 52 per cent of attendees were fathers.

²⁴ McKenzie, B. and Guberman, I., 'For the sake of the children: a parent education program for separating and divorcing parents', *Final Report*, University of Manitoba, study series no. 12,648 (December 1996).

The initial evaluation²⁵ indicated that 95 per cent of participants were glad they had attended, while 95 per cent regarded the content as relevant and 96 per cent regarded the programme as well-organised and easy to understand. Most parents felt they could use the information to deal more effectively with their children and with the other parent. Almost all the participants indicated that they would recommend the programme to others. There was also some evidence to suggest that an increased level of knowledge about post-separation issues is associated with a lower level of conflict between parents and that parents were more satisfied with access and child support arrangements. Mediation referrals increased in the first year and there was some evidence that those who received mediation in addition to attending the programme benefited the most, with increased satisfaction relating to custody and access and more positive co-parenting. The evaluation also suggested that parents who attended the programme within the first six months of separation gained more than those who attended much later in the divorce process. A high number of participants (92%) supported the programme becoming mandatory. McKenzie and Guberman considered that the research supported the mandatory option, but felt that a random control trial might be helpful to assess the impact of a mandatory programme. Such an experiment has not been conducted. The researchers also recommended the expansion of the programme to two sessions. Although the pilot evaluation had found some evidence of small positive changes in the level of conflict among co-parents some three months after they had attended a seminar, it was suggested that a more intensive programme which provided additional opportunities for more highly conflicted parents to develop a better understanding of the effects of conflict on their children, and to develop skills and strategies to deal with these conflicts, might be beneficial. This suggestion was taken up.

The new programme involves the provision of two three-hour seminars, the first one being similar to that originally piloted and evaluated. Financial issues are now covered in the first session, including a focus on the new Canadian child support guidelines. It remains a requirement for all parents who wish to access mediation services in respect of custody and access issues.²⁶ The second three-hour session has two options: one deals with co-operative parenting (low-conflict cases); the other deals with parallel parenting (high-conflict cases). At the end of the first session parents complete a short questionnaire to guide their decision as to which of the two groups to attend for the second session. The high-conflict option is recommended for people who have experienced violence in their relationship. It provides more explicit discussion of domestic violence, how to avoid confrontation with the other parent, and how to manage parenting when the level of co-operation is low. Within each group there is an emphasis on skill-building for the purposes of working more constructively with the other parent. Parents who wish to access mediation are not required to attend for the six hours, but only for the first three-hour session. Participants register separately for each of the two sessions.

Between October 1997 and February 1998, 82 per cent of the 553 applicants for the first session attended. A much smaller number registered for the second session (253 over the same time period), of whom 75.7 per cent attended. Registration and attendance at parallel parenting seminars exceeded that at co-operative parenting seminars by 2 to 1. Women represent 53 per cent of the attendees at the first seminar; men are more likely to register for the co-operative parenting seminar; and women are more likely to register for the parallel parenting seminar.

²⁵ *ibid.*

²⁶ McKenzie, G. and Guberman, I., 'For the sake of the children: an evaluation of Phase II', *Interim Report*, University of Manitoba (March 1998).

About 15 to 20 per cent of attendees go into government-funded mediation. The overall view is that the programme works well as a prerequisite to mediation, with some modest increase in uptakes, and that parents use the information and are 'more amenable with each other'.²⁷ The research evaluation of the two-part programme is expected to be published shortly.

Other programmes in Canada

The perceived success of the programmes in Alberta and Manitoba has led to increased interest across Canada. Currently, programmes are operating in seven provinces, but are mandatory in only two (Alberta and Nova Scotia). British Columbia is running a pilot for a mandatory programme. In all locations, judges may require parents to take a parenting programme as a condition of custody and access proceedings. Most programmes take between three and six hours. All the programmes focus on children, communication between parents, legal and financial issues, and information about services such as mediation. Presenters are primarily lawyers and other divorce-associated professionals and court services staff.

A special programme for children (for three age groups from 6 to 16) has been launched in Saskatchewan, and this addresses the legal process of divorce and separation as well as the emotional experiences and changes in family relationships. Videos have been produced for each of the three age groups. These are widely available in libraries, health agencies and young offender institutions and through social welfare agencies.²⁸

A review of the programmes in Canada is due to be published at the end of 2000, but the preliminary feedback suggests that it is not necessary to use a lawyer-social worker team, that the use of videos is seen as extremely effective, that presenters need to be selected and trained and quality-control mechanisms developed, and that compliance with child support guidelines is better, although this is not solely linked to the impact of parent education programmes.

Parenting Education in the USA

Divorce education programmes have burgeoned in the USA in recent years, many of them connected to the courts. The overarching goal is to help parents and children cope with divorce, although some are focused on promoting specific outcomes. Research has suggested that skills-oriented classes are more likely to impact on parental behaviour than passive teaching strategies through lectures and written materials.²⁹ The majority of programmes are mandatory and most last between two and four hours. Some of the mandatory programmes charge a fee. A number of studies have documented the programmes,³⁰ but evaluating effectiveness has been difficult since it is almost impossible to organise control groups. Most researchers have adopted a formative evaluation

²⁷ Private communication with Dr Brad McKenzie, May 2000.

²⁸ *ibid.*

²⁹ Arbuthnot, J. and Gordon, D., 'Does mandatory divorce education work?: a six-month outcome evaluation', *Family and Conciliation Courts Review*, vol. 34, pp. 60–81.

³⁰ See Blaisure, K.R. and Geasler, M.J., 'Results of a survey of court-connect parent education programs in US courts', *Family and Conciliation Courts Review*, vol. 34 (1996), pp. 23–40; Braver, S.L., Salem, P., Pearson, J. and Deluse, S.R., 'The content of divorce education programs: results of a survey', *Family Conciliation Courts Review*, vol. 34 (1996), pp. 41–59.

approach (as in our study of information meetings), and there is some evidence of positive improvements in parental communication.³¹ An interesting finding, which accords with ours, is that the timing of attendance may influence the effectiveness of the programme. The sooner parents participate in divorce education the less entrenched conflictual parental communication becomes. Learning and using co-parenting skills have been shown to reduce the possibility of putting children in the middle of parental conflict. It has been noted, however, that co-operative parenting is an impossible goal for some parents in high-conflict or abusive relationships, and other strategies for constructive parenting need to be taught.

Our observation of some of these programmes has shown that they tend to be more dynamic than the group presentations piloted here, with a much clearer focus on conveying strong messages about what children need and how parents should respond to these needs. The presenters are often hard-hitting in the way they encourage parents to review their own behaviour, pointing to the damage they might be doing to their children. They convey a preferred picture of what post-divorce parenting should be like and underline the responsibilities of parents to meet the expectations required of them. The mandatoriness of the programmes is justified by the belief that many of the parents who most need the parenting education would be least likely to attend if it were a voluntary option. The detrimental impact of parental divorce on children is sufficient rationale in many states for parenting education to be provided as a compulsory programme. There is also a belief that if parents can focus on their children's needs the costs of litigation will be reduced. As yet, however, there has been limited systematic evaluation of their longer-term impacts. Nevertheless, resentment at the compulsory nature of the meetings has been relatively low: for example, in Utah, although 82 per cent of the first 7,000 participants indicated that they resented having to attend (they are also required to pay a fee), only 7 per cent felt that the course should not be mandatory. Geasler and Blaisure³² found, in their survey of court-connect programmes (over 1,500 in total), that mandatory programmes did not report big problems in getting parents to attend, and the final decree might be delayed or withheld until parents attended a programme, or the parent might be held to be in contempt of court.

Focusing on Parenting

The distinctive features of information provision in the USA and Canada are the focus on parenting and the overtly directive messages about what is good and bad for children and what constitutes good and bad parenting. Those programmes which have tried to promote the use of services such as mediation have not been particularly successful in meeting these kinds of objectives. The majority, however, are much more concerned to educate parents about parenting post-divorce, with a focus on reducing conflict and promoting positive parenting behaviours. In this respect they appear to have an impact, and parents have no excuse for not knowing what they should be doing to conform to the ideal types. Development work is going on in some locations (e.g. British Columbia) to design programmes which are culturally specific, and to present the parent education material in culturally sensitive forms and deliver it in community-based settings. This appears to be a most important initiative, particularly because it has been widely acknowledged that one

³¹ Geasler, M.J. and Blaisure, K.R., 'A review of divorce education materials', *Family Relations*, vol. 47, no. 2 (1998), pp. 67–175.

³² Geasler, M.J. and Blaisure, K.R., 'Nationwide survey of court-connected divorce education programs', *Family and Conciliation Courts Review* (January 1999).

size does not fit all and flexibility is essential. As Finch has argued, the aim of policies should be

to facilitate flexibility in family life, rather than shape it into a particular form ... to ensure that people have maximum opportunity to work out their own relationships as they wish to suit the circumstances of their own lives. It is not the proper role of governments to presume that certain outcomes would be more desirable than others.³³

The objectives of parent education programmes in North America are to achieve this by supporting parents through a difficult transition. There is still a danger, however, that expectations of the extent to which parents can and will modify their behaviour are set too high.

Information and Mediation in Europe

Parenting education is in its infancy in Europe, although there has been a developing interest in family counselling and family mediation in several Scandinavian countries. During the past three years we have been able to visit the initiatives in Scandinavia, France and Ireland. In Norway the Norwegian Marriage Act 1991 introduced compulsory mediation for couples applying for separation and divorce where there are children under 16.³⁴ The purpose is for the parents to reach agreement on parental responsibility, residence and contact arrangements. Norway is extremely unusual in making mediation compulsory within the legal (administrative) framework for divorce. Information is provided to parents in brightly coloured leaflets, and up to four hours' mediation for each couple is provided by the state. A certificate of attendance is provided when agreements are made, or after three hours of mediation, and these are valid for six months. Most mediators have therapy or psychology backgrounds and work within state-funded family counselling services. In about 20 per cent of cases, children are included in the mediation.

Research in Norway³⁵ between 1993 and 1996 found that 80 per cent of cases reached agreement in mediation. The conclusions reached are that mediation is helpful in about 40 per cent of cases; it is unnecessary in another 40 per cent of cases; and for 10 to 20 per cent it is inappropriate because conflict between the parties is too high and intense. The indications are that the number of contested cases has declined. However, it would appear that a mandatory provision is primarily useful for only about 40 per cent of the attendees. It is described as 'a kind of prophylactic medicine', which has met with no resistance from parents. In reality, only one parent may attend, and the focus is then less on mediation and more on education and information about the impact of divorce on children.

A similar focus characterises mediation in Finland³⁶ (which is not mandatory), the first stage of which consists of discussions about divorce, the position of children and helping parents to communicate. This may result in reconciliation as well as in conciliatory

³³ Finch, J., 'The state of the family', lecture to inaugurate the Institute of International Social Sciences, University of Edinburgh, 30 October 1996.

³⁴ Information about Norway was kindly provided by Birgitte Gulbrandsen, Royal Ministry of Children and Family Affairs, Norway.

³⁵ Ekeland, T.J. and Myklebust, V., 'Foreldremekling: Brukarperspektivet', Forskningsrapport nr. 23, Moreforskning Volda (1997).

³⁶ Information kindly provided by the Espoo Family Counselling Centre, Finland.

divorce. There is clearly some fluidity between mediation, therapy and counselling in the Finnish programme.

In Denmark,³⁷ both parties must attend (although not necessarily together) a meeting with an administrator (who is always a lawyer) at the County Governor's Office (divorce is granted administratively), where arrangements for the future have to be presented. The administrator must give the attendees information about the impacts of divorce, and a leaflet about children. Counselling is available for parents if required. Rarely do parties appoint legal advisors, and only a few go on to counselling.

Information provision in Europe is much less formalised than in Australia, Canada and the USA, and no provisions exist which reflect the focus given to information in the FLA. There may be little to learn from Europe with respect to the evaluation of Section 8, but the focus in the FLA on conciliatory approaches to divorce is in step with that of most European countries,³⁸ many of which have adopted an administrative/welfarist approach to the dissolution of marriage. A recent study of divorce process in Northern Ireland³⁹ has suggested that an information service modelled on FLA lines might be a useful resource, but not as a compulsory first step in the divorce process. It is seen as having the potential to play an important educational role in informing the public about separation and divorce, and could be located, it is suggested, in solicitors' offices, court buildings or within the voluntary sector. The information service is viewed as being able to provide a gateway into mediation. It remains to be seen whether these recommendations will be taken up in Northern Ireland.

Drawing the Evidence Together

There are a number of lessons to be taken from other jurisdictions which can inform discussions about divorce reform in England and Wales. These are as follows:

1. There is a general consensus that saving marriages at the point of divorce is not particularly effective. Even those jurisdictions that would like to encourage couples to attempt reconciliation before proceeding to divorce have not found positive mechanisms for achieving this within divorce legislation. Early intervention is considered to be essential.
2. Mandatory information provision in other jurisdictions requires attendance at group meetings. Information is not provided on a one-to-one basis.

³⁷ Information kindly provided by Svend Danielson, High Court, Copenhagen, and the Civil Directorate.

³⁸ See Council of Europe (Committee of Experts in Family Law), *Preliminary Report on Family Mediation Prepared for the Working Party on Mediation and Other Dispute Resolution Process* (1997).

³⁹ Archbold, C., White, C., McKee, P., Spence, L., Murtagh, B. and McWilliams, M., 'Divorce in Northern Ireland: unravelling the system', report to the Office of Law Reform, The Stationery Office (1999).

3. The mandatory programmes in North America and in some European countries are targeted at parents of dependent children. The primary focus in most of them is on giving information about the needs of children during separation and divorce and on promoting co-operative parenting. Most of those programmes are described as being educational.
4. The use of mediation is encouraged in most jurisdictions, but there is little evidence that the take-up rate is greatly increased as a result.
5. In the majority of jurisdictions (except in Australia) it is anticipated that the majority of spouses will want (and need) to consult lawyers.
6. There is growing evidence that effecting behavioural change requires more than the mere provision of information and knowledge. The programmes which are having the greatest impact on changing the ways in which parents approach divorce are those that help parents build skills in negotiation and in handling their children. In other words, they create a learning environment in which parents work on improving their parenting, and on conflict resolution skills.
7. Although some people resent having to attend a mandatory programme, the majority appreciate the experience and get something positive from it when it has a clear focus (such as on parenting).
8. Most parents regard parenting plans as a good idea, but there are barriers to using them, and making them a legal requirement may be a dubious route to take. Many parents have difficulty planning for the longer term and want to retain flexibility in their arrangements.

Family law faces difficult challenges wherever family life is undergoing structural change. Other jurisdictions have taken steps already, some over 25 years ago, to respond to the consequences of marital dissolution and to create calmer, more conciliatory approaches to the legal process. All jurisdictions have acknowledged that the law cannot achieve a different culture in the process of divorce without other social supports being integral to it, but in most jurisdictions there have been tensions between legal remedies and social welfare interventions similar to those we have witnessed in England and Wales. At least four common themes can be identified from the experiences in Australia, New Zealand and Canada.⁴⁰ First, these countries have attempted to make divorce more humane and less adversarial, primarily through eliminating fault-based grounds for divorce. Secondly, these countries have recognised that access to counselling and mediation services needs to be facilitated. Thirdly, recognition of the best interests of the child has led to increased support for parents through information provision, the development of parenting plans and parent education. All these mechanisms place

⁴⁰ Walker and Hornick (1996), *op. cit.*

emphasis on parental responsibility as a key factor in minimising trauma for children.⁴¹ Finally, the use of research in the development and evaluation of family policy and legislation is evident in all these jurisdictions. Good research information is considered essential in the search for effective remedies in family matters.

⁴¹ See Edgar, D.E., *Marriage, the Family and Family Law in Australia*, discussion paper no. 13, Australian Institute for Family Studies (1986).

Chapter 35

Supporting the Principles of the Family Law Act

Janet Walker

Governments are always in danger of presuming a standard model of family life for which they can legislate, by making the assumption that most families do in fact operate in particular ways. In reality, it is very difficult to detect a standard model in either a descriptive sense (what people do) or a normative sense (what they ought to do).¹

It has become increasingly difficult in recent years for governments to formulate their policies in family law because of the extent of the fluidity and diversity which characterise modern family life.² Although there has been almost universal agreement for many years that current divorce legislation does nothing to support family life and has not been responsive to the changing attitudes and practices relating to marriage and divorce, there has been less agreement about how it should change and what it should attempt to achieve. The Family Law Act 1996 was fashioned, shaped and reshaped in response to calls for reform from the judiciary and divorce-associated professionals such as lawyers, counsellors, mediators and family court welfare officers. It is novel and complex, and several elements of it have been the subject of experimentation and evaluation during the four years since the Act received Royal Assent. In this penultimate chapter we review the evidence from a complex, multi-faceted study of information meetings and associated provisions, consider the lessons which can be learned from an extensive period of piloting, and outline the ways in which other jurisdictions have responded to the social and personal issues which have resulted from wide-scale changes in family relationships and living arrangements.

Responding to Changes in Family Life

Over 140 years ago, in January 1858, the Court for Divorce and Matrimonial Causes was opened. Within the first year 253 petitions for divorce and 87 for judicial separation were filed. Lord Cranworth, who as Lord Chancellor had taken the Matrimonial Causes Act 1857 through Parliament, had predicted that divorce reform would increase the numbers seeking divorce from four a year to about eighteen or twenty. He was dismayed by the inaccuracy of his predictions. *The Times*, a staunch supporter of the 1857 Act, reported concern about the 'deluge' of divorces, but suggested that no one had 'the least idea of the quantity of matrimonial misery which was silent'.³ In less than 150 years there have been unparalleled changes in family life, which have resulted in divorce becoming a much more common, although no less regrettable, event. While many politicians would like to be able to reverse the trends which have seen a dramatic increase in the last thirty years in

¹ Finch, J., 'The state and the family', lecture to inaugurate the Institute of International Social Sciences, University of Edinburgh, 30 October 1996.

² Neale, B. and Smart, C., 'In whose best interests? Theorising family life following parental separation and divorce', in S. Day Sclater and C. Piper (eds), *Undercurrents of divorce*, Ashgate (1999).

³ Horstman, A., *Victorian Divorce*, Croom Helm (1985).

the numbers of those getting divorced, this is simply not possible. As the then Lord Chancellor Lord Mackay stated in his foreword to the Government's Green Paper:

Seeking to prevent the breakdown of marriages is an objective which goes far beyond the scope of the law. The divorce law is intended to deal with the situation in which a breakdown has taken place.⁴

Lord Mackay went on to express the view that a good divorce law will support the institution of marriage

by seeking to lay out for the parties a process by which they receive help to prevent a marriage being dissolved. If that is not possible it should seek to eliminate unnecessary distress for the parties and particularly for their children in those cases where a marriage has broken down irretrievably.⁵

On the recommendations of the Law Commission, the foundations for a reformed process of divorce were set out in the Green Paper. This was to provide opportunities for those whose marriage is in danger of breaking down to get help to save the marriage if at all possible, and if not, to make sure that conflict is minimised in order to protect children who are perceived as being 'very vulnerable to consequent damage'.⁶ The potential for damage was considered to be higher when the marriage is conflictual, and when the children do not have 'a continuing reasonable relationship thereafter with both parents'.⁷ The law, then, was to make provision for an orderly process of marital dissolution. Research on marriage breakdown and divorce during the 1980s and early 1990s had drawn attention to the potentially harmful consequences of marriage breakdown on children and had pointed to the inadequacies of the present system, which has the capacity to fuel conflict, thus doing little to protect children. Moreover, research into mediation which was being promoted as a more appropriate mechanism for resolving disputes than the more traditional litigation routes revealed that people facing the dissolution of their marriage were articulating some very clear needs. They wanted the following:

- to have good, accurate, user-friendly information about support services and divorce processes
- to gain more knowledge about divorce and its effects
- to be seen as individuals who require flexible processes to address differing needs at different times
- to be able to talk about the future, but also to address the unhappiness of the past, its failures and disappointments
- to resolve arrangements as amicably as possible
- to reduce conflict, and to improve communication
- to be able to access a range of high-quality, professional services, including marital counselling, divorce counselling and mediation

⁴ The Lord Chancellor, Lord Mackay of Clashfern, Green Paper (1993), p. iii.

⁵ *ibid.*

⁶ *ibid.*, p. iv.

⁷ *ibid.*

- to receive legal advice and support
- to know what the future might have in store and how to prepare for it
- not to be pressured into reaching agreements prematurely
- not to be pushed into conventional post-divorce living/contact arrangements
- to have their views respected⁸

In many ways, the proposals for divorce reform sought to meet these needs. Concerns about children were paramount and their welfare has been a clear priority since the Children Act 1989. But the anxieties about children were intertwined with more fundamental concerns that divorce can never be a good solution to marital problems because of its propensity to generate social harm. Hence the heavy focus on marriage and marriage support in debates about divorce reform. The provisions of the FLA were debated and amended, and then enacted in the pilots against a background of high symbolism: an institution, marriage, considered basic to a way of life was to be defended and cherished. The higher the symbolism and the more persuasive the rhetoric, the more ambiguous the methods for achieving unquestioned and unquestionable goals. Thus, the three-month waiting period that has to elapse between attendance at an information meeting and the making of a statement of marital breakdown is intended to function as a clear sign that the marriage may be at an end, as a cooling-off period and as an opportunity for reflection on the possibility of saving the marriage. The ideal of married nuclear family life remains as prominent in the 1996 Act as it was during the nineteenth century.

The FLA fuses the concepts of justice and welfare, although there are inherent tensions between them, not least in respect of presumptions about consensual decision making, co-operative parenting, and contact with children. These presumptions have the effect of imposing social and personal controls on parties during and beyond the divorce process, encouraging them towards certain actions and the use of certain services which reinforce welfarist messages. The FLA can be seen as

an attempt to address the contemporary ‘crisis in the family’, and as a way of containing the ‘problem’ of divorce and the complex emotions associated with it, at both social and individual levels.⁹

In seeking to address the varying needs of children and of adults, the FLA has tried to manage the tensions resulting from changing family patterns and relationships.¹⁰ Day Sclater and Piper have gone further to suggest that family law is attempting to ‘constrain and contain’ changes that are regarded as threatening, thus reconstructing a new kind of

⁸ Walker, J., *Divorce Law Reform: A Brave New World for Relate?*, Relate Centre for Family Studies (1995); Walker, J., McCarthy, P. and Timms, N., *Mediation: The Making and Remaking of Co-operative Relationships*, Relate Centre for Family Studies (1994).

⁹ Day Sclater, S., *Divorce: A Psychosocial Study*, Ashgate (1999).

¹⁰ Smart, C., ‘Wishful thinking and harmful tinkering: sociological reflections on family policy’, *Journal of Social Policy*, vol. 26 (1997), pp. 301–21.

post-divorce family.¹¹ In this respect, the FLA simply represents an opportunity for the reorganisation of family life, centred on the concept of parental responsibility. Smart and Neale have argued that the legislative measures enshrined in the FLA were imposed by a government with a clear ideological agenda about family life, and a desire to improve the existing divorce process through interventions which were designed

to alter the practices of members of ordinary families for their own good, or for the good of their children, or for the good of a wider public morality.¹²

In order to dispose of a divorce law which is based on fault and adversarial process, the Law Commission suggested that the passage of time should provide evidence that a marriage is beyond repair. While still using the passage of time as evidence, the FLA has sought to encourage people to fill this time with constructive activities, which include reflection on whether the marriage is saveable, attempts at reconciliation wherever possible, and consideration of all the arrangements which must be made in respect of a future life apart.¹³ The information meeting was to be the gateway to this period of reflection and consideration.

Ascertaining Legislative Intent

The FLA begins with a statement of general principles laid out as Part I of the Act. These are to support the institution of marriage, to encourage reconciliation, to promote conciliatory divorce, to facilitate continuing relationships between parents and children, and to minimise the risk of violence. The information meeting is expected to support and uphold these principles, thereby providing the framework for the welfarist interventions which follow. In the pilots, the principles informed the nature and purpose of the information meetings, guiding officials in the development of a number of different models.

Central to the declared purpose of the information meeting is the encouragement of the party or parties to look forward and to consider how their situation can best be resolved. Quite clearly, in requiring parties to look forward, the encouragement to reflect on whether the marriage is saveable requires them to do a good deal of looking back. The information meetings, as they were constructed in the pilots, became a mechanism for looking in two directions at once: back on the marriage and forward to a life apart. It became increasingly clear to us that this rather Janus-like approach to information provision was less than helpful for the attendees, yet when a new model (Model C) focused on facing in just one direction (backwards) this failed to meet the needs of those for whom no amount of reflection would enable them to save their marriage, for whom divorce was inevitable. The messages being radiated through the provision of information were actually quite complex, reflecting a mix of legal rational regulation within a somewhat moralistic, and at times overtly persuasive, framework. Although there was no hard sell on mediation, for example, presumably because it was thought that a rational person would be able to see the benefits of conciliatory processes, there were strong messages about what constitutes responsible parenting, presumably because it is known

¹¹ Day Sclater, S. and Piper, C., 'The Family Law Act in context', in S. Day Sclater and C. Piper (eds), *Undercurrents of Divorce*, Ashgate (1999).

¹² Smart, C. and Neale, B., 'Good enough morality?: Divorce and postmodernity', *Critical Social Policy*, vol. 53 (1997), pp. 3–27; Smart, C. and Neale, B., *Family Fragments?*, Polity Press (1999), p. 175.

¹³ Eekelaar, J., 'Family law: keeping us "on message"', *Child and Family Law Quarterly*, vol. 11, no. 4 (1999), pp. 387–95.

that parenting is frequently impaired during the emotional upheaval of divorce, and because children's needs must be held paramount.

The purpose and impact of the information meeting can only be understood within the context of the FLA as a whole. Part III, for example, creates a new position for mediation in the legislative framework, and other provisions in Part II give new powers to courts to refer litigants to mediation. One of the purposes of a mandatory comprehensive information meeting is to extend knowledge and understanding of options such as mediation so that these other provisions would build on a sure foundation. It was not possible for the pilots to be set up in a way that would have allowed us to test mandatory attendance, nor to monitor their impact within a reformed system of divorce. We cannot know when, in an implemented system, one or both spouses might decide to attend an information meeting, although it will have to be at least three months before any statement of marital breakdown can be lodged. The legislative intent, however, is that the information meeting marks the gateway to the future for a spouse who has reached the point of recognising publicly that their marriage is in serious difficulty. The intention behind the Act is to encourage attendance at a time when all the options, including saving the marriage, are wide open. This may not be the case in reality if attendance at an information meeting is seen as the obligatory first step on the road to divorce.

Information meetings in the context of the divorce process are an initiative of considerable complexity. It became clear early in the evaluation that while the objectives in Part I of the FLA appear incontestable, it was not going to be easy or straightforward to bring them together within a single 'first step' or point of entry, that is an information meeting capable of being delivered to between 300,000 and 400,000 people per annum. As we have seen throughout the pilots, attendees came to information meetings from a wide variety of personal circumstances, and at different stages in the difficult, stressful and frequently lengthy process of marriage breakdown. We conceptualised this in terms of three states of ignorance, outlined in Chapter 4 and referred to during the presentation of findings throughout the report. These are: not knowing what to do about a marriage that is in trouble; not knowing how to proceed with divorce; and not knowing how to deal with specific issues in relation to a divorce which is inevitable. These states of ignorance have far-reaching implications for the timing and content of information meetings, and for the impacts which the provision of information can be expected to achieve. Bearing these realities in mind, we needed to consider how information meetings might support the principles of the Act, and we conducted our analyses accordingly. One of the key challenges for the implementation of Part II is to ensure that appropriate information is available to people at the optimum time in their journey through the separation process. The evidence from our evaluation is crystal-clear: if information is to be meaningful and understood it must be both relevant and sensitive to the needs of the person receiving it.

Supporting and Saving Marriage

In many ways this is one of the most difficult principles to uphold within divorce legislation, as other jurisdictions have found. The rise in the number of divorces in the last 30 years can be explained, in part, by the changing expectations of and attitudes towards marriage. Most people enter marriage believing it will be a lifelong commitment, and, indeed, many men and women remain in unhappy marriages because of the commitment they have made and the realisation that breaking it is a very serious step to take. Divorce does not simply connote an unhappy marriage, but the fact that one or both spouses is

prepared to go through the difficult business of dissolving it.¹⁴ Few do so without a good deal of soul-searching and doubt. All the evidence from this and from other research is that most people think long and hard before taking those first crucial steps to initiate divorce proceedings, and that they may have made a variety of attempts to save and improve the relationship beforehand.

During the pilots, 55 per cent of attendees at information meetings had already separated from their spouse. Around 20 per cent of attendees had been to marriage counselling in the previous year and many more had experienced marriage counselling in the past. There is no evidence to suggest that large numbers of people rush into divorce without thinking carefully about their marriage and the consequences of ending it. This was recognised by members of both Houses of Parliament during debates on the Family Law Bill:

The majority of people agonise for a long period over whether there is any prospect for reconciliation before they come to the final decision that there is no hope for their marriage. There are many cases in which, even after consulting a solicitor, husbands and wives take further time to reflect before giving him [*sic*] the green light to trial proceedings.¹⁵

The House has no power to revive a marriage that is emotionally dead. We should not seek to prevent individuals from making a free choice or add to the misery of an already distressing position.¹⁶

Under an implemented system, people will be prompted to attend an information meeting because: they have become aware that their marriage is in difficulty and do not know what to do about it; they want a divorce, do not know how to proceed but want to get on with it; or the legal process is the final episode in a marriage which is well and truly over and they need to resolve particular matters or simply go through necessary hoops in order to get the process under way. Most, we would speculate, particularly in the early years following implementation, will fall into the second two categories, and turning them back will be a relatively rare outcome. Those who fall into the first category may well be people whose partner is wanting and/or initiating a divorce while they are still wanting the marriage to continue. Even in marriages which have obviously been unhappy for a while we have come across people, men in particular, who simply had no idea that their partner was thinking of getting a divorce, and were taken by surprise when divorce papers were served. These people may well want to take every opportunity to save the marriage, particularly if the spouse has not taken the critical step to live separately. However, it takes two to avert divorce, and if one partner is fully determined to end the marriage there may be little in reality that the other spouse can do to stop it. As Reynolds and Mansfield¹⁷ have pointed out, underlying the changes in attitudes to marriage and divorce is a major shift in the prevailing world view, a shift that has put more emphasis on the meeting of individual needs than on conformity to rules. They warn that policies and practices which ignore this reality are likely to prove irrelevant, if not counter-productive.

One of the dilemmas facing family members and policymakers is how to balance individual needs and choices with commitments and responsibilities to others. Marriage

¹⁴ Reynolds, J. and Mansfield, P., 'The effect of changing attitudes to marriage on its stability', in J. Simons (ed.), *High Divorce Rates: The State of Evidence on Reasons and Remedies*, Lord Chancellor's Department, Research Series No. 2/99, vol. 7 (1999).

¹⁵ Baroness Birk, Official Report (H.L.), 30 November 1995 at col. 726.

¹⁶ Mr Chris Davies MP (Littleborough and Saddleworth), Official Report (H.C.), 25 March 1996 at col. 768.

¹⁷ Reynolds and Mansfield (1999), *op. cit.*, p. 31.

and parenthood are both major commitments. Children may provide a strong incentive to stay in an unhappy, unsatisfactory marriage, and it is children who constitute the main focus of concern when marriages end.¹⁸ If marriage is to be regarded as a private institution, it may be worth considering how far the state should intervene to save marriages at the point of divorce where no dependent children are involved. One man who declined the invitation to attend a MWMC told us:

I've been married forty years and twenty of them have been horrendous. (M)

Another man told us that when he went to an information meeting he had 'worked through' how he felt about getting a divorce:

I should have done it years ago. My wife and I are like ships in the night ... we kept together for the sake of the children. Nothing could really have saved the marriage. (M)

For these kinds of people, a focus on marriage and the impact of divorce on children is likely to be out of step with their immediate and future needs. Marriage support needs to be available and promoted much earlier, when problems in marital relationships first arise. Comments such as the following were fairly common among those who declined the offer of counselling when they went to an information meeting:

Things had been going wrong for five or six years. (F)

I had already made my mind up [about divorce]. I first thought about it 2 or 3 years ago, but having the kids made it more of a considered decision really. I saw someone else, who is now my fiancée. (M)

Marriage counselling could only have helped going back years and years and years. (F)

I think I should have gone to counselling years ago and then maybe it wouldn't have ended in divorce. (F)

It is hardly surprising that the evidence from the pilots shows that the information about marriage support did not come early enough to have a real chance of saving many marriages. By the time they went to an information meeting the majority of attendees had travelled a long way down to the road to divorce even if they had not yet initiated proceedings or consulted a solicitor. Some did turn back, but even in an implemented system, the numbers are likely to be relatively small (perhaps between 5 and 10% of attendees). This was considered sufficient, by MPs during debates on the Family Law Bill, to justify the focus on marriage support, but the research suggests that information about marriage support services needs to be more carefully targeted at those for whom the door to reconciliation is clearly still open when they attend an information meeting.

The meeting with a marriage counsellor

One of the more successful innovations in the pilots was the development of the meeting with a marriage counsellor. The MWMC provided an opportunity for those attendees who took up the offer (12% overall) to explore with a counsellor the extent to which the

¹⁸ Clulow, C., 'Marriage: a new millennium?', in C. Clulow (ed.), *Women, Men and Marriage: Tales from the Tavistock Marital Studies Institute*, Sheldon Press (1995).

marriage might be saveable, and to decide on the next steps. Those who did not want a divorce were the most likely to feel encouraged by the MWMC, but consumer satisfaction was high for most people, and over 60 per cent of attendees at a MWMC indicated that they would have liked to have gone for further counselling. The MWMC seems to have been particularly successful in moving people on from 'stuck' positions, enabling them either to put effort into possible reconciliation, or to move forward into divorce feeling more able to cope with it.

We are aware that the Government may wish to look beyond the immediate measurement of satisfaction in determining whether the MWMC can be considered to be a successful innovation, although we would caution against judgements based solely on whether people went on to marriage counselling, or were still living together and hoping to save their marriage. While marriage saving is clearly an important remit for the MWMC, it is certainly not the only one. There is evidence that the MWMC enabled some people to move on with greater confidence either to save the marriage or to end it. Coming to terms with the fact that a marriage is over might be a very significant step. We have suggested in Chapter 17 that there may be a case for changing the emphasis in the MWMC from one which focuses solely on marriage saving to one which focuses on improving the quality of the relationship between spouses. As we have seen, saving the marriage was an objective for fewer than half of those attending the MWMC. If the primary focus were to be on improving relationships, and if this improvement could be achieved, a couple could choose either to work on saving the marriage, or to move forward into divorce in a more conciliatory and co-operative manner, thereby meeting another objective of the FLA.

In our view it is essential that expectations as to the number of marriages that might be saved through attendance at an information meeting and a MWMC are realistic. It is not likely that large numbers of people will be turned back from the brink of divorce, but they might be helped to manage divorce more consensually and to approach the future with fewer negative emotions. We would suggest that the MWMC was a helpful intervention in this regard, more so, perhaps, than the rigidly structured and impersonal information meetings. If the MWMC were to be limited to those attendees who expressed serious intent to try to save the marriage, relatively few people might be eligible.

In terms of implementation of Part II of the FLA, the MWMC as developed for the pilots would seem to be suitable. We would suggest changes to the way in which information about counselling agencies is provided, and modifications to the script to take account of whether one or both spouses attend the meeting. Furthermore, if the MWMC is to be implemented, policy and practice decisions would need to be taken in respect of the responsibility for completion of eligibility forms for public funding, and of how people can access counselling services more efficiently if they wish to do so. It is certainly not helpful, when people do decide to try marriage counselling in order to save the marriage, that they may have to join waiting lists, go through further intake interviews, or change counsellors if they really do not wish to. So much momentum can be lost (with negative consequences) if counselling is not available when couples feel ready to embark on it. Time may be of the essence in deterring people from getting a divorce.

Policy issues

There can be no doubt that

all assistance in aid of marriage is 10 times more useful if it is available as soon as trouble appears in the marriage.¹⁹

The MWMC designed for the pilots almost certainly encouraged people who would not normally have accessed a marriage counselling agency to do so. The solution-focused approach was appreciated both by men and women, and the counsellors became aware of its potential within the broader remit of their agencies. We note that Relate and Marriage Care have developed a similar kind of consultation meeting as part of their portfolio of services.

Information about marriage support should not just be available when marriages are on the verge of ending. A MWMC-type meeting could be very beneficial for couples at much earlier stages in the development of marital problems. Very few people with marital problems ever seek the help of a professional counsellor: better information and a wider variety of services on offer might encourage more to seek help before divorce becomes a serious option. As we have seen in the pilots, people accessed the MWMC and counselling with a variety of agendas. Saving marriage was but one of them. People opted to see a counsellor in order to get help in ending their marriage, come to terms with the ending of their marriage, or receive personal help and support at a time of crisis and transition. One of the biggest hurdles faced by those who wanted to work on the marriage was persuading the other spouse to attend. Giving information, and offering an invitation for an MWMC to only one spouse, do little to alleviate this problem.

Counselling is not necessarily about saving marriages, and most marriage agencies focus on trying to improve relationships irrespective of marital status or intent. The wider benefits of counselling were amply demonstrated during the pilots. Being able to reflect on the marriage and understand where and how it had gone wrong was seen as an enormously helpful process and one which would make it less likely that the mistakes of the past will be repeated in future relationships. In this sense, counselling may well be acting as a marriage-saving device in respect of a future marriage. Furthermore, counselling may help people to end their marriage with less distress and acrimony, thereby encouraging a less conflictual parental relationship in the future. Information about these wider benefits could be given at the information meeting and counselling encouraged not solely for those wanting to save their marriage. The principles of the FLA might be better supported if this were to be the case.

Promoting Conciliatory Divorce

The FLA introduced public funding for mediation in family disputes following many years of campaigning by the providers of family mediation for greater recognition of the value of mediation in the divorce process. It is anticipated that the provisions of Part III of the FLA will be fully implemented nation-wide by the beginning of 2001. These have been rolled out during the information meeting pilots, and have also been subject to evaluation. Promoting mediation is clearly part of the Government's policy on the family and the FLA heralded a bright new future for the mediation agencies.

¹⁹ Lord Simon of Glaisdale, Official Report (H.L.), 27 June 1996 at col. 1062.

During the information meeting pilots, however, the numbers using mediation were considerably lower than the policymakers and advocates of mediation had anticipated, casting doubt, it seems, on the efficacy of information meetings. The Lord Chancellor has put forward the view that the FLA

was intended to encourage people into mediation so that they could settle their differences and make their arrangements, by agreement as far as possible, prior to the granting of the divorce.²⁰

He added that the Government

is determined that as many people as possible know what mediation offers and are given the opportunity to benefit ...

It is vital to minimise acrimony and emotional distress in family cases because people will often need to have a continuing relationship with one another beyond their lives together ... because they have continuing responsibilities for their children.²¹

The Lord Chancellor has expressed disappointment about the preliminary findings from the pilots since only 7 per cent of those who attended an information meeting had gone on to try mediation. There had been an expectation that on a worst-case scenario some 40 per cent would be diverted into mediation. Our research, and that of the team evaluating the publicly-funded mediation pilots, would lead us to doubt whether the numbers of people using mediation would ever reach this level, and we suggest that a more modest view now needs to be taken about the use of family mediation, even in a fully implemented system. This is not to say that more people will want to conduct acrimonious divorces, nor that mediation does not have an important role to play, but as we have seen in the pilots, the choices people make and the routes they take are influenced by a wide range of factors, rendering it unlikely that large numbers will go down the formal mediation path. Equally, few cases will proceed to adversarial court proceedings. The majority will settle somewhere along the way with parties managing to resolve matters either by themselves, or with the help of lawyers negotiating on their behalf.

There is no doubt that the information meetings were largely effective in increasing people's knowledge about mediation (although some remained confused as to its purpose) and that, on the whole, people were receptive to the idea of conciliatory divorce. It is important to note, however, that there was no hard sell given to mediation in the pilots, and no real attempts were made to 'divert' people into mediation services. Nevertheless, the videos used in group presentations did enhance the verbal and written information about mediation, and the visual portrayal of the mediation process was regarded as useful. The additional emphasis on mediation did have an impact, and the information did indeed encourage some people to go to mediation. The majority of those who decided against it either had no need for it or were thwarted by the fact that their spouse would not attend with them, thus negating it as a realistic option. Other reasons given for not using mediation included continuing uncertainty about what it does; fear of intimidation or lack of trust in respect of the other spouse; the cost of the process; and the lack of local services. There are clearly lessons to be learned here. If the video is a useful medium for describing what mediation is and does, consideration should be given to making it more

²⁰ The Lord Chancellor, Lord Irvine of Lairg, Address delivered to the UK Family Law Conference, 25 June 1999, p. 2.

²¹ *ibid.*

widely available. This may also address the problem of continuing confusion about what mediation is.

The most fundamental challenge, however, is how to encourage both spouses to use mediation. For mediation to be an option both parties have to be willing to co-operate with the process. This does not mean however, that both parties always have to be in the same room at the same time. Models of mediation which allow the parties to be in separate places with no need to meet (thus reducing concerns about intimidation in some cases) exist in other jurisdictions. If mediation is to be more attractive as an option, mediation practice may need to be more flexible, so as to include shuttle mediation, video conferencing and so on. Of course, if parents are to be encouraged to be more conciliatory, both of them need to be given the same information.

The role of lawyers

The Government seems implicitly to have assumed that if more people used mediation fewer would use lawyers. To some extent this may be a reasonable hypothesis, since if parties are able to negotiate directly rather than through partisan solicitors, the amount of time spent by solicitors on each case might be less and the costs incurred would also be lower. In reality, however, the FLA is more likely to mean a changing role for solicitors rather than their displacement from the divorce process. So the fact that large numbers of people went on to consult a solicitor after attending an information meeting should not be automatic cause for concern, particularly if what they were seeking was legal advice – a service available only from solicitors and not via information meetings, counsellors or mediators.

Under the present system, lawyers and divorce go hand in hand. Most people, though not all, regard it as inevitable that at some stage in the divorce process they will need to consult a solicitor. Even those using mediation services are likely to consult a solicitor, and indeed, are encouraged to do so by their mediators. Mediators, solicitors and mediation users do not view mediation as an either-or choice. The solicitor provides personal legal advice, and may oversee the agreements reached in mediation and deal with the divorce paperwork. Providing comprehensive information about different services and the routes through the divorce process, and encouraging the use of mediation, may change the way in which solicitors are used and what they are used for. We found evidence that some information meeting attendees felt more confident about approaching a solicitor, more aware of the kind of advice they needed, and more able to retain control of the divorce process, rather than putting it all in the hands of a solicitor.

Some attendees wished to avoid involving solicitors, preferring to manage things themselves and wanting to minimise any risk of hostility being generated between them and their spouse. These people may well have wanted some legal advice but did not like the inevitable partisanship which consulting a solicitor would imply. Genn²² found that over 90 per cent of people in her study who had experienced relationship difficulties had obtained legal advice. This was the highest rate of advice-seeking among all the problem types she investigated. The first point of contact for most of those with relationship problems (61%) was a solicitor, while about a quarter went first to a CAB. Genn also found that a relatively high proportion of advice from solicitors was supported by legal aid public funding. The advice people in her study were seeking was a mixture of personal legal advice about their own circumstances and more general information about

²² Genn, H., *Paths to Justice: What People Do and Think about Going to Law*, Hart (1999).

legal process and dispute resolution mechanisms. It may be that the focus would have been more specifically on obtaining personal legal advice had those people attended an information meeting beforehand. Genn has concluded that there exists a

profound need for knowledge and advice about obligations, rights, remedies, and procedures for resolving justiciable problems.²³

Much of this knowledge would, in an implemented system, be provided through information meetings, but many people would still feel the need for legal advice and legal information, about financial matters for example, which is personal to them. This almost certainly means that they will wish to consult a solicitor unless a specialist agency can provide legal advice on matrimonial matters.

It is important to remember, however, that nearly two-thirds of information meeting attendees who subsequently consulted a solicitor said that the information meeting had not been instrumental in their deciding on that course of action. Nearly half of the men had gone because their spouse had started divorce proceedings, and they saw seeking legal help as the right thing to do. As we noted in Chapter 20, it is unfortunate that technical legal advice is generally available only in a partisan wrapping, even if most solicitors encourage a constructive and amicable approach towards divorce.

Policy issues

The Government has embarked on an extensive programme for the modernisation of the civil justice system, with a sharp focus on encouraging people to avoid disputes or to resolve them outside the court system. Access to justice remains an important principle, and providing effective solutions to disputes, preferably using alternative dispute resolution (ADR) processes, is a key goal. One of the ways of improving access to appropriate information is through the Community Legal Service, which will contribute to the co-ordination of local networks of advice provision. One of the aims is to improve knowledge about mediation and the potential benefits of using it. Information meetings within Part II could play this role in respect of matrimonial disputes, but the information needs to be more widely available than merely through a meeting which only one party would be obliged to attend. The Government's discussion paper²⁴ on alternative dispute resolution highlights the widespread ignorance about ADR and points to the potential of using new technologies to enhance understanding. We would suggest that videos and CD-ROMs have an important role to play in extending understanding of family mediation.

More could clearly be done to educate the public (and professionals involved in family matters) about the importance of reducing conflict during and beyond divorce and the benefits of taking a conciliatory approach. So far as parents are concerned, it has proved not to be a particularly difficult message to get across, but it may be less simple for people to put it into practice at a time when emotions are running high. As the Lord Chancellor has rightly indicated:

²³ *ibid.*, p. 255.

²⁴ Lord Chancellor's Department, *Alternative Dispute Resolution: A Discussion Paper* (November 1999).

Divorce makes people vulnerable – and often already vulnerable people more vulnerable ... It can inspire feelings of anger and revenge ... It can cause depression and emotional confusion.²⁵

Moreover, as Davis pointed out some years ago, divorce is characterised

by a heightened perception of separate and competing interests, although elements of mutuality may still persist ... In these circumstances, most people experience a pressing need for well-informed partisan support.²⁶

This does not mean that these people are necessarily hell-bent on pursuing an acrimonious divorce, nor that they will not regard being conciliatory as a preferable option. But it may mean that seeking the formal help of mediators rather than of lawyers is less attractive to one if not both parties. Our evaluation of information meetings indicates that many attendees tried, with varying degrees of success, to manage their divorce amicably, and to reach acceptable settlements through a conciliatory process. In order for people to make informed choices about which, if any, services to use, however, a number of elements need to be in place. People need to know about the options; they also want to understand the processes involved in the services available and know how and when to access them, and, if these processes require the co-operation of both parties, this information is required by both. In this respect, we have argued²⁷ that two connected values appear to clash in respect of information meetings as they are conceptualised within the FLA. Information meetings in the pilots demonstrated success in increasing knowledge about mediation and persuading attendees of the benefits of being conciliatory. Yet recognising the rights of an individual and the significance of confidentiality, particularly in relation to personal safety, has produced a system that militates against couple involvement in information meetings and requires only one party to attend prior to the commencement of divorce proceedings. While mediation seeks to balance power between the parties, attending an information meeting can significantly empower one spouse through their acquiring knowledge which might not be shared with the other, and indeed, through their experience of going to the meeting and simply being given a bundle of leaflets. If there is not a shared understanding about mediation, there is unlikely to be a shared commitment to using it. Furthermore, as we have found, not all divorce-associated professionals feel that all the provisions in the FLA are a good idea, so that information delivered via information meetings to one party may be at variance with the information provided via other sources to the other (or to both). Practitioners have noticed a substantial gap between parties who have attended a Section 29 appointment under Part III of the FLA and their partners. Whereas many of those who attend are perceived as being willing to try mediation, the other spouse is perceived as having no interest even in meeting with a mediator to find out more about it. The conclusion one mediation pilot reached was that

the problem for mediation is not that it is a minority choice but that people deal very differently with letters and face-to-face contact. The problem is one of the written word – not how it is written, but that emotive communication is written at all and that it comes through the post ...

We have to find ways of talking to clients other than through writing to them and sending them heaps of forms and leaflets.²⁸

²⁵ Address to the UK Family Law Conference, *op. cit.*, p. 2.

²⁶ Davis, G., *Partisans and Mediators: The Resolution of Divorce Disputes*, Clarendon Press (1988).

²⁷ Walker, J. and Timms, N., 'Reviewing the evidence', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

²⁸ Richards, C., 'Who says mediation is a minority choice?', *Family Law*, vol. 30 (April 2000), p. 283.

This view accords with our finding that those who received an information pack through the post were far less likely to use mediation than those who had attended an information meeting. Knowledge about mediation is more likely to have an impact if it is imparted face to face. Of course, any number of professionals might and ought to be able to do this, particularly as information meetings and Section 29 appointments are limited in their capacity to involve both parties.

Effective efforts to use the law to achieve social and cultural change require a coherent programme to which diverse interest groups contribute. This seems to be happening in a variety of ways. The pilot ancillary relief schemes which have tackled the problems of excessive cost and delay faced by divorcing couples trying to resolve financial arrangements, for example, are part of a continuing programme of change in the culture and practice of family law. It is predicted that

the worst excesses of overly litigious practitioners should be curbed by district judges playing a more interventionist and dispute resolution role.²⁹

Furthermore, the Law Society has embraced mediation and mediation training, and has set up its own mediation panel. Family law practitioners are being encouraged not to regard mediation as a threat, but instead

as an opportunity for practitioners to develop new skills and to be able to offer complementary services, either in-house or through linked outside mediators who may refer work back.³⁰

The message here is one of inter-disciplinary partnership and co-operation, which the information meeting pilots sought to encourage, and which can have only positive consequences in the long run for the users of different services. Ensuring that people can access the right kind of help at the right time is one of the goals of information provision. The Lord Chancellor's Advisory Committee on Legal Education and Conduct considered that family mediators and family lawyers can best serve the public by working in closer co-operation, and suggested that solicitors should be required by professional rule to advise clients of the availability and purpose of mediation just as mediators are already under a parallel obligation to advise on the availability of independent legal advice.³¹

Despite these actual or proposed shifts in practice, however, there is growing recognition that initial optimism about the potential expansion of mediation is unrealistic, although mediation providers remain confident about the long-term prospects for the development of mediation once Part II of the FLA is implemented.³² Changing the culture of divorce is a long process, and it is reasonable to predict from our evaluation and that of the mediation pilots that mediation services will not be accessed by anything like as many as 40 per cent of the divorcing population, primarily because this number have no need of it. It is more likely, however, that more couples will attempt to manage their divorce in a conciliatory manner, having been given greater knowledge about the benefits of doing so and about the consequences, particularly for children, of escalating conflict and hostility. This may lead to some increase in the numbers of those accessing specialist mediation

²⁹ Harper, M., 'Focus family law', *The Law Society Gazette* 96/29 (21 July 1999).

³⁰ *ibid.*, p. 26.

³¹ Lord Chancellor's Advisory Committee on Legal Education and Conduct, *Mediating Family Disputes: Education and Conduct Standards for Mediators* (December 1999).

³² James, A.L., Clisby, S. and Cuming, Z., *A Study of the Institutional Impact of the Introduction of Publicly-Funded Mediation*, Third and Final Report for the Legal Aid Board (June 1999).

services, but mediators do not have a monopoly on conciliatory divorce processes. Measurements of success should not rest solely on the numbers of agreements reached. A conciliatory process, like counselling, is likely to generate other more subtle benefits. As an experienced mediator has commented:

Family mediation demands the willingness to work through emotional expressiveness, rational negotiation and thoughtful planning.³³

Working through difficult and painful emotions can improve communication and co-operation between the parties. This may continue to be difficult, however, within an adversarial process of divorce in which the majority of petitioners use fault-based facts to prove irretrievable breakdown.³⁴ Whether or not the Government should assert that mediation is the preferred mode for the resolution of matrimonial disputes³⁵ is a matter for debate. If it chooses to do so, then certainly the provision of information about mediation in information meetings would need to be more overtly persuasive than it was in the pilots, where it was promoted as one of a number of options. This might equate more closely with the Lord Chancellor's expectation that information meetings would have a diversionary impact, but all the evidence suggests that solicitors will have a significant role to play in a reformed process of divorce, irrespective of other mechanisms, such as the power of the courts under Sections 13 and 14 to direct parties to meet with a mediator, which actively encourage the use of mediation services. We would argue from this evaluation that there may be a false dichotomy being promulgated between negotiation (via solicitors) and mediation. Both can be conciliatory and constructive in style.

Our findings and conclusions in this respect accord closely with those of Gwynn Davis and his team who have been monitoring the development of publicly-funded mediation.³⁶ Contrary to expectations, the advent of public funding for mediation did not have an immediate impact on the volume of mediation cases, and Section 29 of the FLA, which requires potential legal aid applicants to explore the mediation option, has resulted in only a modest increase in the number of mediation starts. As in our sample, many of those going to mediation in Davis's study did not get beyond the first session. Davis has found that client understanding about mediation is variable, and that although many Section 29 attendees accepted that mediation is in principle a good idea, most were less sure that it could work for them. Converting a good idea to mediation activity is, it seems, difficult whatever kinds of measures are put in place to encourage conversion. Davis concludes that

the emphasis on *process*, and upon choosing one process over another at a time when people are facing a crisis in their lives, is to ask them to focus upon questions which they do not feel equipped to answer and whose import they do not understand.³⁷

In his view, mediation should not be expected to have much impact on the demand for legal services.

³³ Richards, C., 'Family mediation – the D-word, family conflict, couples' conflict and the rest', *Family Law*, vol. 29 (December 1999), p. 837.

³⁴ See Fricker, N., 'Mediation – the way forward', *Family Law*, vol. 29 (December 1999), pp. 826–30.

³⁵ *ibid.*

³⁶ Davis, G., *Monitoring Publicly Funded Family Mediation: Final Report to the Legal Services Commission* (July 2000).

³⁷ *ibid.*, para. 28.2, p. xvi.

The need for people to receive independent legal advice irrespective of whether they opt to use a mediation service has been recognised in the new Funding Code, which replicates Part III of the FLA and came into effect on 1 April 2000. Legal aid has been renamed and is managed through the Community Legal Service (through the Access to Justice Act 1999). The Funding Code establishes three levels of service for family proceedings available through the Community Legal Service:

1. Legal Help, which covers the initial advice given by a solicitor.
2. Approved Family Help, which consists of Help with Mediation and General Family Help.
3. Legal Representation, which is the highest level of assistance available and is applied to cases proceeding to full disputed hearing.

Help with Mediation is designated for the assistance of a solicitor in cases where mediation is proceeding. Because it attracts a higher level of remuneration for solicitors than Legal Help, it is designed to act as an incentive for solicitors to encourage their clients to go into mediation. It will be important to see how these new directions in family law will impact on the choices people make about which routes to take through divorce.

Promoting Continuity in Relationships between Parents and Children

Writing in *Family Law*,³⁸ Carol Smart suggests that the delay in implementation of Part II has

posed a problem for many of us who are particularly concerned with the interests of children on divorce. The proposed information meetings were going to provide an opportunity to raise with parents the question of how children might feel about, or react to, their parents' divorce. They were also going to provide an opportunity to present children with information designed to meet their specific needs and interests.

Smart argues that, without Part II, no structure is available through which to provide such information to divorcing parents. As we have seen, parents who attended an information meeting considered the information about children to be very helpful. As all the research about the impact of divorce on children illustrates, parents are often concerned about the welfare of their children during separation and divorce, but are not always able to give the needs of children the priority they deserve because they are so often struggling with their own needs and feelings. Parents may not know how to deal with their children's needs even if they recognise their distress. Children may be kept in the dark because parents do not want to risk causing upset by telling them what is happening. We know, of course, that most children are acutely aware when there are difficulties between their parents, and can suffer in silence if they are unable to talk about the situation or receive reassurance about the future.

Much of the urgency for the proposals for divorce reform was generated by the widespread concern about the impact of divorce on children. The needs, wishes, feelings

³⁸ Smart, C., 'Comment: shelving Part II of the Family Law Act – shelving children?', *Family Law*, vol. 29 (December 1999), p. 801.

and welfare of children remain central to the Government's agenda on family policy, with an ever-increasing focus on hearing the voice of the child and on supporting parents to meet their responsibilities. A MORI poll of 2,059 people conducted to coincide with the launch of the new National Family and Parenting Institute in December 1999 showed, *inter alia*, that one in three parents did not know where to go for help with family problems, and that 70 per cent thought that parenting has to be learned.³⁹

Helping parents to deal with the needs of their children, and indeed, to reflect on the likely consequences for them of their parents' divorce, are central elements in the FLA. Information leaflets about children were given to parents, and children spoke about their needs in the videos used in the groups presentations and in the CD-ROMs. The messages radiated were powerful and many parents were prompted to stop and think about their own behaviour and the needs of their own children. The majority of information meeting attendees (74%) had dependent children and a further 15 per cent had children aged 18 or over. (Only 11% of information attendees were childless.) Most parents responded positively to the information about children despite the fact that it was unashamedly directive in telling parents how they should respond to their children's needs. In this respect, the information about children was quite different in tone from the information on all the other topics covered, which tended to be neutral and fairly bland. A few parents found the tone patronising, and some felt that the information painted a stereotypical picture of family life which did not take the complexity of family forms and circumstances into account. For example, step-parent families felt the information contained large gaps, as did parents of children with special needs.

It is evident from the pilots that the information about the impact of divorce on children and ways of minimising their distress had a considerable impact on parents. Many were relieved to find that they were doing the right things, and others said that they had changed their behaviour as a result of understanding their children's needs better. It may be that greater public awareness of the extent of the damage that can be caused by parents in conflict, particularly as regards arrangement for their children, may encourage a longer-term culture shift in the way spouses approach the divorce process. As Reynolds and Mansfield have suggested:

To the extent that an understanding of the risks to children's welfare and to health entered the public consciousness, couples might become more concerned to modify behaviour that seems likely to lead to excessive discord.⁴⁰

Although Reynolds and Mansfield suggest that public education campaigns could address this attitude change, we would argue that the information about children's welfare is likely to be far more effective if it is delivered at the time parents are taking steps to end their marriage. At that stage it will be relevant to their situation and therefore more likely to have an impact.

Domestic violence and contact

A particularly clear message to emerge from the research relates to the danger of giving the impression that contact between a non-residential parent and a child is always a good thing and to be encouraged at all times. The power of the messages about the benefits of

³⁹ Reported in *Family Law*, vol. 30 (January 2000), p. 7.

⁴⁰ Reynolds and Mansfield (1999), *op. cit.*, p. 32.

contact were problematic for parents (primarily mothers) who were the victims of domestic violence. They reacted against what appeared to them to be global messages about what is best for children.

Although the information provided did refer to circumstances such as domestic violence, which may indicate that contact is not always appropriate, it may be that the overwhelming belief among divorce-associated professionals that children usually do best if they have continuing relationships with both parents may result in them subconsciously ignoring the real difficulties posed in cases of violence and abuse.⁴¹ These difficulties were highlighted in a report published in November 1999.⁴² The author concluded that two-thirds of the parents in her study of 130 mothers who had suffered domestic violence were exposed to more violence as a result of contact arrangements, and she recommended more careful assessment of the needs of children affected by domestic violence. The recent report from the Children Act Sub-Committee (CASC) of the Lord Chancellor's Advisory Board on family law focuses attention on this thorny problem.⁴³ The responses to the earlier consultation paper put out by CASC revealed a majority view that the issue of domestic violence in the context of contact between children and violent parents required a better informed and more pro-active approach from all the professionals working in the family justice system. Given that many information presenters and attendees in the pilots found the subject of domestic violence difficult to handle, it seems that the ways in which this issue is addressed through the provision of information in the future need to be considered carefully. The messages about children's best interests may need to be presented with greater sensitivity to domestic violence issues. This would be particularly important in relation to how the parenting plan is introduced. Information presenters will need better training in managing this material and in responding to possible disclosure of abuse by attendees than they received for the pilots.

Parenting plans

The parenting plan devised specially for the pilots was welcomed as an important and timely innovation by professionals, and the parents who received it were largely positive about the concept. Relatively few completed the plan, however, and for the most part, parents used it as an *aide-mémoire* alerting them to a range of issues which they would need to consider. A few parents who filled in the plan did so in conjunction with the other parent, but this did not necessarily mean that it was easy to put the plan into practice. The research evidence is that the parenting plan is a useful tool, but as this and previous research shows, post-divorce parenting is no easy task. It may be that the plan will be of most use at the point of separation when parents begin to make choices and take decisions about their children. In common with much of the information, the plan is likely to be of more value if each parent has a copy. A certain level of communication between the parents is required if the plan is going to be used co-operatively.

Requiring parents to plan in detail for the future is a high expectation. The emphasis on planning makes assumptions about people's capacity to plan for the future. A recent study

⁴¹ See e.g. Sawyer, C., 'An inside story: ascertaining the child's wishes and feelings', *Family Law*, vol. 30 (March 2000), pp. 170–4.

⁴² Radford, L., *Unreasonable Focus? Child Contact in the Context of Domestic Violence: A Survey of Mothers' Perceptions of Harm*, Women's Aid Federation (1999).

⁴³ The Advisory Board on Family Law (Children Act Sub-Committee), *A Report to the Lord Chancellor on the Question of Parental Contact in Cases Where There Is Domestic Violence*, Lord Chancellor's Department (April 2000).

has shown that while most people give thought to the future (and the past), much of their attention is focused on the present, and they often have little time to contemplate anything except immediate tasks.⁴⁴ Anxiety about the future, often centred on jobs, housing, social security, money, health and relationships, can lead to people either blocking the future out of their minds because it is too unsettling to think about it, or to their worrying excessively about uncertainties and their lack of control over them. The study also found that while some people are active planners, others are passive planners who leave other people to take care of the future for them. The key to being able to plan, it seems, is economic security. Those who are most insecure may have the greatest need to plan, but the least capacity to do so. The conclusion the study reached is that governments cannot encourage forward planning simply by providing people with information about the schemes and services available. Ensuring economic security is a necessary prerequisite for effective planning, otherwise people cannot imagine what their world will be like, and alleviating the negative consequences of insecurity may be beyond their grasp.

Although Rowlingson's study was not specifically concerned with planning for post-divorce futures, the findings appear to be particularly relevant in the context of the FLA. We have pointed to the fact that the information required by the majority of attendees related to financial matters, and that this was one of the least well-presented topics in information meetings. Most people are financially worse-off following divorce, and parents in particular may be extremely anxious about how they are going to manage in the future. The belief that they can look ahead rationally at such a difficult time may be somewhat misplaced. Until parents feel economically secure they may not be able to think ahead and cover all the issues raised by the parenting plan. Perhaps there should be no great surprise that few parents had managed to complete it in the weeks and months following its receipt. This does not detract from its potential as a tool which can be used by parents and by professionals who are working with parents on future arrangements. Mediators may find the plan a particularly helpful focus for negotiations between parents, and solicitors may also find it helpful as a checklist when drawing up arrangements for the future (e.g. in respect of Section 11 of the FLA). In reality, it may be that the parenting plan will be a useful document for one or both parents to refer to as circumstances change in the years following divorce and as the capacities of young children to be consulted evolve over time. It is likely that arrangements for children (and, indeed, what is in their best interests) may change as the years pass, hence the importance of encouraging parents to see the plan as a dynamic instrument rather than as a document which fixes arrangements and cannot be revised. The courts have traditionally been concerned in most cases only with major decisions such as residence and contact. The parenting plan takes the notion of parental responsibility and planning a great deal further.

Information for children

The information meeting pilots provided an opportunity to test the provision of information about separation and divorce to children themselves. Leaflets were prepared for children of different age groups and these have been extensively revised and refined as a result of the findings from the evaluation. The leaflets for children were included in the information pack, but those used during the pilots were not distinctive in any way, children were not very complimentary about their design, and some parents were unaware of the fact that they had been given leaflets to pass on to their children. No particular

⁴⁴ Rowlingson, K., *Fate, Hope and Insecurity: Future Orientation and Forward Planning*, Policy Studies Institute, London (2000).

emphasis was given to these leaflets during the presentations and parents were not given any guidance about how they might be used.

A relatively small proportion of parents actually gave the leaflets to their children. The findings indicate that parents decide whether to pass information on to their children, weighing up a number of factors pertinent to their own family circumstances. It is clear that parents frequently find it difficult to broach the subject of their divorce with their children and to talk to their children about the distressing transitions associated with family break-up. Many would benefit from encouragement, help and guidance about how to talk to their children, and how to use the information leaflets written for children. Smart has argued that

in the majority of cases children will get only the information parents choose to give them and then only at the most fraught of times. Given how many children now experience their parents' divorce it seems to me that we are failing in our duty to meet their interests when we fail to provide them – at the very least – with information which might help them to deal with one of life's major eventualities.⁴⁵

Although most parents did not pass the leaflets on, some used them as a way of talking to their children, sharing the content verbally, personalising it for the child concerned. One of the important issues to emerge for parents was knowing how to decide when it is the right time to talk to children. Parents need guidance in making this decision.

The leaflets for children have changed considerably as a result of the views of children themselves. Children were positive about the provision of information in leaflet form, but suggested that it should be available to them in a variety of ways and through a variety of channels. A new series of leaflets for children and adults in and around families facing separation and divorce is available from Parentline Plus and on its website. The leaflets have been prepared following extensive consultation with children and young people. They are linked to a new parenting support manual, *Being a Parent*. One of these leaflets, for children aged 7 to 11, is remarkably similar to the revised information meeting leaflet for children in middle childhood. Clearly, the range of materials being prepared for parents and children is growing. It will be important that these different leaflets are radiating consistent messages if parents and children are not to become confused. Nevertheless, with a growing literature written for children, and a wider range of access points, children may be in a stronger position to ensure that their wishes and feelings are understood and their voices heard.

Policy issues

Article 9 of the UN Convention on the Rights of the Child indicates that children should have the opportunity to participate in decisions which will affect them. It also points to the right to receive adequate information. These principles are not easy for many parents to deal with, and the involvement of children remains a problematic issue in the family justice system. Information meetings have the potential not only to promote continuing relationships between parents and children, but also to encourage parents to consult children in appropriate ways. There is evidence from our interviews with parents that parents see consulting their children as tantamount to giving them choices (about where they will live, for example), which they are reluctant to do. More work needs to be done

⁴⁵ Smart (1999), *op. cit.*

in helping parents to understand that consulting their children does not mean involving them in making choices, nor is it putting the burden of decision making on their shoulders. Most of the children Smart and Neale interviewed in their study of post-divorce parenting⁴⁶ did not want to make autonomous choices, but did want to participate in a democratic process of decision making, although young children may prefer simply to have decisions made for them. Smart and Neale suggest that parenting plans may be helpful in encouraging children's participation in decision making. We found very few parents who had involved children in this way, however.

The UK College of Family Mediators has now issued practice guidelines about the involvement of children in family mediation – traditionally seen as adult territory. The College urges mediators actively to encourage parents to talk with and listen to children, and to consider how children may be involved or consulted, which may include participation in mediation.⁴⁷ Mediators who involve children will be trained for that purpose and must obtain the child's consent on the basis of age-appropriate planning and preparation.

The new Children and Family Courts Advisory and Support Service (CAFCASS) will promote child-centred values, giving particular attention to Article 12 of the UN Convention which deals with the child's right to express his or her views and to be provided with the opportunity to be heard in judicial or administrative proceedings. CAFCASS workers are likely to become involved only in those divorce cases which require the provision of welfare reports, however, but parenting plans may be a particularly useful tool in this regard. If Part II of the FLA is implemented, mediators and CAFCASS staff could build on and endorse the information given to parents about ascertaining the wishes and feelings of children, and help them to do this constructively.

Although the UN Convention was ratified by the UK at the end of 1991, commentators have noted that there has not been much progress concerning the right of children to be consulted:

Article 12 will involve a much more radical change in social attitudes and Government policies as it means recognising children not simply as recipients but also as participants ... in the making of those decisions which must closely affect them.⁴⁸

The information meeting pilots have highlighted the value of providing information to parents and the potential benefits of providing information to children when parents split up (irrespective of whether they are married or not). The information needs to be sensitive to different family circumstances and both parents and children may need more help in using it appropriately. Much progress has been made as a consequence of the pilots in ensuring the messages are right and the formats appropriate to the task: more thought will be required regarding how to actively support parents to use the information and to ensure that children have widespread access to the information prepared for them.

The Children Act 1989 and the FLA 1996 both provide a legal framework which promotes the importance of ascertaining the wishes and feelings of children within the

⁴⁶ Smart, C. and Neale, B., "It's my life too", *Children's perspectives on post-divorce parenting*, *Family Law*, vol. 30 (March 1999), pp. 163–9.

⁴⁷ *Children, Young People and Family Mediation: Policy and Practice Guidelines*, UK College of Family Mediators (July 2000).

⁴⁸ Hamilton, C. and Roberts, M., 'Tenth Anniversary of the UN Convention', *Family Law*, vol. 30 (February 2000), p. 75.

context of parental decision making. That children's rights must be a top priority was evident in the debates on the Family Law Bill, as the MP for Meirionnydd Nant Conwy noted when speaking to the principle that divorcing parents should have regard to the interests and views of their children:

It outlines in the Bill a right for children ... to be consulted about important arrangements that their parents seek to make for their future ... The views and opinions that children hold should be taken into account when important decisions are made about their lives ...

It is ... vital that children's voices are heard loudly – not in a peripheral manner or as an afterthought, but central to the process.⁴⁹

Piper has pointed out, however, that the views of children continue to be placed within a child-saving agenda rather than within an agenda focused on promoting children's rights.⁵⁰ It is important that the involvement of children and the provision of information to them does not remain solely within a welfarist frame, but that children's rights are upheld and promoted more forcefully than they were in the pilots. Telling parents about the importance to be attached to the welfare, wishes and feelings of their children is an important component of the information meetings, but ensuring that parents can and do act on this will be equally as important in an implemented system. Nevertheless, it is important to have realistic expectations about the realities of post-divorce parenting. As our time-slice survey revealed, parenting after divorce is a tough assignment, and both residential and non-residential parents have problems, dissatisfactions and concerns. Communication and co-operation between parents may diminish during further life changes (e.g. the arrival of new partners); getting contact arrangements to work to everyone's benefit requires the kinds of flexibility and co-operation which may not be possible. It is our view, drawn from this and from previous⁵¹ research, that post-divorce parenting presents many challenges. Parents could be assisted in facing these during the divorce process. Information provision needs to spell out the obstacles, difficulties and frustrations that parents might encounter in the future (and indicate how and where to get help) in addition to giving messages about the importance of post-divorce parenting. Information which simply tells parents how they should behave falls a long way short of helping them to meet these expectations.

Lessons from the Pilots

The provisions of the FLA draw on a number of different conceptions and were shaped by a variety of interests. These became embodied in the set of principles which underpin the Act and which the information meeting seeks to support. The overarching aim is to reduce the risks to children. Lord Irvine commented during the passage of the Family Law Bill:

I can and do believe that children should come first ...

I find it difficult to see how divorce could ever be described as positively in the interests of children.⁵²

⁴⁹ Mr Elfyn Llwyd MP (Meirionnydd Nant Conwy), Official Report (H.L.), 17 June 1996 at col. 588.

⁵⁰ Piper, C., 'The wishes and feelings of the child', in S. Day Sclater and C. Piper (eds), *Undercurrents of Divorce*, Ashgate (1999).

⁵¹ Simpson, B., McCarthy, P. and Walker, J., *Being There: Fathers After Divorce*, Relate Centre for Family Studies (1995).

⁵² Lord Irvine of Lairg, Official Report (H.L.), 22 January 1996 at col. 813.

He nevertheless opposed an amendment which would deny divorce to parents of children under 16:

I start from the basic position that it can make no sense at all to compel people to remain married if the marriage is dead. The law cannot compel people to remain together.⁵³

Although this amendment received little support, child-saving was nevertheless linked with marriage-saving in the provision of information. Telling parents about the impact of divorce on children is designed to encourage them to reflect carefully on the step they are taking, and to consider whether the marriage can be saved. The evidence from our evaluation of the pilots suggest that all the principles in Part I have been supported to some extent by information meetings. Some attendees have reflected carefully on the decision to divorce and some took steps to save the marriage; messages about reducing conflict and being conciliatory were understood and respected; and parents were helped to consider the needs of their children. These impacts are not easily measured by monitoring the use or non-use of particular services, but can be understood in the more subtle terms discussed in Chapter 11. The messages given in information meetings were slotted into complex and changing circumstances, and some 90 per cent of attendees were positive about the experience. The information meeting provided an opportunity for people to become more knowledgeable and more focused, and to look at things differently. The vast majority of those attending an information meeting described it as useful, and the information leaflets as both user-friendly and accessible, and found that their combined levels of knowledge about a wide range of subjects were extended.

In preparation for the pilots, officials in the Lord Chancellor's Department took a structured approach to the delivery of information via carefully constructed scripts which information presenters were expected to follow. Information meetings were structured, and impersonal in their style and routine. The role of the information presenter was not to provide advice, nor to offer counselling or any other kind of service beyond providing standard information and answering questions relating to it (providing they fell short of requests for advice, legal or otherwise). A level-playing-field approach guided the development of the scripts and the accompanying written and visual materials which were used. Attendees were to be provided with knowledge, on the basis of which they would be able to make informed choices about future pathways, much as the (then) Lord Chancellor had indicated in response to questions about the purpose of the information session (prior to its being renamed):

The objectives of the information session are to give information so as to be sure that anyone contemplating the divorce process has all the information that we can furnish in an objective way about conciliation, counselling, lawyers, mediation and anything else that might be helpful.⁵⁴

User satisfaction was high: only one per cent of attendees at individual face-to-face information meetings (Models A, B and C) did not find the experience useful in some way. Nearly two-thirds described it as very useful and just over a third considered the meeting to have been fairly useful. Only four attendees (out of 4,000 who attended an individual meeting) said they would definitely not recommend it to others in a similar

⁵³ *ibid.* at col. 812.

⁵⁴ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 30 November 1995 at col. 786.

situation. So, not only did the majority of attendees find the meeting useful, but many described it as invaluable since it informed them about what they needed to know.

Although information meetings have received a very positive response in the pilots, the evaluation has revealed a number of tensions in all the models tested, some of which reflect tensions inherent within the legislation itself. It is our view that these tensions could and should be resolved before Part II is implemented. The research findings provide clear indicators of the factors that need to be taken into account. Sometimes the elements of the information meeting appeared to clash. We became increasingly aware that saving marriages is an objective distinct from securing civilised divorce. Because people choose when to access an information meeting, it must be of relevance to those who are in the early stages of marital breakdown and who have not yet taken the decision to divorce, those who have made a firm decision to divorce and want to get on with it, and those who may have lived apart from their spouse for some time, may have developed new relationships and simply need specific, topic-focused information. What emerged strongly in the pilots across all the models was the stark reality that a standardised 'one-size-fits-all' approach to the provision of information will be much less effective than a model which is designed with an element of flexibility, and which allows for some personal tailoring of the content of the information to be delivered by a presenter.

Information as Knowledge or Information as a Service

The distinction between information as knowledge – the bare facts – and information as a service – facts personally tailored – probably takes us to the heart of the main tension in the information meeting as it was conceived in the pilots. While it is clear that some attendees were looking for advice which it would not have been appropriate for the presenters to give, the majority were wanting (and expecting) to receive information that was relevant to their own situation and circumstances. In other words, they did not want generalised information, which they could almost certainly obtain in the leaflets, but information tailored to them which would be more immediately relevant and more usable, and this was more likely if they were attending an individual face-to-face meeting.

Individual meeting presenters were uncomfortable with the requirement that they deliver a generalised script with pre-determined time allocations to particular subjects. Some of them tried to render the script more personal (and more user-friendly) in order to deal with this discomfort. We drew attention to the continuum between a prescribed mode and a more responsive mode of delivery in Chapter 7. To a large extent, the more responsive mode fits more naturally with the service ethos, both of the organisations appointed to manage the pilots and of most of the presenters selected and trained to deliver the information. It also fits more closely with the expectations of most attendees.

We are mindful of the fact that debates in the House of Lords during the passage of the Family Law Bill contained many references to the signals that might be transmitted and the messages the FLA might send about the importance of marriage and the importance of respecting its dignity. The information meeting is in many ways symbolic of these concerns, and if it were required to have only a symbolic function a standardised script for delivering 'bare facts' might be appropriate. If, however, the meeting is to have an instrumental function, which involves the provision of knowledge which might influence individual social action (as has clearly been expected), it will only meet this objective if the information is tailored in some way to the perceived needs and/or interests of the recipient. There is likely to be continued tension if the provision of (authoritative)

information by the state is to be less of a service as such, and more a matter of ensuring that a standardised body of knowledge is made available to everyone contemplating steps to end their marriage.

Some distinction needs to be made between the technical and the practical. Technical knowledge is susceptible to more precise formulation than practical knowledge, which cannot be formulated in rigid rules and prescribed scripts. The evidence from the pilots is that attendees expected and wanted both technical knowledge and practical information, and were disappointed if practical questions were not answered. We do not advocate that presenters should stray into giving legal advice – this is clearly not appropriate. But if information is to be delivered in a way which is relevant and practical, presenters must be able to answer technical and practical questions which stem from the information provided. The fear of being accused of giving advice of any kind resulted in presenters routinely referring attendees to solicitors to have their questions answered, irrespective of what the questions were. Such responses are not only frustrating for the attendee, but they are likely to encourage greater use of solicitors. We note that in the *Modernising Justice* White Paper, the emphasis is on ensuring better access to information so that citizens know their rights and responsibilities, avoiding or resolving legal problems in a cost-effective way, and securing value for money.⁵⁵ In our view information and advice might be better conceptualised as a continuum than as a (false) dichotomy, a construction put forward primarily by solicitors. Careful consideration needs to be given to the point on this continuum beyond which an information presenter should not stray. If this is defined as the point which would necessitate legal advice being given (defined in the Green Paper as involving an explanation of how the law applies to the facts of a particular case and recommending a course of action) then presenters would be at liberty to answer many of the kinds of questions which were posed by attendees in the pilots. Nevertheless, people who go to an information meeting should be told that the information they are receiving does not constitute legal advice so as to ensure that they do not construe it as such.

Furthermore, an overly rigid structure as devised for the pilots did not afford much opportunity for presenters to acknowledge the special needs which some attendees clearly had. It is our contention that within a more flexible framework, the information presenter could also address the particular concerns of those people with special needs. There could be elements in the information meeting designed for people from different cultural, religious and ethnic backgrounds. Similarly, this kind of approach could facilitate greater flexibility in meeting the needs of older people, those coping with ill health or disability (as patient or carer), or those who have no children at all or adult children for whom they no longer have parental responsibilities. In other words, the information provision could take account of diversity in line with both the Government's agenda of addressing social exclusion and with the Lord Chancellor's Department Action Plan,⁵⁶ and target information appropriately.

Of course, not everyone who has to attend an information meeting will want a presentation which involves an element of personal tailoring. Some will regard the whole process as an unwelcome hoop which they have to jump through in order to be able to make a statement of marital breakdown three months later. These people may want a minimalist, straightforward delivery which demands little, if anything, of them, and will want to be in and out in the fastest possible time. A more carefully crafted meeting may, nevertheless, be able to offer such people something which is of relevance to their

⁵⁵ *Modernising Justice*, Lord Chancellor's Department (1998).

⁵⁶ *Equality and Diversity Action Plan*, Lord Chancellor's Department (2000).

personal circumstances, however unwilling they might be to attend in the first place. If they received this they might be less resentful about having had to attend.

We have reached the firm conclusion that a standardised presentation will not be a cost-effective provision in an individual meeting. There is little to be gained, for example, by dwelling on the potential benefits of marriage counselling and reflecting at length on the saveability of a marriage if the attendee has taken a firm decision that divorce is the only option and is looking for information about how to get on with it (the second and third levels of ignorance). If, on the other hand, the attendee is uncertain about the future, or wants to save the marriage (the first level of ignorance), a focus on marriage support might be particularly helpful. Equally, for someone at the first level of ignorance, too much information about the divorce process might be unhelpful and off-putting (and might bounce them into the divorce process too soon), whereas it is likely to be helpful and relevant for those who consider divorce to be inevitable.

The matters concerning which those people who leave attending an information meeting until very late in the process of marriage breakdown want information may be very specific. These are the kinds of people (at the third level of ignorance) who may have been separated from their spouse for years but have not sought a legal dissolution. They may be in new relationships and have very few matters to resolve during the divorce process. Neither an emphasis on marriage support nor a general focus on divorce process is likely to be particularly relevant to them. As we saw in the pilots, the information these people wanted primarily related to financial matters.

Messages for the Future

On the basis of the evidence from the information meeting pilots it is reasonable to conclude that information provision and the MWMC did and can support the principles of the FLA. The majority of attendees increased their knowledge and understanding of the impact of divorce on adults and children and had a greater sense of the kinds of services available to them; and some were enabled to take steps that they may not have considered previously. There are, however, no simple links between increased knowledge and understanding and the increased use of services such as counselling and mediation. Family lives are infinitely complex and variable, especially during the process of separation and divorce, and information provided by the state has to be accommodated within these complexities. Researchers concerned to understand the impacts of early intervention with children in need have found the concept of ‘chains of effects’ helpful.⁵⁷ In that field of enquiry the concern

is not so much on how what happens today influences what occurs tomorrow or even how a single event can lead to a subsequent occurrence.⁵⁸

Rather, chains of effects suggest an interplay of several factors interacting over time. These chains of effects require the co-operation of all the professionals involved and greater consistency between one professional and another in the approach to interventions. The focus is on complementarity, not on competition, with the aim of

⁵⁷ Rutter, M. and Smith, D. (eds), *Psycho-social Disorders in Young People: Time Trends and their Causes*, John Wiley (1985).

⁵⁸ Little, M. ‘Prevention and early intervention with children in need: definitions, principles and examples of good practice’. *Children and Society*, vol. 13 (1999), p. 309.

changing patterns of behaviour. The provisions in the FLA as a whole can be seen as prompting chains of effects. The information meeting is but one link in a chain.

In the last chapter we drew a number of lessons from other jurisdictions which have been tackling similar concerns, including the observation that effecting behavioural change requires more than the mere provision of information. If we combine the insights from other jurisdictions with the lessons from our evaluation of information meetings, we can discern some key messages for the future:

1. Interventions designed to change the culture of divorce are unlikely to result in widespread change in the short term.
2. People facing the ending of their marriage need and appreciate information. Messages radiated through the provision of information need to be crisp, clear and focused.
3. Attempts to encourage people to save their marriage within divorce legislation are unlikely to turn many people back from the brink of divorce.
4. Information provision and opportunities to meet with a marriage counsellor can support the principles of the FLA, but simple measures of service usage do not adequately reflect the impacts and outcomes.
5. Expectations of the extent to which people facing divorce will behave in socially approved ways need to be modest. The take-up of mediation is unlikely to be high.
6. There are various ways in which parties may attempt to divorce in a conciliatory manner: no one route through the process has the monopoly on conciliation.
7. The majority of people are likely to consult a solicitor at some stage during the divorce process.
8. Written information alone has limited impact on behaviour.
9. More needs to be done to ensure that children are informed about changes in their lives and given the opportunity to express their wishes and feelings.
10. Information delivered on a one-to-one basis, as is required by the FLA, must be sensitive to the stage in the process of divorce the attendee has reached and to their particular circumstances; standardised presentations are better suited to group sessions, which are the norm in other jurisdictions.

Perhaps too much has been expected of the FLA too soon. It is very ambitious in its objectives and procedurally intricate. Furthermore, it brings a range of professionals into the legal arena in an attempt to help families caught up in the process of divorce to

‘disentangle their affairs with the minimum of bitterness’.⁵⁹ These professionals come to the arena with a variety of dominant discourses which have ‘implicitly informed rhetorical strategies and legislative outcomes’.⁶⁰ The law (and lawyers) tend to be result-oriented, and to be focused on finding solutions to defined problems, achieving measurable outcomes and providing value for money. The social welfare concerns, which emanate from the discourse of social science, tend to focus on human relationships and how people can be helped to function better in a constantly changing environment. The outcomes from welfarist interventions are less easily measurable and value for money is much harder to determine. Social scientists may not necessarily seek solutions to current problems, but look to achieve greater understanding of the impact these problems, and the remedies applied to them, have on people’s behaviour.⁶¹ These tensions are probably most obvious in mediation, which sits at the interface between law and welfare. The research monitoring publicly-funded mediation has found that while solicitors claim to be supportive of mediation, they tend to have a more limited perception of its scope than most mediators.⁶² Furthermore, Davis suggests that diversion from contested legal proceedings and the conclusion of proceedings without resort to trial are not adequate measurements of value. In his view, the question ‘To what extent are things better?’ ought to be asked of legal and mediation services, reflecting the welfarist approach. This question must also be asked of information meetings, which should also be judged by their ability to provide a service which people value. We have sought to do this throughout our research and to establish when and how information provision makes a worthwhile contribution to the principles which guide the FLA.

⁵⁹ Roche, J., ‘Children and divorce: a private affair?’, in S. Day Sclater and C. Piper (eds), *Undercurrents of Divorce*, Ashgate (1999).

⁶⁰ Piper, C. and Day Sclater, S., ‘Changing divorce’, in S. Day Sclater and C. Piper (eds), *ibid.*

⁶¹ Faulks, J., ‘Children’s rights and family law’, in K. Funder (ed.), *Citizen Child: Australian Law and Children’s Rights*, Australian Institute of Family Studies (1996).

⁶² Davis, G., ‘Monitoring publicly funded mediation’, *Final Report to the Legal Services Commission* (July 2000).

Chapter 36

Looking to the Future

Janet Walker and Peter McCarthy

Family life is the foundation on which our communities, our society, and our country are built. Families are central to the Government's vision of a secure, just, and inclusive society. It is vital that we develop and maintain effective policies to support family life. The Government knows it bears a weighty responsibility to get family policy right first time – it is too important, too central to people's lives, for us to risk rushing headlong into change for change's sake, legislating in haste and repenting at leisure.¹

In June 1999, the Lord Chancellor, Lord Irvine of Lairg, announced that he would not be implementing Part II of the Family Law Act in 2000 as previously envisaged, and that he wished to consider the full research results from the information meeting pilots before deciding how to proceed. In his subsequent address to the UK Family Law Conference,² he made it clear that the Government was not prepared to bring legislation into effect 'on the basis of well-meaning hypotheses or assumptions', but only when 'satisfied by hard factual evidence that change will be beneficial'. He went on to state that people who are contemplating divorce must plan, and that

the Government must make sure that services provided by the State enable people to make properly informed choices by giving them accurate, unbiased information.³

He described information meetings as critical for the success of a reformed divorce process:

It is through the information meetings that couples contemplating divorce would learn of the services which are available to help them save their marriages if that is what they want to do, or learn of the arrangements they need to make, and the factors they need to consider, if they wish to proceed with a divorce.⁴

In this final chapter we consider options for the future, including a revised model for the mandatory provision of information which, in our view, would more effectively meet the requirements of the FLA and the needs of those who would be required to attend an information meeting in an implemented system. We also look at other possibilities should a decision be taken not to implement Part II of the FLA. We are firmly of the view that much of value has been learned from the information meeting pilots and that the findings can inform a variety of concerns in family law and family policy. These findings should not be ignored irrespective of whatever political decision is taken in respect of Part II. When the research programme began, the research task was limited to an exploration of

¹ The Lord Chancellor, Lord Irvine of Lairg, address delivered to the UK Family Law Conference, 25 June 1999, p. 1.

² *ibid.*, p. 2.

³ *ibid.*

⁴ *ibid.*, p. 3.

specified models of information meeting, established *de novo* by the Lord Chancellor's Department. It was not part of our original remit to question the wisdom of any particular provision although we were mindful that research always raises new questions whenever it seeks to answer those already posed. The pilots and the evaluation have been a dynamic, developing process. The extensive research findings provide a robust basis on which to consider future options.

We begin by looking at how Part II could be implemented. We describe a new kind of individual meeting which is consistent with the Act, and then consider how this might be delivered on a nation-wide basis. We conclude by discussing other options, some of which would require amending legislation, and some of which could be taken forward under the current legislation until such time as new proposals for reforming the existing divorce process are put forward.

A New Kind of Mandatory Information Meeting

Most commentators have recognised that the impact of the FLA

will probably only be fully appreciated when it has been in practice for a number of years. That will also be the time to assess whether it has fulfilled the hope of its supporters and reformers.⁵

Decisions about the way forward must of necessity be taken before it is possible to reflect on the working of the Act as a whole. We have reached the conclusion that none of the models tested during the pilots is good enough for the implementation of Part II on a nation-wide basis, and that a new model should be developed and tested prior to full implementation. We have spent some considerable time thinking about how a new model should be constructed and what it should seek to achieve.

We have devised a model which we believe would address the majority of the shortcomings identified in the pilots and yet support the principles in Part I. We believe that it is workable, and that sufficient suitably qualified presenters could be trained to deliver it. We have no way of knowing at this stage what the impact of a different kind of information meeting might be. It would need to be tested. If the model were to be the subject of a feasibility study, modifications and refinements could be undertaken fairly quickly, and recommendations made in respect of its wider implementation. This could be undertaken alongside our ongoing follow-up study of information meeting attendees.

Since the proposed model has not been piloted, it is not possible to produce reliable estimates as to how much it would cost. In order to address this issue, it would be necessary to obtain additional cost data after the model had been operational for several months. However, since the proposed model is similar to a Model A individual meeting, the costs seem unlikely to be radically different. Nevertheless, various considerations need to be borne in mind when weighing up the scale of costs involved. For instance, the preferred model requires presenters with a high level of skill, which makes it likely that the training costs and presenter salaries would be higher. The choice of venue and the use of video/CD-ROM are matters that will also impact on costs.

⁵ Bishop, G., Hodson, D., Raeside, D., Robinson, S. and Smallacombe, R., 'Divorce reform: a guide for lawyers and mediators', *FT Law and Tax* (1996).

In developing this new model, we have focused on findings from our evaluation of models of individual information meetings in which a presenter delivered information face to face (Models A, B and C), since group presentations would not meet the requirement in the Act that different meetings must be arranged for different marriages (Section 8(3)). It is our view that if a CD-ROM were to be used in an implemented system as the main mode of delivery (as in Models E and F), there would be little purpose in people being mandated to attend a meeting as such in order to work through the CD-ROM. As we noted in Chapter 9, the CD-ROM meetings were not as well-received as face-to-face meetings and little was gained from the interaction with a facilitator beyond technical help in managing the technology.

In our view, it is essential that the different 'staging posts' people experience during the breakdown of their marriage are acknowledged and that the information delivered in the meeting takes an attendee's position on that journey into account. The basis for a more focused meeting was trialled in Model C, which was designed to explore whether the marriage was saveable, but this did little to provide relevant information to those attendees who were certain that their marriage was not saveable. The Model C meeting, nevertheless, has provided a framework for the future through its encouragement of a rather more exploratory dialogue between presenter and attendee at the beginning of the meeting. Our proposal, therefore, is for a meeting which enables a degree of personal tailoring of the information. Presenters could help attendees to 'pick and mix' from a range of standard packages. This does not indicate that the meeting would become an unstructured, informal chat, but rather that the script would make allowances for the inclusion or exclusion of certain types of information. The encounter thus becomes a relevant one, something more akin to the personal interview advocated in the Green Paper. It seems to us that a more sensitive script would have the potential to take account of the infinitely variable situations from which attendees will come, including those who perceive the information meeting as an unwelcome intrusion and a hurdle to be got over as speedily as possible.

With greater flexibility in the script, individual meetings could be designed to promote marriage-saving objectives, deliver approved messages concerning the needs, wishes and feelings of children, and provide information about the benefits of reducing conflict and acrimony. In this respect, the solution-focused approach of the meeting with a marriage counsellor offers a helpful model. People who attended the MWMC appreciated a pragmatic approach which could nevertheless deal with uncertainty. Consumers and providers of the information meeting pilots were unanimous in the quest for greater flexibility. This does not imply that presenters would be required to make professional assessments of an attendee's suitability for different kinds of information or for professional interventions from other services. It does suggest that an interactive dialogue should enable and encourage the attendee to consider what information is likely to be of most relevance (and, therefore, of most use). In this way the tension manifest in delivering information about marriage support and about conciliatory divorce at the same time and in the same meeting may be avoided.

The objective is to promote focus through flexibility. There is no doubt that if people are obliged to attend an individual face-to-face meeting within the parameters of the Act, they will quite reasonably expect an encounter which is geared to their needs, and will be less than satisfied with a lecture delivered to a script. Reluctant attendees are likely to be even more disaffected by having to sit through such an impersonal and somewhat disrespectful experience. A consistent message from the findings throughout our evaluation has been that the extent to which information is recognised and absorbed depends to a large degree

on each attendee's perception of the relevance of the information to them given the judgements they face, and that this in turn depends on their perception of where they are in their relationships. This message is consistent with our discussion of the tensions inherent in the information meetings, and provides the clue as to how the information meeting should be structured for implementation.

We propose a meeting which takes account of the stage the attendee has reached in the breakdown of the marriage, and which is sensitive to personal needs and circumstances, but which can be devised within a structured framework. During the pilots, prospective attendees were asked a range of questions about their personal circumstances (for research purposes) when they telephoned to book into an information meeting. We suggest that a standardised set of questions should be asked in the future to alert the presenter to the aspects of information provision which it might be important to cover in the meeting. This would ensure that a certain amount of pre-meeting preparation is done and that the meeting can be seen to be purposeful and relevant from the start.

At the beginning of the information meeting, the presenter would explain the purpose of the meeting and set the ground rules. This would be followed by a short exploratory dialogue between the presenter and the attendee with the aim of determining what stage the attendee has reached and the most relevant and helpful focus for the meeting. The focus might be on marriage support, or on the divorce process, including information about mediation, or on specific information, such as that about children or finances. The Act requires all attendees to be given an invitation to a MWMC. This is a statutory requirement. The potential benefits of attending a MWMC could be stressed to those attendees who are uncertain about whether their marriage is over, and to those who definitely want to try to save their marriage. In other words, attendees could be encouraged to attend if this were to be considered appropriate. Other people need to be alerted to the offer of the MWMC, but there may be little point in dwelling on its potential benefits, unless of course the attendee might benefit from some personal help in coming to terms with the ending of the marriage, if this is considered to be an appropriate use of the MWMC in an implemented system. This requires a policy decision.

The Act also requires all attendees to be given information about domestic violence, although in common with other topics listed in Section 8(9) there are no requirements about how it is given. Reducing any risk of violence is also one of the principles of the Act, and to relegate the information about this very important area to a leaflet would not, we believe, do much to support that principle. We are mindful that the recent recommendations in respect of domestic violence and contact⁶ must be taken seriously, and that evidence from our study and from the programmes in other jurisdictions indicates that domestic violence can significantly impact on parental relationships and the ways in which parents can co-operate. Mediation, for example, may be an inappropriate option. We also know from research that plucking up courage to leave a violent relationship usually takes a great deal of time, and, as we suggested in Chapter 27, a focus on marriage support may be wholly inappropriate even if the attendee is confused about what the future may hold. For all these reasons, it is our contention that information about domestic violence should be given within the meeting to all attendees. The view was put forward at the President's Conference that,

⁶ The Advisory Board on Family Law: Children Act Sub-Committee, *A Report to the Lord Chancellor on the Question of Parental Contact in Cases Where There is Domestic Violence*, Lord Chancellor's Department (2000).

given that only 14 per cent of those attending the pilot meetings said that this information was relevant to them, it might be pointless and counter-productive to force people to listen to material which assumes they are or may be the (female) victims of domestic violence. Given that the meeting is not in any case intended to provide counselling or individual help other than in the most general terms, it would seem more appropriate on balance that this subject should generally be covered in leaflets, except where the attendee requests further information.⁷

We disagree with the conclusions reached above. It will be vital that no assumptions are made about who might be a victim or perpetrator, and that relevant information is available for both. Furthermore, although the meeting cannot provide counselling, no attendee is likely to request further information about domestic violence unless the topic is introduced by the presenter and an opportunity given for such a request to be made.

All attendees in our proposed model would be told about domestic violence and about the MWMC. Beyond that, it is our contention that a limited amount of relevant, focused information should be delivered by the presenter, with the remainder provided through leaflets, a video or a CD-ROM which the attendee can access outwith the meeting. While one overall model could provide an appropriate framework, the actual content would be a matter of negotiation between the presenter and the attendee. If presenters are able to be more responsive, they are likely to feel less confined by a role which, in the pilots, they felt did not allow them to employ their own judgement and discretion but which imposed fixed definitions of individual needs. We would estimate that this kind of information meeting should take, on average, about 40 minutes to execute. Although the longer the meeting lasted in the pilots the more the attendees liked it, we believe that the optimum average length of meeting might be about 40 minutes, although there will inevitably be variations according to circumstances. Anything longer for a more focused meeting operating on a one-to-one basis runs the risk of slipping into unstructured conversation. We do believe that it is essential that time is allowed for the attendee to ask questions and seek clarification. We urge that more careful thought be given to the information–advice continuum, and that presenters are empowered to answer questions, wherever possible and within the time constraints, which do not require legal advice to be given in response.

In Chapter 33 we discussed the experiences of attendees who attended an information meeting with their spouse. When each partner has a shared agenda, this can be a most helpful way of providing information which can be shared and used to good effect by both parties. Couple attendees were more likely than lone attendees to have been using the information meeting as a ‘first port of call’. For some, however, personal agendas did not coincide, and this was particularly problematic in Model C meetings which required each of them to consider whether the marriage was saveable. Although we would expect most people to attend an information meeting without their spouse, those going with their spouse might find the type of interactive, tailored meeting we have proposed difficult to manage unless they have a shared view about where they are at in the process of marriage breakdown. In situations where the parties are at different stages, both stages will need to be addressed and the information will undoubtedly take longer to deliver. It may, however, be helpful for each spouse to hear information which is clearly relevant to the other party, and it may be an important mechanism for enabling them to move forward to

⁷ Arnold, W., ‘Implementation of Part II of the Family Law Act 1996: the decision not to implement in 2000 and lessons learned from the pilot meetings’, in Lord Justice Thorpe and E. Clarke (eds), *No Fault or Flaw: The Future of the Family Law Act 1996*, Jordans (2000), p. 18.

a more mutually agreed position. The presenter could, in such circumstances, offer each spouse a separate meeting if they preferred such an option.

The proposed model is shown diagrammatically in Figure 36.1. As part of the appointment procedure a common set of data will be obtained from each applicant. It includes the following:

- the name and address of the applicant, including the postcode
- the number and ages of the applicant's children (including stepchildren)
- living arrangements (whether the applicant is living apart from their spouse)
- special needs (language, disabilities, etc.)
- safety and domestic violence concerns in relation to attendance at a meeting
- single or joint attendance (whether the applicant intends to attend the meeting alone, with their spouse or with a supporter)
- contact address (if the applicant does not want to be contacted at their own address)
- a contact telephone number

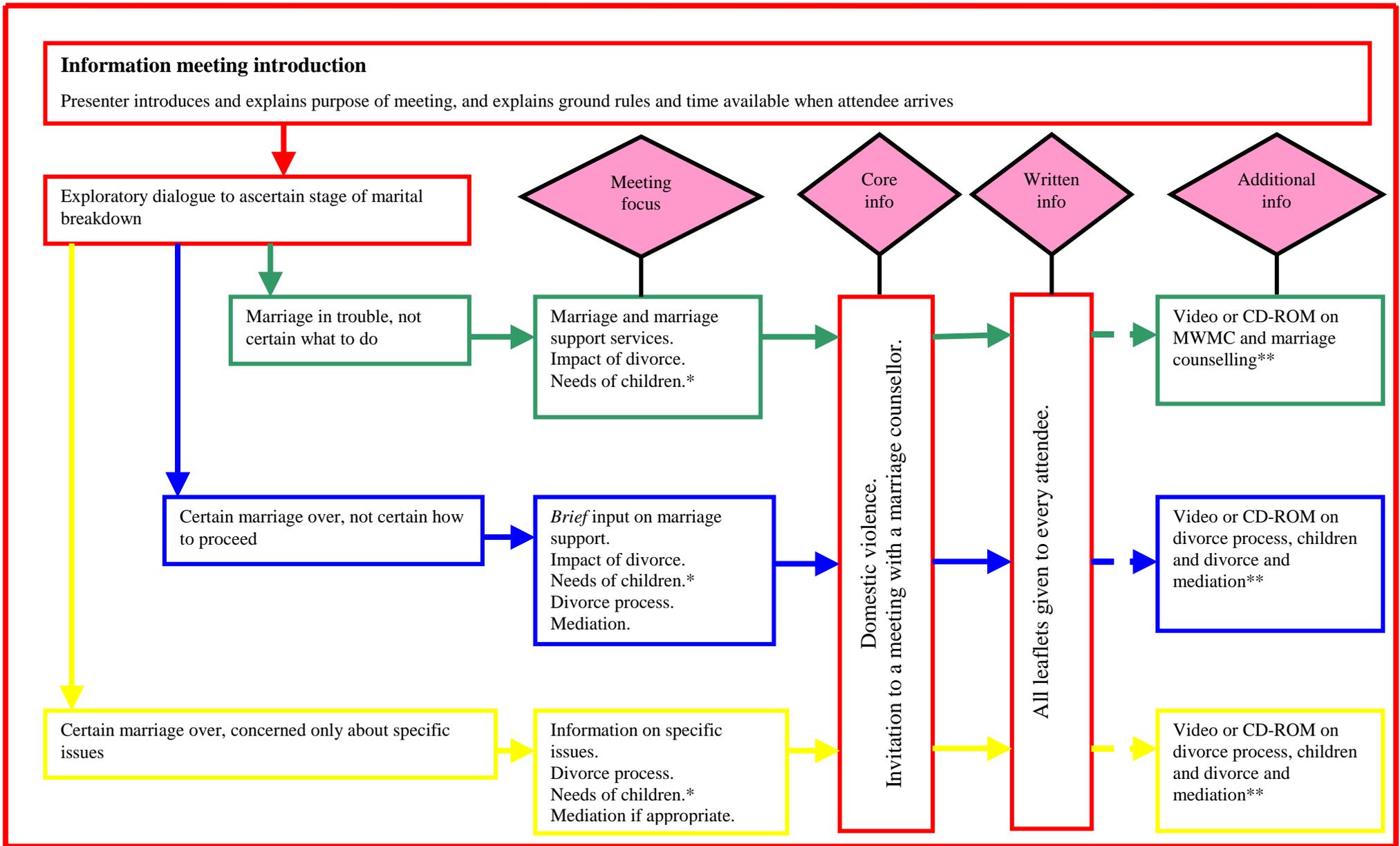
The large red box signifies the information meeting framework, and the smaller red boxes indicate the information and topics to be covered by the presenter in all the meetings. At the beginning of the meeting there should be:

- an introductory section to explain the purpose of the meeting, the ground rules and the time available
- an explanatory dialogue to ascertain the stage of marital breakdown

At an appropriate point during the meeting the following topics should be covered:

- domestic violence
- invitation to a MWMC
- giving out of information pack

Once the exploratory dialogue has been conducted, the presenter and attendee will select one of three routes through the meeting, as follows:



* Information on children only if there are dependent children. ** Video and CD-ROM not yet developed as supplementary information.

Figure 36.1 Proposed model of information meeting

1. The green route will be taken by people who do not know what to do about their marriage (they are uncertain about divorce, or they are sure they do not want a divorce). The presenter will focus on giving them verbal information about marriage, marriage support services, the impact of divorce, and the needs of children if appropriate.
2. The blue route will be taken by people who are certain that their marriage is over but do not know how to proceed. Marriage support could receive a brief mention but the presenter's main focus will be on the information about the impact of divorce, the divorce process, mediation, and the needs of children if appropriate.
3. The yellow route will be taken by people who are certain that their marriage is over, know exactly how they intend to proceed, and are concerned only about specific issues (such as finances, pensions, children, etc.). The focus of the meeting will be on providing information on the defined issues, with some coverage of the divorce process, mediation, and the needs of children if appropriate.

We have suggested that additional information might be provided in a variety of formats, and we look at these in turn.

Information leaflets

If the information meeting itself is focused on delivering specific sections of information relative to the attendee's needs, it will be very important to ensure that all the information which the Act requires to be provided is available in a user-friendly form for attendees to take away. In the pilots, everyone attending an information meeting was given a comprehensive pack containing all the leaflets, divided into sections.⁸ Written information which can be taken away and referred to at leisure proved to be much appreciated. We are aware that the Lord Chancellor's Department has been engaged in the revision of some of the more mainstream leaflets for some months. We would urge that written material should contain simple, straightforward information rather than the complex messages and sophisticated descriptions contained in some of the leaflets employed in the pilots. It is essential to bear in mind that 23 per cent of UK adults are at the lowest literacy level (see Chapter 10). Although the majority of attendees told us that they had understood the leaflets, some complained that they were 'heavy going', 'disjointed' or 'confusing'. The main criticism of those who indicated that they had not understood some of the leaflets was that they were too complicated to follow. This criticism applied to the leaflet dealing with the Child Support Agency, and to those dealing with financial matters such as family credit, finance and pensions.

Some leaflets tend to suggest that consulting a solicitor is an inevitable part of getting a divorce irrespective of whether legal advice or representation is needed. Information about what is offered by each professional group or service, how they differ, how and when each can and should be accessed and how each option fits with the overall process

⁸ See Annexe 3.

is essential. There is a danger that if each profession prepares a leaflet about its own services, the essential links between them may not be made. There needs to be a general guide to the information being provided and information must be consistent in its tone and in the messages given. We suggest that revised leaflets should be piloted with people who will be expected to use them. This could be done alongside the testing of a revised model. Leaflets for children have been redesigned so as to render them distinctive. We suggest that parents are given help and guidance as to how to use these leaflets, preferably during the information meeting.

The Local Directories giving contact numbers for local services were much appreciated by attendees, although some professionals in pilot areas complained that they were incomplete or inaccurate. We note again that the leaflets were too bulky for attendees who were in fear of domestic violence (we addressed this concern in Chapter 27). Thought might be given to whether a bundle of separate leaflets is most useful, or whether some kind of manual, as provided in Alberta, might be more helpful. If the 'sandwich box' provided in the pilots was accidentally dropped, the leaflets tended to scatter in all directions and there was no obvious way of knowing how to reassemble them into their appropriate subject areas.

Video

The videos shown in group presentations (extracts of which were contained in the CD-ROMs) were well-received by attendees despite the criticisms of some professional groups. Videos helped attendees to understand the mediation process better, and the real-life scenarios reassured some people that their experience was not unique. The extracts depicting children talking about the experience of divorce were felt to be particularly powerful.

No information was conveyed via a video in the face-to-face individual meetings. Given the positive responses to visibly-presented information both here and in other jurisdictions, we would suggest that some information, particularly that about mediation, could be provided via a video. Attendees could be allowed to borrow or purchase one, or be given an opportunity to view the video after attending the information meeting. We suggest that videos should be produced which would be appropriate to each of the routes through the information meeting. The findings from the pilots indicate that neither of the two videos tested is good enough for an implemented system. New, shorter, more focused videos could be made, redressing the inadequacies of those made for the pilots.

CD-ROM

Although there were initial concerns that providing information on a CD-ROM would be inappropriate for certain groups of people, this proved not to be the case in the pilots, and the CD-ROMs were considered a helpful way of providing basic information. We believe that providing information via the medium of modern technology may well be a sensible option given the rapid increase in computer literacy. We note that the Community Legal Services website is up and running, providing information on a range of issues. As we have suggested in Chapter 9, there must be a strong case for rendering information accessible by computer as an additional resource, both for those who attend an information meeting in an implemented system and for those who might be unable to attend (e.g. people who are disabled, housebound or in prison, or who have concerns

about safety). There are increasing opportunities for applying for divorce on-line, although a recent newspaper report suggests that online divorce packs work best for couples who have agreed to divorce and who have no disputes or problems which require legal advice.⁹ One of the pitfalls of divorce websites according to this report is the risk that users will be encouraged to ‘jump into divorce without considering the implications’.¹⁰ Of course, this would be less of a risk if Part II is implemented.

The Independent newspaper reported in November 1999¹¹ that 6 per cent of all uncontested divorces were being arranged on the internet, and that 75 per cent of Desktop Lawyer divorce users are men. The Lord Chancellor’s Department is itself committed to taking advantage of the new technologies, in order to

formulate and develop radical policies leading to the delivery of services in new ways which meet customer needs ...¹²

The Social Exclusion Unit and the DTI have recommended that technology should be used to reduce social exclusion,¹³ and information provision for those in disadvantaged groups could well be enhanced through modern technologies. In the years to come, most people will be computer-literate, and the new technologies offer an efficient and flexible way in which to supplement the information to be delivered at information meetings.

As we have stated earlier in this report, it is essential that information is provided through a range of different media, offering choice to people who may feel more comfortable with certain types of information in support of their attendance at a meeting. It may be sensible for some of the materials to be made available through other channels, and through sources such as CABx, solicitors’ offices, mediators, counsellors, health centres, libraries and the government website. If a changed attitude to the process of dissolving marriage is a central aim of a reformed divorce process, it seems sensible that the messages to be radiated should be reinforced at every possible opportunity.

Selection and Training of Presenters To Deliver the Meeting

If information meetings are implemented on a national basis, the competence of the information presenters will play a determining part in their success. Although we are advocating a more interactive and sensitive information meeting we believe that it will be possible to recruit and train sufficient information presenters with the appropriate skills and competencies, although appropriate remuneration will need to be considered. Throughout the evaluation we have considered the question of whether the job of information presenting under the FLA will bring about the development of a new professional group. It was the view of the former Lord Chancellor that

⁹ ‘The pitfalls of saying “I do” to a DIY divorce’, *Newcastle Evening Chronicle* (8 August 2000).

¹⁰ *ibid.*

¹¹ Verkaik, R., ‘Couples log on to the internet to log off from their marriage’, *The Independent* (8 November 1999).

¹² The Lord Chancellor’s Department, *Civil Justice 2000: A Vision of the Civil Justice System in the Information Age* (June 2000).

¹³ DTI Policy Action Team, *Closing the Digital Divide: Information and Communication Technologies in Deprived Areas* (2000).

the most objective way for this [the information session] to be arranged is for those who provide the services to describe them, because, however unbiased one is, it is very difficult adequately to describe what other people are providing because they are much better at doing that themselves.¹⁴

Of course, the then Lord Chancellor almost certainly had group meetings along Australian lines in mind when he expressed this view, and was attracted to the kind of meeting which involved a range of professionals and in which information could be delivered in a number of ways, including through a video. At a later debate he went on to say that, if the sole source of information is a provider, in his view the provider would need to be ‘extremely balanced’.¹⁵

During the Committee Stage in the House of Commons, further thoughts emerged about the nature of information presenters. Paul Boateng, for example, talked about ‘a one-to-one meeting with a qualified person’¹⁶ and went on to indicate that this would be ‘someone qualified as a marriage guidance counsellor’.¹⁷ Thus, a range of requirements appeared to be emerging for information presenters: that they should be neutral, qualified (perhaps as marriage guidance counsellors, or in another divorce-associated profession) and ‘balanced’. But the debates moved on to address other concerns, not least being that voiced by the MP for Gainsborough and Horncastle,¹⁸ who stated that he was

concerned about whether information would be held by people with a financial stake in the process.

This ultimately led to the inclusion of Section 8(7) of the FLA, which states:

An information meeting must be conducted by a person who –

- (a) is qualified and appointed in accordance with prescribed provisions;
- and
- (b) will have no financial or other interest in any marital proceedings between the parties.

Marital proceedings are defined in Section 20 of the FLA. Regulations made under this section make provision for the information to be given by ‘a person, or by persons, approved by [the Lord Chancellor]’. Section 8(7)(b) has been interpreted by some as automatically barring divorce professionals, including counsellors, mediators and lawyers, from becoming information presenters. This is not so. The information presenter in any particular case cannot be someone who is involved in any matrimonial proceedings for one of the parties and who therefore has a financial involvement in the case. Mr Leigh was concerned that, if the information meeting is to be a serious event marking the beginning of a cooling-off period, it should be conducted by a qualified and genuinely independent person. He suggested that this might be a registrar of births, deaths and

¹⁴ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 30 November 1995 at col. 787.

¹⁵ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 23 January 1996 at col. 993.

¹⁶ Paul Boateng MP (Brent, South), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 123.

¹⁷ *ibid.* at col. 134.

¹⁸ Mr Edward Leigh, MP (Gainsborough and Horncastle), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 136.

marriages. His view was that someone such as a solicitor or mediator might not go out of their way to encourage people to engage in marriage counselling because they might have an interest in subsequently acting in that divorce; in other words, they would be looking for trade. It would not be possible for an information presenter to suggest that he or she takes the case in a professional capacity after the information meeting. We note that in Canada, some presenters (notably mediators) gave their business cards out during the Parenting after Separation seminar. We were told that this is not considered appropriate behaviour and should not happen.

Mr Leigh was suggesting that a new career structure would be created for independent information presenters. However, the questions as to what sort of people might make the best information presenters, and how they should be trained, have remained open for debate and consideration during the pilot projects. A major element in the research programme was to consider the selection, training and practice experiences of information presenters, and we have written extensively on this topic in our interim reports.¹⁹

The pilots were required by the Lord Chancellor's Department to recruit trainee information meeting presenters from specified backgrounds so that the skills and knowledge they possessed could be assessed in terms of appropriateness and transferability; and so that the extent to which their parent professions influenced how they performed the role of information presenter could be observed and monitored. (The backgrounds of presenters in each pilot are listed in Annexe 3.) Two training agencies were involved in the training of presenters and facilitators, and the training programme was continuously revised as a result of our research monitoring.

Analysis of our data reveals varying opinions as to the appropriate professional background of information presenters. Some presenters were of the opinion that the presenter's background should be in the area of law or mediation. Others felt that it is a job which could be learned by people without a divorce-related professional background. It is our view that interpersonal communication skills and good professional training for the task are considerably more important than the presenters having particular professional backgrounds. Nevertheless, if the model proposed here were to be developed and piloted for implementation, knowledge of the legal context and of the FLA, coupled with skills in asking key questions about the attendee's position and making sense of the answers, would be necessary and appropriate. In the pilots, Model C presenters came closest to doing this in exploring uncertainty about the marriage being over. Our observations would suggest that they did this competently. The marriage counsellors trained to deliver the MWMC also all learned how to put a solution-focused approach into action in a (relatively brief) meeting which was similar in length to the proposed information meeting. The explanatory dialogue at the beginning of the information meeting is itself solution-focused: it aims to discover which of three routes to pursue for the remainder of the meeting.

¹⁹ See McCarthy, P., Mitchell, S., Walker, J., Lowerson, R., Spinks, R. and Agathangelou, A., 'Information presenting: the development of a new profession', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: First Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1998); McCarthy, P., Mitchell, S., Walker, J. and Lowerson, R., 'Information presenting: the development of a new profession', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998); Fuller, S., 'Training reviewed', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999).

Most of the presenters felt that information presenting should not be a full-time occupation, owing primarily to the monotony of delivering the same script several times a day. Most felt that it should be contracted on a sessional basis. There were some presenters who thought that those from teaching professions could possibly do the job full-time as they are accustomed to repeating material. Another suggestion was to combine the position of information presenter within an existing job rather than creating an entirely new profession. For example, the duties of Family Court Welfare Officers could be expanded to include delivering information meetings, but much would depend on how their work will be defined under the new Children and Family Court Advisory and Support Service. What is clear is that the work of CAFCASS will promote child-centred values which are consistent with the principles of the FLA. We noted in our observations of information meetings that people from the health professions were particularly skilful in delivering complex information sensitively and confidently, and consideration should be given to this possibility also. We note that the competencies of presenters are being reconsidered in other programmes elsewhere, and that in Australia there has been a move towards the information session being conducted by a court administrator rather than a lawyer or other divorce-associated professional.

Whatever the professional background required of presenters, however, we argue that careful and standardised selection procedures are vital. A pre-selection screening process would be useful, particularly as it would be critically important to screen for cultural sensitivity and gender biases, as well as abilities in dealing with emotionally distraught or resentful attendees. Before any recruitment or training takes place, however, the precise role of the presenter must be clearly defined and understood, and sufficient time allowed for the development of the training programme.

The areas of training that have emerged as important include the following:

- understanding of the psychological process of separation and divorce
- knowledge of the FLA
- time management skills
- gender and cultural sensitivity
- skills in dealing with distressed attendees
- ability to understand and address the issues of domestic violence
- answering questions without giving advice
- practice through role play

Distance learning proved to be an important and helpful element since it enables trainees to learn in their own time and at their own pace. Clearly, presenters need to acquire a good understanding of the materials and topics they have to present and to feel confident in discussing them. Competencies were not assessed during the pilots by the trainers or by pilot managers. We believe that assessment of competencies, a period of probationary practice and refresher training would all be important considerations for an implemented system.

The research also indicates that training should not be an activity confined to presenters. The administrative staff, who would constitute the first contact with the public, need to be trained to respond appropriately to upset or uncertain applicants, and to be able to explain what information meetings entail. They also need to possess knowledge about domestic violence and abuse in order to screen for safety issues, cultural awareness and sensitivity, and gender awareness.

Assuring Quality Nation-wide

One of the major considerations in an implemented system will be how to maintain the quality of information meetings on a nation-wide basis. During the pilots, quality assurance meetings were held in each pilot area, but although regular reports of the meetings were sent to the Lord Chancellor's Department and to the research team, there was no mechanism in place to co-ordinate these meetings so as to promote quality assurance between, as opposed to within, areas.²⁰

Quality has been described as follows:

Quality is not about expense, technical excellence, elegance or durability; quality is about perceptions and expectations ... A quality product or service is one that fully meets the expectation and requirements of those who purchase or use it.²¹

If this definition is accepted, it means placing emphasis on satisfying the needs and expectations of the consumers, who in the case of information meetings would be the attendees. The approach to quality which is adopted would of course, depend on how the purpose and structure of information meetings are defined and designed. If the information meeting is designed to provide standardised mandatory information that applies to all attendees using a script, as in the pilots, the Lord Chancellor's Department would simply develop the model and persuade attendees that this is what they need. Quality in this approach would be defined by the provider. If, on the other hand, the purpose of the information meeting is to provide information relevant to the needs of attendees, that is, customised and tailored, then quality will be defined by the attendee and user satisfaction will be an important measure of a quality service.

It is our view that quality assurance within the context of the information meeting concerns all aspects of the meeting, from the organisational design right through to the delivery of the information in a variety of formats. It involves the totality of those events, actions and processes that go to produce a quality information meeting and not simply the delivery of the information *per se*. But we would emphasise that while the intention is to maintain standards and quality, this does not mean having to reduce the information meeting to a general or standardised service. The point has been made by quality assurance experts that customers and clients are not standard. We would suggest that attendees will not be standard either; indeed, the research has shown that they are likely to be extremely varied.

²⁰ For a more detailed discussion of quality assurance issues see Hall, I., 'Assuring quality', in J. Walker, (ed.) *Information Meetings and Associated Provisions within the Family Law Act 1996: Third Interim Evaluation Report*, Newcastle Centre for Family Studies (January 1999), from which the material here is drawn. Our views have not changed since that report was presented.

²¹ Thomas, B., *Total Quality Training*, McGraw-Hill (1992), p. 3.

The development of citizens' charters undoubtedly affects the provision of information meetings. If the Government is committed to the provision of a particular service and certain standards associated with the service, some impact from such a charter must be anticipated. The Government's Service First Unit (formerly the Citizen's Charter) provides the following outline of its commitment to quality public service provision:

A key feature of this government's approach is that the people who use services should come first. Public services should be provided for the benefit of those who need and use them, and not for the convenience of the organisations that deliver them. We must ask people what they want from public services, and not make assumptions about what they need, or how they would like to deal with government.²²

Presenters in the pilots urged the following as a means of maintaining quality in individual meetings:

- a common understanding of the purpose and limitations of the information meeting
- adequate information about attendees being available to presenters
- ongoing training and development
- appropriate knowledge so that questions can be answered
- good management

Ensuring that someone attending an information meeting in Cornwall experiences the same quality of service as someone attending in Northumbria will be an essential task. It would be unfortunate indeed if policy and practice varied across the country. Despite the common training given to presenters in the pilots, there were interpretations and variations in practice which resulted in differences in the way in which meetings were delivered, primarily, we suspect, because there were few opportunities for managers and presenters from the different pilots to meet and share good practice.

Information Meeting Venues

The detailed work of the geographers on the research team (reported in Chapter 31) has provided a list of sites where information meeting provision would be necessary in an implemented system. Suitable venues would need to be selected. During the pilots, managers and administrators in the pilot areas were responsible for selecting venues and assessing them for suitability. Information meeting pilots were encouraged to use standard types of venues and locations, which fell into six broad groups:

- voluntary sector offices (e.g. Relate, CABx, women's centres, ecclesiastical organisations)
- courts and family court welfare offices

²² The Service First Unit User's Charter, *Service First: The New Charter Programme* (July 1998), <http://www.servicefirst.giv.uk/introduc/sfuersch.htm>

- solicitors' offices
- municipal premises (civic centres, libraries)
- health-related venues (surgeries, health centres)
- service sector venues (hotels, conferencing facilities)

There was considerable variation in quality and in the degree to which each venue was used, both within and between areas. Most of the venues in use were visited by the research team in order to assess them in relation to a number of factors including ease of access, safety, neutrality, standard of accommodation and locality.²³ The location of venues varied widely. Some were situated in relatively run-down areas, peripheral to the main towns and cities, and in shabby or dilapidated buildings. By contrast, other venues were located centrally, surrounded by shops and other amenities, and based in well-known public buildings. Differences existed in the adequacy of the signposts to these venues, particularly after dark when some could be quite difficult to find. Some venues were easy to access by bus, car or foot or were within easy distance of rail links. Some had ample local parking or, conversely, were rendered hard to access by the limited availability of roadside spaces. The time at which information meetings took place determined the availability of transport links, since public transport in some pilot areas tended to dwindle after office hours. It appears that striking a balance that reconciles the needs of both car and public transport users might, on occasion, be problematic.

There appeared to be considerable variation regarding security. Some venues were well-lit, in busy locations and with separate reception areas not visible from outside. Others were isolated and poorly lit, and had limited scope for discreet reception arrangements. Some venues had well-signed, comfortable reception areas available at all times, and were well-heated, well-lit and private. Others had no foyer and no (or else limited) seating provision for the receptionist and attendee(s), and were situated in public space or were part of a shared facility, raising associated safety and privacy concerns.

The meeting rooms also came in a range of shapes and sizes. The less satisfactory rooms were either too small or too large and were manifestly unsuitable. Some rooms were inhospitable, noisy and shabby. Others provided a calm atmosphere. A number of venues overtly advertised specific allegiances, for example, Christian organisations or Relate. Such an impression may be fostered by posters, slogans and leaflets displayed at the location. The nature of the venue may also have conveyed certain messages. The use of solicitors' offices may have conveyed messages, for example, that the legal profession is the first port of call in the event of marital breakdown, or that legal advice will be available as part of the information meetings. Relate offices may have given attendees the impression that the information meeting was focused on reconciliation and counselling. The more neutral venues hosted a range of functions and were often of a municipal nature, providing a variety of services to local residents, with no single overriding purpose.

²³ For a more detailed discussion about venues see Connell, J. and Lowerson, R., 'Organisation and management', in J. Walker (ed.), *Information Meetings and Associated Provisions within the Family Law Act 1996: Second Interim Evaluation Report: The First Five Pilots*, Newcastle Centre for Family Studies (September 1998), from which this material is drawn.

Considering the views of attendees and presenters alongside our research observations of a wide variety of venues, it is our contention that information meetings must take place in venues that can offer privacy, a degree of comfort and, most importantly, safety. They should be in well-lit areas and close to transport facilities, and neutrality of venue could be an important consideration. We are minded to consider a ‘Tesco’ model: open every day (and all hours), and the kind of place anyone might be seen going to, since it is identified with the ordinary business of everyday life and not associated with divorce-related services. Public buildings such as libraries, or health centres, might also provide venues which are accessed for other purposes without a sense of stigma being attached. We have noted (in Chapters 26 and 27) the importance of selecting appropriate venues and locations for people from ethnic minority groups and for people with fears about their safety.

Organisation and Management of Mandatory Information Meetings

If the Government decides to go ahead with the implementation of Part II, one of the key issues to be determined relates to who will be responsible for providing information meetings. In the Green Paper,²⁴ the previous government canvassed views about three potential modes of provision:

1. The Court Welfare Service.
2. Existing local mediation agencies.
3. A new independent organisation.

In his review of consultation responses,²⁵ Bourne observed no clear consensus, but stated that those consulted tended not to be in favour of setting up a new independent organisation, the main arguments against this being:

- (a) a new organisation would have to be centrally financed and would become ‘bureaucratic’ and answerable to the government rather than to the ‘clients’;
- (b) it would be very expensive: apart from the logistics of accommodation, secretarial help, telephones etc., any systems involving a personal interviews would require highly trained, and therefore well-paid staff;
- (c) since the necessary facilities and expertise are largely already in existence, it would be better, and cheaper to make use of them;
- (d) if uniformity of standards is required, it can be achieved by creation of an ‘umbrella’ organisation to which existing agencies can be accredited;
- (e) needs differ so greatly that no one organisation could cover the whole field.

Those who favoured using the Family Court Welfare Service identified the advantages of this option as being existing nation-wide structure and the fact that it possesses a ‘fund of

²⁴ *Looking to the Future: Mediation and the Ground for Divorce*, Cm 2424 (1993).

²⁵ Sir Wilfrid Bourne KCB QC, *Looking to the Future: Analysis of Consultation* (July 1994), pp. 50–60.

expertise'. It was also felt that providers drawn from these services would have little interest in the outcome of any given interview and would, therefore, be appropriately independent. Bourne pointed out, however, that almost all the support for the Family Court Welfare Service option came from members of these services. Respondents to the Green Paper who were not in favour of this option argued that it would mean that people would be starting the process with a meeting that involved a representative of the court, and that this may be undesirable for a meeting regarded as a first step.

The use of existing independent mediation services was the preferred option of several individuals and organisations, including National Family Mediation, the Family Mediators' Association, the Legal Aid Board and the Law Society. The main arguments put forward in favour of this were that these services already existed, had suitable premises, were user-friendly and had experienced staff, and were independent of the court. Some respondents felt there might be conflicts of interest. Relate, for instance, suggested that an initial interview should not be conducted by anyone on the staff of an agency that might be responsible for conducting subsequent mediation or counselling sessions. National Family Mediation, however, argued that it would be sufficient if the interviewer were disqualified from conducting any consequent mediation or counselling sessions (in line with Section 8(7)(b)). Some of the Green Paper consultants suggested that the information meeting could be provided by the court, but Bourne felt that this might be a contentious option, since other respondents had argued that the court should become involved only after a party has had the chance to consider other options.

The information meeting pilots involved a range of providers, usually in some kind of partnership or consortium arrangement (outlined in Chapter 3). The lead organisations included Relate, mediation services, probation services and solicitors' firms. Our research does not provide evidence that any kind of provider arrangement was more effective than any other. It shows that all the agencies involved were capable of providing an information service, and that it was the nature of the relationship with providers of related services that was particularly important. Pilots seemed to function best when there was a history of interdisciplinary co-operation. We can see no reason why choice of providers should be influenced by the model of information meeting that is employed.

In our second phase consultation survey of professionals, we investigated whether respondents felt that a new service should be established to provide information meetings. Opinions were mixed. Approximately a third (34%) of respondents favoured the establishment of a new agency, while 29 per cent felt that the service ought to be provided by an existing agency, and the remainder indicated that they had no opinion on the issue. There were mixed views among those who favoured provision through existing agencies concerning which agency that should be. Of the 57 who favoured this option, 21 (9 of whom were Family Court Welfare Officers) were in favour of an agency that incorporated the Family Court Welfare Service, while 16 suggested that the information meetings could be operated by counselling and/or mediation services and 6 were in favour of provision by Citizen's Advice Bureaux. Seven respondents, all of them lawyers, suggested that the information meetings should be provided and managed by the Law Society.

None of the professionals who responded to our consultation survey suggested that information meetings might be provided by the private business sector (other than lawyers), and this was an option that does not seem to have been raised by any of those who responded to the Government's Green Paper. Nevertheless, a report commissioned by the Lord Chancellor's Department in preparation for procurement early in 1999 has

suggested that this may be a viable option. The report concluded that there was sufficient interest within the private business sector, which was said to have significant skills to contribute, including management and organisational skills, quality assurance procedures and the necessary people and communication skills.²⁶

The most consistently interested organisations were drawn from the counselling, accountancy and management contractor sectors. Those organisations showing interest referred to the opportunity information meetings would provide for new business and revenue streams. They also referred to the ability to bring core organisational and administrative skills to bear, to offer additional services and to diversify, and to the opportunities that working with the government offered. All the organisations contacted believed that information meetings were a valuable service for couples facing divorce. Some organisations expressed concern about the meetings being conducted on a face-to-face basis, however, and indicated that they would feel happier providing information through a call centre. This would obviously not meet the requirements of the Act, but could provide the way forward for a regional or national booking service. This approach worked well for the provision of the MWMC in the pilots.

We sense from the report that organisations with no current involvement in the divorce business might have difficulty in selling the idea at the senior levels of management; that they do not yet know enough about how the information meetings fit into the legal framework; and that they might be unwilling to accept demand risk. Particular interest was noted with respect to what the report calls ‘increasingly developed networks of counselling and solicitors’ firms’, which apparently emphasised their ability to meet a national provision ‘through a network of local firms’. Such interest was, however, tempered by concerns that provision of information meetings could lead to a conflict of interests and the debarring of staff from subsequent involvement in proceedings involving an information meeting attendee. This suggests that it is important to clarify the conflict of interests question in advance of any procurement exercise.

Consultation concerning the provision of information meetings took place before the introduction to Parliament of the Criminal Justice and Court Services Bill, which will create a new court welfare service. The Children and Family Court Advisory and Support Service (CAFCASS), which will assume the responsibilities carried out by the Family Court Welfare Service, the Guardian ad Litem Service, the Reporting Officer Service and part of the Official Solicitor’s Office, will be the responsibility of the Lord Chancellor. It will be tasked with:

- safeguarding and promoting the welfare of children involved in family proceedings
- advising the courts on applications in family proceedings
- making provision for children to be represented in family proceedings
- providing other advice and support services for families involved in such proceedings²⁷

²⁶ Unpublished report prepared by KPMG for the Lord Chancellor, *Provision of Information Meetings* (1999).

²⁷ Children and Family Court Advisory and Support Service, Home Office (24 July 2000).

There is clearly a case for the provision of information meetings to be part of the responsibilities of this new agency, which is expected to become operational in April 2001. CAFCASS will have a national structure necessary for a standardised quality-assured service. It has been suggested that it is also likely to have the resources needed – appropriate accommodation, secretarial help, and appropriately skilled personnel – and to have the potential to provide a more cost-effective approach to the provision of the information meeting than would be likely if a totally separated agency were established to provide information meetings. We would suspect, however, that there would be not inconsiderable resource implications, since the provision of information meetings would constitute a new role for CAFCASS which would be additional to its existing remit. If CAFCASS were to take responsibility for information provision this remit would need to be built in to the longer-term planning for its services. Nevertheless, the problems identified in responses to the Government's Green Paper remain. It may be thought that linking the first port of call to an organisation so closely related to the court might reinforce in the public consciousness a connection of the meeting with divorce rather than with marriage. The result may be that, having once attended an information meeting, people may be more likely to feel as though they have already engaged with the divorce process than they would if the information meeting were provided by an independent body. This may have implications for the marriage-saving agenda. There are also conflict of interests considerations to take into account.

It seems to us that the key question relating to the provision of the information meeting is whether to allocate responsibility to an existing agency – CAFCASS would be one obvious option, another would be the Legal Services Commission – or to allocate responsibility on a similar basis to that which existed during the pilots, through a procurement process. Our research cannot answer this question. The mode of provision will therefore be subject to an assessment of which approach is most likely to achieve whatever are felt to be the most important policy objectives.

It is important to note that any agency which is contracted to manage the delivery of information meetings could choose to recruit presenters from outside the agency. So, for example, CAFCASS or the Legal Services Commission could take responsibility for management of the meetings and recruit presenters from elsewhere to be employed on a sessional basis (or subcontract to other agencies). It is our view that in an implemented system a larger-scale headquarters operation than existed in the pilots would offer greater potential for economies of scale, automated systems, consistency in the quality of service provided, and longer hours of administrative cover. The overall objective must be to make access to an information meeting as easy and as user-friendly as possible, and to ensure efficient management of a quality service.

Another way forward might be to license a range of agencies to provide information meetings to a national quality standard. Since it is clear from the pilots that service providers in the voluntary, statutory and private sectors are able to deliver information meetings to a set framework and guidelines, it could be that these kinds of professionals might all be able to provide the meetings in the future, giving consumers an element of choice as to which service they access in order to attend an information meeting. This might be more difficult to plan *de novo* without some idea as to the levels of demand each agency might expect, but this could be piloted alongside the testing of the new model, or developed from experience in the first few years of operation. In some ways it is a similar exercise to that which has been undertaken in the rolling out of Section 29 suppliers in respect of mediation services. In that case there has, it seems, been a shift over time of the levels of demand between the not-for-profit and the private mediation sectors, but it is

likely that there will be a levelling off as the provisions become embedded in the legal process. There might be a similar levelling-off process between agencies in respect of the provision of information meetings, thus enabling the Lord Chancellor's Department to predict demand and contract appropriately. A policy decision will need to be taken with respect to the currency of a certificate of attendance.

The Importance of Interdisciplinary Co-operation

There has been a recognition among all the divorce-associated professions that the FLA will shake up existing practices and lead to reorganisation in the delivery of services. Effective efforts to use the law to achieve social change require co-operation among the different professions involved in making the law work in practice. The information meeting pilots provided the opportunity for the establishment of local support groups and a National Interdisciplinary Forum which could co-ordinate and monitor this local interdisciplinary co-operation. Although the LIDF established in the pilot areas provided an element of support to the pilot managers, there were few opportunities for proactive contributions to the development of the information provision. In this sense there were obvious tensions between the local groups and the Lord Chancellor's Department in the initial stages of the pilots. The LIDF did enable local and national interdisciplinary networks to be fostered and strengthened, however, and there has been strong support for the continuing role of these networks in relation to family law provision in the future, although no clear structure has yet emerged.²⁸ There is widespread agreement that whatever steps are taken in respect of divorce reform, multi-agency and interdisciplinary co-operation offers potentially significant benefits for the efficient running of a responsive family justice system.

Alternative Options for Information Provision

We have proposed a possible model for the implementation of a mandatory information meeting which would meet the requirements of Part II. Our evaluation was designed primarily with this purpose in mind. If Part II is not implemented, however, there can be little doubt that other options for reforming the current divorce process will need to be considered, and that the provision of information will be an important element. We discuss four possible options here to illustrate the range of possibilities. There will clearly be other options.

(1) Mandatory information meetings for parents only

One way forward might be to follow the examples of Canada and the USA in focusing mandatory information provision on parents with dependent children rather than making attendance a requirement for everyone wishing to divorce. This would significantly reduce the throughput, since some 40 per cent of divorces do not involve dependent children, and would enable the information to be very specifically focused on promoting the best interests of children. We would argue that the meeting should be available to all parents, irrespective of marital status, thus responding to the needs of cohabiting couples whose relationships end. It has been suggested that this option might be achieved by Ministers taking a broad approach to the issue of exemptions from attendance under

²⁸ *The National Interdisciplinary Forum Report*, Lord Chancellor's Department (March 2000).

Section 8, subject to any questions about *vires*.²⁹ It has further been suggested that this approach

might temper the potential criticism that compulsory information meetings are an unacceptable manifestation of the ‘Nanny State’ interfering in adults’ private lives; the compulsion could be limited to those cases where the State has an undoubted interest in, for example, protecting the welfare of children.³⁰

Under this option, people without children might be able to obtain a divorce more quickly, since they might not be required to wait for a statutory three-month cooling-off period before making a statement of marital breakdown. There is always the danger that this approach might be interpreted as suggesting that saving marriage is less important if children are not involved, giving somewhat mixed messages about the sanctity of marriage. It would be possible, therefore, merely to exempt people without dependent children from attendance at a meeting, but require them to register intent and receive an information package. They would still have to wait for the three-month cooling-off period to elapse before making a statement of marital breakdown. If this were to be considered as an option, we would suggest that people without dependent children should be allowed and indeed encouraged to attend an information meeting on a voluntary basis if they so wish. If the information meeting were to be limited to parents, the meeting could still be delivered on a one-to-one basis to render it consistent with the FLA.

If Part II is not going to be implemented in its current form, however, the possibility of providing information to parents through group meetings could be reconsidered. Although group presentations in the pilots were not as well-received as individual meetings they were still appreciated, and people did volunteer to attend. They would have the advantage of being less costly to deliver, but we would urge that the presentations should be less prosaic than in the pilots. We note that it is the option chosen in many other jurisdictions with seemingly little public resistance and with positive outcomes. Some of these programmes could provide a helpful blueprint from which to develop a new model. If information meetings were to be a voluntary provision, it would certainly be worth rethinking the advantages and disadvantages of group meetings and taking a longer, more detailed look at the research evidence presented in Chapter 8.

(2) Notification of intent to end a marriage

If mandatory attendance at an information meeting in whatever format is deemed unacceptable by the Government, but the case for divorce reform remains strong, we believe that amending legislation might enable the Government to maintain legislative intent in respect of the provisions in Part II, support the principles of the Act and buttress Parts III and IV through a rather simpler procedure for encouraging reflection and consideration.

Instead of a party wishing to make a statement of marital breakdown having to attend an information meeting at least three months previously, they could be required to provide notification of intent to make a statement of marital breakdown at least three months before the statement can be lodged. Applicants could be provided with an information pack and information about how to access CD-ROMs, videos or websites with confirmation of registration. In addition, they could be offered a free meeting, which

²⁹ Arnold (2000), *op. cit.*

³⁰ *ibid.*, p. 18.

could either be a voluntary meeting with a marriage counsellor which would help them explore whether their marriage is over, or a voluntary information meeting at which they could receive information about divorce, ways of resolving disputes and how the divorce is likely to affect children. Those who choose not to attend a meeting could be informed about, and encouraged to use, other sources of information – the internet, CD-ROMs, videos, information leaflets and audio tapes.

This alternative model for providing information does not require compulsory attendance at an information meeting, but it does provide the opportunity to do so on a voluntary basis and confirms the importance of information. It also retains the MWMC, which worked well and was much valued in the pilots. Its key elements rest on the availability of information via various media and on individual choice, which our research suggests is particularly important where there are concerns about personal safety, and where attendance may be impractical owing to distance, childcare problems, ill health, disability or concern about confidentiality. Choice is also important if one accepts the significance of human agency: that people are able to seek out information for themselves and will do so to some extent without information meetings.

The model supports the key principles of the Act, as set out in Part I, since it would:

- support the institution of marriage by offering a free MWMC to examine whether the marriage is really over, and provide access to counselling
- encourage those who indicate an intention to divorce to contemplate saving their marriage
- enable marriages that have irretrievably broken down to be brought to an end with minimum distress, with questions dealt with in a manner designed to promote as good a continuing relationship between the parties and any children affected as is possible in the circumstances, without costs being unreasonably incurred
- serve to diminish the degree of risk involved for parties with a violent partner

This alternative approach is also a means of providing information that is consistent with the Government's commitment to ensuring that all transactions between the state and the citizenry are capable of being conducted via the internet. This assumes, of course, that information will be made available via a range of media. This variation on a theme appears to us to be a perfectly sensible way of retaining the integrity of Part II without having to make attendance at an information meeting mandatory. We would expect that the change could be effected by a simple amendment to Part II. Over time, as professionals become confident about the benefits of information provision, and as more people use the information service, referrals could be expected to increase.

Figure 36.2 shows how a party might choose various pathways through the divorce process. We would anticipate that people who are uncertain about their marriage, but believe that divorce may be an appropriate option, would be likely to opt to attend a MWMC. Applicants certain about divorce but uncertain about how to go about it might opt to attend an information meeting. Others (most, perhaps) would reject both options and simply wait the three months to lodge a statement of marital breakdown. We believe

that one spouse registering intent should ensure that the other spouse is informed that intent has been registered, and both spouses should be offered the same information and the same options. It may well be that spouses who do not want a divorce will take up the offer of a MWMC. In any event, they will both have the same information on which to base actions and decisions.

One of the advantages of this approach is that a number of agencies could be licensed as registration points. So, for example, solicitors, counsellors, mediators and CAB workers could be the first port of call, with the ability to help a party move forward without having to go elsewhere. Courts could also be a registration point. We suggested earlier in this chapter that a range of professionals might be licensed to deliver mandatory information meetings, and this option could work on a similar basis. A policy decision would have to be taken with respect to the currency of the registration of notification of intent.

There may well be other practicable options on a similar theme which could be implemented without major modification of the FLA being required. We have described this particular option in order to demonstrate a possible way forward which will not risk the loss of Part II as a whole, and which might alleviate the concerns expressed at the President's conference in September 1999 that

Part II of the 1996 Act was carrying more than no fault divorce law reform. It carried the hopes of many as being a symbol for a new future for family law resolution ... the momentum of the good and wider aspects of the Act must not be lost.³¹

(3) *Providing information materials only*

It seems very clear from our research that, if the mandatory provision of information meetings is not implemented, other ways of giving people information will need to be considered. One way is to make the written, visual and the CD-ROM materials widely available through a range of organisations. This would undoubtedly be an improvement on the current situation, particularly if information packs were routinely sent out with divorce papers. We have seen from the postal pack study that recipients valued the information sent to them. We would urge, however, that it is very important to be clear about the purpose of this kind of provision and about what it is expected to achieve. People may become more knowledgeable; they are unlikely to change their behaviour, or be influenced to use services such as mediation. Davis *et al.*³² have suggested that there might be a number of potential 'information points' for promoting mediation, for example, without people being mandated to attend an information meeting. Increasing the take-up of mediation may not be a realistic objective of this kind of approach to the receipt of information, however. We noted in Chapter 34 the significant findings from the USA that telling people how to do things has less impact than showing them how to do things through skills building. Neither the widespread availability of leaflets nor a brief mandatory information meeting will be able to offer skills building.

³¹ Walsh, E., Hodson, D. and Fisher, T. 'Family Mediation: the new profession', in Lord Justice Thorpe and E. Clarke (eds), *No Fault or Flaw: The Future of the Family Law Act 1996*, Jordans (2000), pp. 40, 41.

³² Davis, G., *et al.*, *Monitoring Publicly Funded Family Mediation: Final Report to the Legal Services Commission* (July 2000).

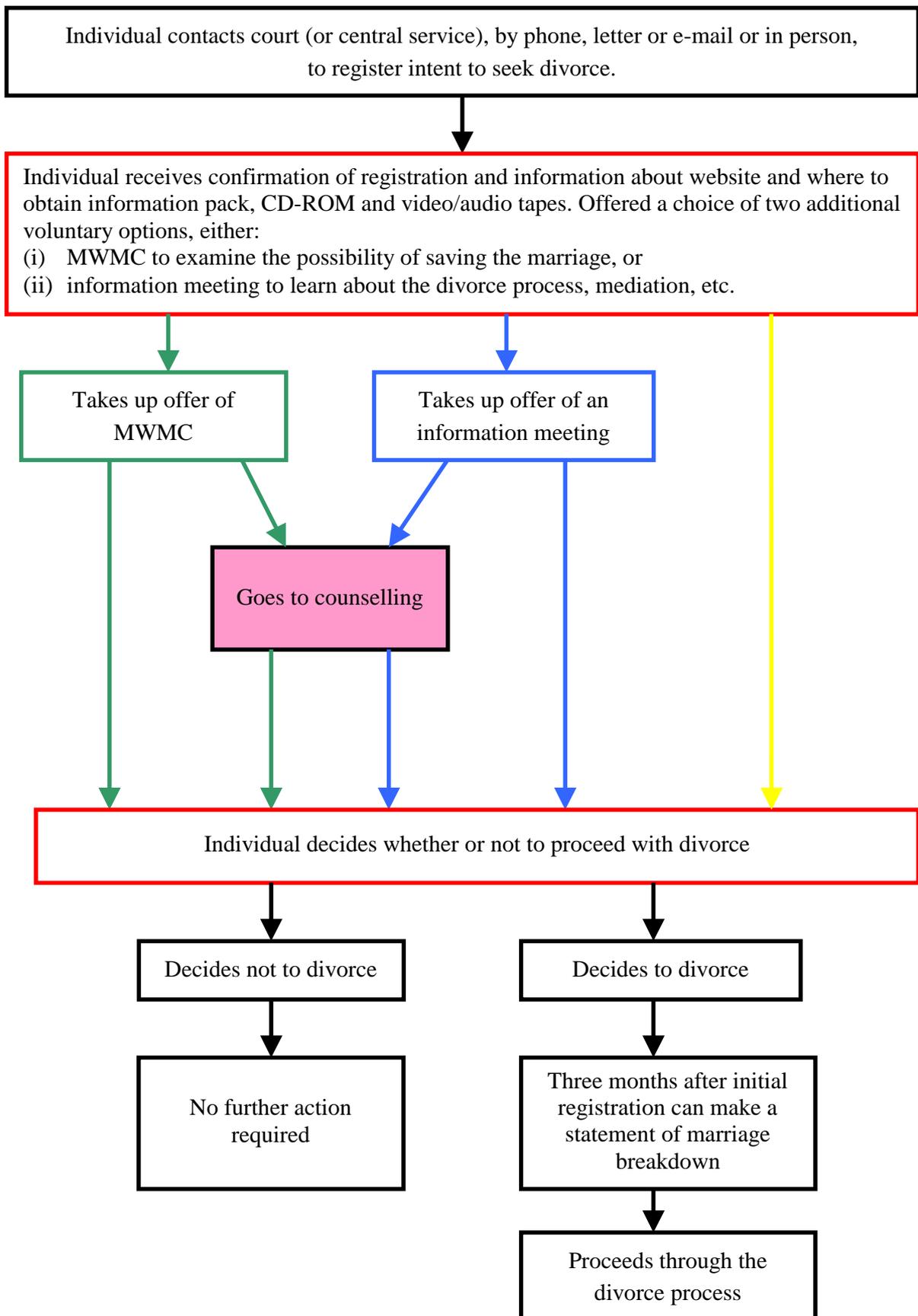


Figure 36.2 Supporting the general principles of the Family Law Act without a mandatory meeting

(4) *Voluntary information meetings*

It would be possible to continue the provision of information meetings on much the same voluntary basis as that on which they were offered during the pilots. Our new model could be piloted and refined and a decision taken to offer it on a voluntary basis if Part II is not implemented. Over time, as its existence became known, referrals might increase and uptake might be greater than in the pilots. Initial predictions could be made about demand for such a service on the basis of experience of the pilots. Consideration could be given to a fee being charged for the service, which people could be encouraged to use early in the process of relationship breakdown. (The service would not need to be limited to divorcing couples.) In the interests of economy, a group presentation could be offered on a voluntary basis instead of an individual meeting. There was a good deal of support from professionals and attendees for information meetings being a voluntary option.

Final Thoughts

Our research demonstrates beyond doubt that separating and divorcing families need better information than is currently available, that those who attended information meetings on a voluntary basis in the pilots appreciated the information provided, and that the MWMC is capable of helping people with a wide variety of agendas to move forward and take the next steps. Information meetings, however they are constructed, are unlikely to be able to change the culture of divorce or people's behaviour in isolation from other reforms. In this respect, other government initiatives which are seeking to create changes which support family life have an important contributory role to play. For example, the proposals for reforms to the child support system place an emphasis on integrating it with information and mediation processes and signposting other support services:

The Government is committed to an active family policy which integrates all activities that affect the family – including maintenance and contact.³³

Better integration of the various services which contribute to the family justice system can only be beneficial for those wanting to use them. Davis *et al.* have urged that

divorce law and divorce procedure need to be made as simple as possible. People are under stress, and they are naturally preoccupied with resolving pressing personal problems; they have little interest in the mechanisms by which this is to be achieved.³⁴

Although the FLA is a complex piece of legislation, if Part II is to be implemented it will be essential that separating and divorcing people can proceed through the process with the minimum of confusion. Given that many attendees at information meetings were looking for more than generalised information and wanted a more personally-tailored service, a comprehensive model of information and service provision available to both parties would appear to have some merit in providing a framework for the future.

As we conclude our final report in respect of the information meeting pilots, we are reminded that at the end of the research conducted here in Newcastle in the Conciliation

³³ Department of Social Security, *A New Contract for Welfare: Children's Rights and Parents' Responsibilities*, Cm 4349 (July 1999).

³⁴ Davis *et al.* (July 2000), *op. cit.*

Project Unit,³⁵ there was a strong recommendation for mediation ('conciliation' as it was then called) to be part of a co-ordinated network of local services providing advice, counselling and mediation, and fulfilling an important educative role through the provision of divorce experience courses. This kind of one-stop-shop facility has developed rapidly in a number of fields in the last decade, notably in primary health care where a range of different professionals have come together to offer a seamless service. We note that there are some consortia comprising family law specialists, non-lawyer mediators and counsellors already in existence³⁶ offering legal advice and representation, family mediation and counselling. A preliminary interview enables clients to explore the available options and decide which services are appropriate to their needs. If this kind of one-stop-shop facility were to be developed as a current policy option for separating and divorcing families, one of the primary functions could be the provision of information; another function could be to offer parenting after separation courses.

Most people know what kind of information and/or help they need: they are less concerned about who provides it. It was clear to us in 1989 that the divorce process can be a bewildering, distressing experience, and that many people found accessing the right help at the right time a considerable challenge. Over ten years later, the complexities of family life when marriages are at the verge of breakdown are just as real, as our study of nearly 10,000 people accessing an information meeting during the pilots has shown. Whatever mechanisms or reforms are put in place, there needs to be flexibility to meet the advice and information needs of a wide range of people from a wide range of circumstances. Some people, armed with appropriate information, will be able to conduct a DIY divorce – most will seek legal advice, and some will need and want legal representation. Some people will be able to work with their spouse to resolve disputes through mediation without recourse to negotiation through lawyers or the courts; and it is hoped parents will be much more aware of their children's needs and of how to support their children, talk to them about the changes that are taking place, and respond to their wishes and feelings. Whatever the decisions about the future of the FLA, it is essential that information reaches both parents. As was pointed out shortly after the FLA received Royal Assent:

There is one striking lacuna in the requirement of those persons who must attend the information meeting. The Act provides that one spouse may file the statement of marital breakdown, the initiating document, but the other spouse can apply for the final divorce or separation order. However, if the latter spouse has not made or contested any other application to the court, there will have been no requirement on them to have attended an information meeting. It may be thought that 9/15 months after the original statement was filed, it is then somewhat late to be given information about the consequences of divorce.³⁷

Indeed it is. There can be no merit in only one party having information, whether it be provided through a mandatory meeting or on a voluntary basis. The Lord Chancellor has said that, when marriages or cohabiting relationships break down,

then the State must step in to counsel, to offer mediation services, to try to save the saveable but, where that cannot be, to offer cost-effective, straightforward, prompt procedures both to settle disputes and to provide as

³⁵ Conciliation Project Unit, *Report to the Lord Chancellor on the Costs and Effectiveness of Conciliation in England and Wales*, Lord Chancellor's Department (1989).

³⁶ The Family Law Consortium, <http://www.tflc.co.uk/main.html>

³⁷ Bishop *et al.* (1996), *op. cit.*

secure a framework for the children as can be devised – because children come first.³⁸

If this is agreed Government policy, both partners must be able to make informed choices about the services they wish to use and the routes they wish to take.

During the past three and a half years a good deal of effort has been devoted to the search for the best way forward in respect of information provision. It is our view that the model we have developed would offer a better solution than the models tested during the pilots. It needs to be tested, and clear objectives need to be set so that it can be judged against them. Equally, the other options we have outlined would need to be assessed in some way. It is our view that a core set of objectives could be established for whatever option for information provision is chosen, which could also apply to others not discussed in this report. We suggest that the following objectives should be included as core:

- the information provided should be perceived as relevant and helpful by those receiving it
- information recipients should understand what different services and professional groups can offer and how these services can be accessed
- attendees at an information meeting or a MWMC should feel safe, comfortable and unstigmatised, and feel that they are being treated with dignity
- those receiving the information should know how to get further information should they need it
- the needs of children during separation and divorce must be clearly understood, and children's rights to information and to be consulted should be respected
- information recipients should feel able to take steps to work on saving the marriage, or to proceed with divorce feeling confident about what the process might involve and what options they might consider, or to resolve specific issues and reflect on the best way forward

It may be helpful, in weighing up the evidence of the pilots, to acknowledge, as Lord Archer of Sandwell did during the early debates on the Family Law Bill, that in an imperfect world

there are no perfect solutions. Every proposal will carry a price tag. We must do the best we can with the benefit of such information and experience as are available, and perhaps later be prepared to admit that we might have done better. None of us represents the ultimate in wisdom, and it is an area in which sometimes the most helpful quality we can contribute is a little humility.³⁹

³⁸ The Lord Chancellor, Lord Irvine of Lairg, *op. cit.* (25 June 1999).

³⁹ Lord Archer of Sandwell, Official Report (H.L.), 30 November 1995 at col. 735.

Annexes

Annexe 1

Research Advisory Group

<i>Chair</i>	Sir Peter Barclay, CBE
<i>LCD Family Policy Division</i>	Mr William Arnold (until September 1999) Mr Edward Bloomfield (from September 1999)
<i>LCD Research Secretariat</i>	Mrs Jacqueline Brown (until January 1999) Mrs Sarah Tyerman (until January 1999)
<i>Research Director</i>	Professor Janet Walker
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Annexe 2

Contents of the Information Pack

1. Marriage

1. *Is my marriage really over?*

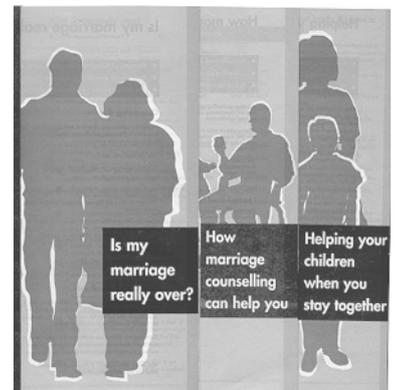
Urges people to reflect and consider whether their marriage is really over. It points out that all marriages go through bad times; divorce might not be the only option, as couples do find ways of solving their problems. It also recommends that people avoid making hasty decisions and suggests it may help to talk through problems with someone trustworthy.

2. *How marriage counselling can help you*

Briefly discusses how marriage counselling might help and how it works. Also a quick guide to counselling and the role of the counsellor, and provides a list and telephone numbers of useful organisations at a national level.

3. *Helping your children when you stay together*

Emphasises the need to keep talking and listening to each other as a couple and as a family. Suggests trying to be realistic about what can and cannot be changed and lists ideas for how to achieve this. Points out that relationships and family life have to be worked at and again suggests ways of doing this. Offers a number of telephone numbers for national helplines and useful organisations.



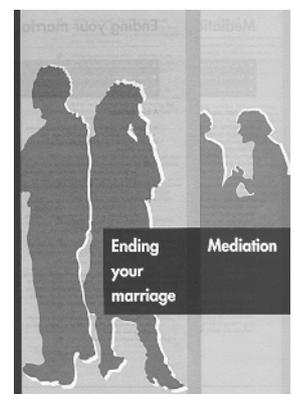
2. Divorce and separation process

4. *Ending your marriage*

Covers the emotional aspects of ending a marriage, the feelings associated with this and what can be done to make the process less stressful for all concerned. Also gives ideas about who/what can be of help at this time and stresses the importance of maintaining a working relationship, especially if there are children of the marriage. Once again gives a list of useful contact numbers for national organisations.

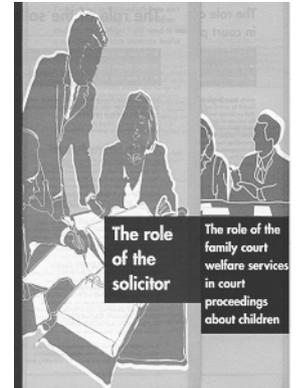
5. *Mediation*

Explains how mediation can help separating and divorcing couples to make decisions for the future and includes information about making arrangements for children. Also gives an explanation of the role of the mediator, issues of confidentiality and information regarding the cost of mediation. Although it does not include any contact numbers, it refers people to the Local Service Directory for information about the availability of mediation in their area.



6. *The role of the solicitor*

Discusses how a solicitor might be of help during the separation and divorce process and when it might be useful to consult a solicitor. Explains that a solicitor will be able to advise on all legal matters relating to divorce and cross-refers to the leaflet on mediation. In addition, gives information about costs, set fee interviews and the possibility of legal aid (although this is dealt with in a separate leaflet).



7. *The role of the family court welfare services in court proceedings about children*

Informs attendees that family court welfare services are statutory services, funded by central and local government, to assist parents who are unable to reach agreement about arrangements for the care of their children following separation if court proceedings have been started. Refers attendee to the Directory of Local Services for information about family court welfare services in their area.

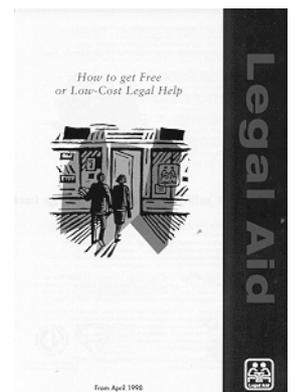


8. *Children Act guide for parents*

Produced by the Department of Health, this booklet gives a brief explanation of what the Children Act means for parents and children who are involved in court cases. Suggests other helpful agencies such as Citizen's Advice Bureaux and legal aid centres. Also makes suggestions for further reading.

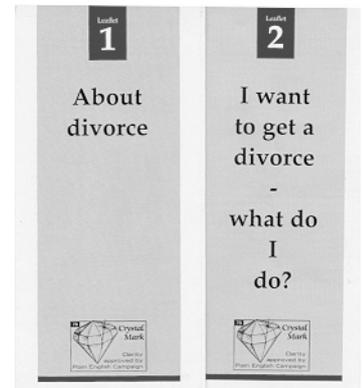
9. *How to get free or low-cost legal help*

Leaflet provided by the Legal Aid Board. Explains that legal aid can help with a variety of issues and is not just for the purpose of divorce matters. Also provides information about who can apply and who will qualify, and about green form limits and how legal aid costs will be repaid. Makes reference to family mediation and gives a number of telephone numbers as points of referral.



10. *The divorce process – Step 1 – About divorce (Court Service Leaflet)*

Provides answers to questions such as how to get a divorce, whether a reason for divorce will be necessary and when to apply for divorce. Also answers questions about the need for a solicitor, whether attendance at court will be necessary and the cost of divorce. Provides a list of divorce county courts.

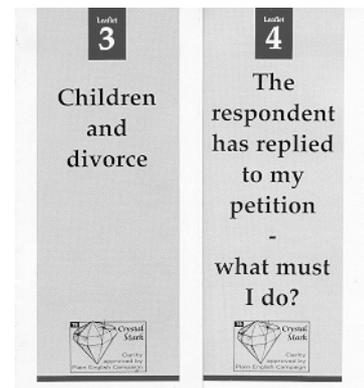


11. *The divorce process – Step 2 – I want to get a divorce – what do I do? (Court Service Leaflet)*

Detailed leaflet providing information about each stage in the process of getting a divorce. Gives a graphic depicting the divorce petition and the ancillary forms and documents necessary for obtaining a divorce.

12. *The divorce process – Step 3 – Children and divorce (Court Service Leaflet)*

Explains what arrangements will need to be in place in respect of children of the marriage. Refers back to previous leaflets in this series. Once again, graphics depict the forms to be completed in respect of children. Also refers to the leaflet about child support.

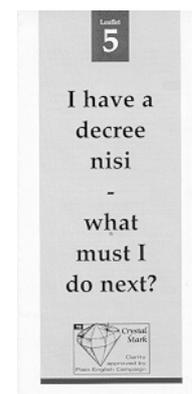


13. *The divorce process – Step 4 – The respondent has replied to my petition – what must I do? (Court Service Leaflet)*

Explains simply and clearly the steps to be taken once the respondent has replied to the petition. Provides information about defending the case, an affidavit, forms that need to be completed, and what happens if the judge is unwilling to grant a divorce. Refers back to the previous leaflet and on to the next leaflet.

14. *The divorce process – Step 5 – I have a decree nisi – what must I do next? (Court Service Leaflet)*

Refers to the necessary forms that need to be completed once the decree nisi is pronounced in order to obtain the decree absolute. Gives examples of completed forms and explains that form D37 is the final decree and that once this is obtained the person is free to remarry if they so wish.



3. Children

15. *How can I help my children?*

Reminds parents that while the marriage may end, both parents have a duty and responsibility to play a full and active role in the upbringing of their children. Points out that children do best if their parents co-operate with each other and discuss arrangements for the present and future with them, and gives help on how parents might co-operate. Stresses the importance of minimising conflict and suggests what help and support is available to both parents and children. Provides a list of useful books for particular age groups, and helpline numbers, and refers people to their local Citizen's Advice Bureau for organisations within their area.

16. *What about me? Help for the younger child*

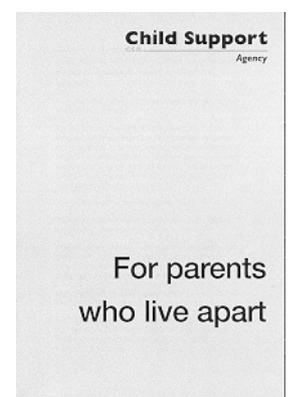
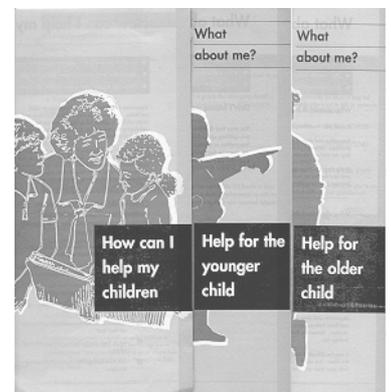
Leaflet specifically designed to be given to children under the age of ten. Tells them that it is not their fault that their parents are splitting up and encourages them to try to talk about how they feel to their parents, grandparents, other relatives or someone at school. Explains what will stay the same and what might change for them. Suggests two books that they might find helpful and gives the telephone number for Childline.

17. *What about me? Help for the older child*

Leaflet specifically designed to be given to children over the age of ten. Once again, informs them that it is not their fault that their parents are splitting up. Explains in some detail how they might feel and that it is helpful to talk about feelings. Also provides a glossary of terms connected with separation and divorce and explains these terms quite simply. Lists other sources of help and advice as well as books that they might find useful.

18. *For parents who live apart*

Booklet supplied by the Child Support Agency covering all aspects of child support maintenance, how to apply, when to apply and what happens when someone applies. Provides a telephone number for the National Enquiry Line if further help or advice is needed.



19. *Children Act guide for young people*

Leaflet issued by the Department of Health explaining what the Children Act is, what it says and why it is important. Also provides information about help, protection, rights and family separation. Tells children who they can speak to and offers telephone numbers of national helplines.



20. *The rights of the child: guide to the UN convention*

Produced by the Department of Health in conjunction with the Children's Rights Development Unit. Explains what the convention is, what it says and what rights it gives children. Also states the Government's commitment to the convention, and explains how the convention can be used and where to find out more information.



4. Finance, property and pensions

21. *What about money and our home?*

Urges people to think about the financial effects of separation and divorce as soon as possible. Gives guidelines about what should be taken into account when settlements are made. Explains about child maintenance, debt, pensions and what happens to the marital home. Also provides information on the next steps if an agreement cannot be reached. Provides a list of useful agencies and a list of benefits to which the attendee might be entitled.



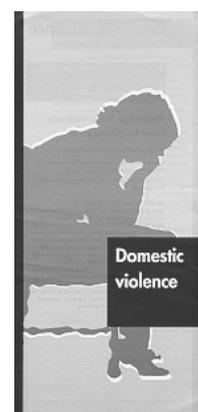
22. *Inland Revenue: separation, divorce and maintenance payments*

Issued by the External Communications Unit of the Inland Revenue, this leaflet gives detailed information on how separation, divorce and maintenance payments are treated for tax purposes.

5. Domestic violence

23. *Domestic violence*

Explains that domestic violence is very common and can happen at any stage in a relationship, and that everyone has the right to live free from violence and fear. Provides information about how to get help under criminal and civil law, and how to get help with housing. Also explains how to keep safe in the divorce process and how to make safe arrangements for children. Prompts in an emergency to telephone 999 and also gives the Women's Aid National Helpline telephone number.



Annexe 3

Directory of All Information Meeting Pilots

Providing Information for Separating and Divorcing Families

**DIRECTORY OF ALL
INFORMATION MEETINGS PILOTS
INCLUDING MODELS BEING TESTED
AND AREAS COVERED**

INFORMATION MEETING PILOTS

Pilot	Lead Agency	Address	Tel Number	Fax Number	Project Manager	Model (to be) tested and dates	Area (to be) Covered
Birmingham and Coventry Information Meeting Pilot	Relate Birmingham	Bishopgate House 5/10 Bishopgate Street Birmingham B15 1ET	Pilot no longer in operation	n/a	Mrs Patricia Norton	Models A ¹ and B ² June 1997 – March 1998	Birmingham, Coventry
South Wales Information Meeting Pilot	Family Mediation Cardiff	4 th Floor St David's House Wood Street Cardiff CF1 1EY	Pilot no longer in operation	n/a	Mrs Julie Dawson	Models A ¹ and B ² June 1997 – March 1998	Cardiff, Swansea, Pontypridd, Merthyr Tydfil, Bridgend, Newport, Blackwood, Llanelli, Neath, Port Talbot, Haverfordwest, Carmarthen
South Yorkshire and North East Derbyshire Information Meeting Pilot	South Yorkshire Family Mediation	Queens Building 55 Queen Street Sheffield S1 2DX	Pilot no longer in operation	n/a	Alan Sanders Esq	Models A ¹ and B ² June 1997 – March 1998	Doncaster, Rotherham, Sheffield, Barnsley, Chesterfield
East Anglian Information Meeting Pilot	Cambridge Family and Divorce Centre	1 Brooklands Avenue Cambridge CB2 2BB	01223 313 553	01223 313 553	Ms Frances Dolan	Models A ¹ and B ² June 1997 – March 1998 Model D ³ plus MWMC plus Parenting Plans May 1998 – March 1999	Cambridge, Lowestoft, Great Yarmouth, Norwich, Ipswich, Bury St Edmunds, King's Lynn

INFORMATION MEETING PILOTS

Pilot	Lead Agency	Address	Tel Number	Fax Number	Project Manager	Model (to be) tested and dates	Area (to be) Covered
Greater Manchester Information Meeting Pilot*	Greater Manchester Probation Service	2 Candleford Road Withington Manchester M20 3JH	0161 446 2990/1	0161 445 5138	Mrs Jenny A Cohen	Model C ⁴ plus MWMC plus Parenting Plans plus Postal Information Pack Initiative (from 19 October 1998) January 1998 – January 1999	Altrincham, Bolton, Bury, Leigh, Manchester, Oldham, Rochdale, Stockport, Salford, Tameside, Wigan
Leicestershire & East Midlands Information Meeting Pilot	Relate Leicestershire	81 Aylestone Road Leicester LE2 7LL	0116 275 5950	0116 275 5950	Mrs Pat Fitzsimons	Models A ¹ and B ² June 1997 – March 1998 Model F ⁵ plus MWMC plus Parenting Plans May 1998 – March 1999	Leicester, Nottingham, Derby, Burton-on-Trent
London Information Meeting Pilot	NCH Action for Children	20 Kendoa Road Clapham London SW4 7NB	0171 498 0209	0171 978 2613	Mrs Lorraine Schaffer	Model C ⁶ plus MWMC plus Parenting Plans January – October 1998 (Plus Postal Information Pack Initiative from October to January 1999)	Barnet, Brentford, Bromley, Edmonton, Ilford, Kingston-upon- Thames, Willesden, Wandsworth, PRFD

* Please see pages 3–5 for all notes

INFORMATION MEETING PILOTS

Pilot	Lead Agency	Address	Tel Number	Fax Number	Project Manager	Model (to be) tested and dates	Area (to be) Covered
North East Information Meeting Pilot	Relate Northumberland and Tyneside	MEA House Ellison Place Newcastle-upon-Tyne NE1 8EX	0191 230 1040	0191 261 1050	John Hannon Esq	Models A ¹ and B ² June 1997 – March 1998 Model F ⁹ plus MWMC plus Parenting Plans June 1998 – January 1999	Newcastle-upon-Tyne, Morpeth, North Shields, Gateshead, South Shields, Durham, Consett, Teesside, Sunderland, Hartlepool, Bishop Auckland, Darlington
South West Information Meeting Pilot	Wiltshire Probation Service	Rothermere Blythesea Road Trowbridge Wiltshire BA14 8JQ	01225 713 672	01225 713 995	Alan Sealey Esq	Model D ¹⁰ plus MWMC plus Parenting Plans March 1998 – January 1999	Swindon, Trowbridge, Salisbury, Bath, Weston-Super-Mare, Taunton, Yeovil, Bristol
Solent and Isle of Wight Information Meeting Pilot	Williams Thompson (Solicitors)	Bridge House Castle Street Christchurch Dorset BH23 1DX	01202 484 242	01202 481 327	Ms Barbara Ratcliffe	Model E ¹¹ plus MWMC September 1998 – May 1999	Basingstoke, Winchester, Southampton, Fareham, Portsmouth, Isle of Wight, Bournemouth, (venues at Christchurch and Poole)
Merseyside and North Wales Information Meeting Pilot	Lees Lloyds Whitley (Solicitors)	397 Woodchurch Road Prenton Birkenhead Merseyside L42 8PF	0151 608 5493	0151 608 0624	Mr Nigel Williams	Model E ¹¹ plus MWMC September 1998 – May 1999	Caernarfon, Llangefni, Rhyl, Wrexham, Chester, Liverpool, Birkenhead, Southport, St Helens, Warrington

Models A and B – Individual meetings, the presenter backgrounds are:

Counsellor x 2; Family Court Welfare Officer x 1; Mediators x 2; Solicitor x 1; Other Professionals – such as Nurses, Teachers, Trainers and Advisors x 2

INFORMATION MEETING PILOTS

Model B – Group meeting, the presenter backgrounds are:
Solicitors x 2; Family Court Welfare Officers x 2; Mediators x 2

Model D – Group presentation only:
retrained individual presenters from Models A & B as group presenters

Model C:

- (i) Part 1 – Individual meetings, the presenter backgrounds are:
Educationalist x 2; Trainer; Customer service advisor; Psychologist; Probation Service Officer x 2.

This pilot is the centre of a special ethnic study on provision of information meetings to the Jewish community and has an additional Jewish presenter

- (ii) Part 2 – Group meetings, the presenter backgrounds are:
Court Welfare Officers x 3; Solicitors x 3.

Model F:

- (i) Part 1 – Individual CD-ROM meeting – introduced by a facilitator. Facilitators backgrounds are as follows:
Health Care Officer; Bank business management; market researcher/customer services x 2; estate community worker; IT trainer, learning disability trainer
- (ii) Part 2 – Group presentation – retrained individual presenters from Models A and B as group presenters.

Model C:

- (i) Part 1 – Individual meetings, the presenter backgrounds are:
Staff Nurse; Nurse advisory service manager; customer service manager; negotiators training programme co-ordinator; lecturer.
- (ii) Part 2 – Group presentations, the presenter backgrounds are:
Lawyer x 3, Mediator x 3.

INFORMATION MEETING PILOTS

Models A and B Individual meetings – presenter backgrounds are as 6(I) above.

Model B Group presentations – presenter backgrounds are as 6(ii) above.

Model F:

(i) Part 1 – CD-ROM introduced by a facilitator. Facilitators background are as follows:

IT support (Higher Education); IT support (Primary Care) Trainer; Trainer; Education and training x 2; trainer and fund-raising consultant; solicitor.

(ii) Part 2 – Group presentation presenters as 5(ii) above.

Model D – Group presentation only, the presenter backgrounds are:

Solicitor x 4; Family Court Welfare Officer x 3; Retired headmaster; Probation service officer x 2; Psychologist; Trainer, Customer Service Advisor.

Model E – CD-ROM introduced by a facilitator.

Facilitators in the Solent and Isle of Wight Information Meeting Pilot areas have backgrounds as follows:

Adult education teacher/businessman; Care Manager; IT trainer x 3; Marketing and promotions officer; adult education lecturer, ex-police inspector/IT trainer.

Facilitators in the Merseyside and North Wales pilot area have a background as follows:

IT student; Business Management student; computing and software support; Video production/retail manager; Design and Technology teacher; Hospitality Management student.

INFORMATION MEETING PILOTS

OUTLINE OF INFORMATION MEETING MODELS

Model A Attendees will be contemplating divorce or separation or have recently started divorce proceedings or their spouse may be in one of these situations. Unmarried parents who may be considering an application under the Children Act will not be invited to attend.

Individual information meeting covering all matters set out in section 8(9) of the Family Law Act 1996 – see Annex A. The meeting takes up to one hour. At the end of the meeting a full information pack is provided to each attendee to take away. This includes a wide range of leaflets on marriage; children; finance; domestic violence, court process; legal representation etc.

Model B Attendees will be contemplating divorce or separation or have recently started divorce proceedings or their spouse may be in one of these situations.

Unmarried parents who are having difficulty in making future arrangements for their children or who have recently commenced Children Act proceedings are also invited to the group presentation but not the individual meeting.

Part 1: An introductory individual information meeting outlining all matters set out in Section 8(9) of the Family Law Act 1996. The meeting takes up to 30 minutes. At the end of the meeting each attendee is provided with the same information pack as Model A. They are also invited to attend a follow on group presentation.

Part 2: The group presentation expands on the information given at the individual meeting particularly in relation to mediation and alternative forms of dispute resolution and issues relating to children. It takes the form of a lecture style presentation by two presenters working to a script. The presentation lasts about one hours and includes the use of OHTs and a video. At the end of the presentation attendees are provided with a range of leaflets relating to children's issues.

INFORMATION MEETING PILOTS

OUTLINE OF INFORMATION MEETING MODELS

Model C Attendees will be contemplating divorce or separation or have recently started divorce proceedings or their spouse may be in one of these situations.

Unmarried parents who are having difficulty in making future arrangements for their children or who have recently commenced Children Act proceedings are also invited to the group presentations but not to the individual meeting.

Part 1: An introductory meeting concentrating on marriage and domestic violence. This individual meeting lasts about 20 minutes. At the conclusion of the meeting attendees will receive a full information pack and be invited to attend a group presentation once they have filed divorce or separation proceedings, if they decide on that course.

Part 2: For those who have attended Part 1 and subsequently start divorce proceedings, or who initially contact the pilot after they start divorce or separation proceedings. The group presentation is given by two presenters working to a script and includes OHTs and a video. The content of this group presentation is broader than that offered in Model B and it covers all matters set out in section 8(9) of the Family Law Act 1996 and takes between an hour and an hour and a quarter to deliver.

All attendees who have not attended the Part 1 meeting will receive an information pack containing leaflets relevant to their circumstances ie married and unmarried persons contemplating proceedings under the Children Act will receive leaflets about children, but those without children will not be given these leaflets.

Model D Attendees will be contemplating divorce or separation or have recently started divorce proceedings or their spouse may be in one of these situations. Unmarried parents who are having difficulty in making future arrangements for their children or who have recently commenced Children Act proceedings are also invited.

Group presentation only. The group presentation is given by two presenters working to a script and includes OHTs and a video. The content of this group presentation is broader than that offered in Model B as it covers all matters set out in section 8(9) of the Family Law

INFORMATION MEETING PILOTS

OUTLINE OF INFORMATION MEETING MODELS

Act 1996 and takes between an hour and an hour and a quarter to deliver. All attendees will receive an information pack containing leaflets relevant to their circumstances as in Model C Part 2.

Model E Attendees will be contemplating divorce or separation or have recently started divorce proceedings or their spouse may in one of these situations. Unmarried parents who may be considering an application under the Children Act will not be invited to attend.

CD-ROM presentation covers all section 8(9) information. Facilitators (ie person who facilitate the use of the CD-ROM but do not present the information) will introduce the CD-ROM. The information meeting will last about one hour. Following the presentation, attendees will be provided with a full information pack.

Model F Attendees will be contemplating divorce or separation or have recently started divorce proceedings or their spouse may be in one of these situations.

Unmarried parents who are having difficulty in making future arrangements for their children or who have recently commenced Children Act proceedings are also invited to the group presentation but not the individual meeting.

Part 1: The CD-ROM presentation focuses on marriage and domestic violence, and will be introduced by a facilitator. At the end of the meeting a full information pack will be given to each attendee. The meeting will take about 20 minutes. Attendees are invited to attend a follow on group presentation once they have filed for divorce or separation proceedings, if they decide on that course.

Part 2: The presentation is in Model C group presentation form, as outlined above. All attendees who have not attended the Part 1 meetings will receive an information pack containing leaflets relevant to their circumstances ie married and unmarried persons contemplating proceedings under the Children Act will receive leaflets about children, but those without children will not be given these leaflets.

INFORMATION MEETING PILOTS

Parenting Plans

The opportunity has been taken to pilot the use of Parenting Plans within six of the current information meeting pilots (as shown on the table). The Parenting Plan has been developed in consultation with a number of voluntary, statutory and professional bodies working with divorcing and separating families led by Professor Martin Richards. It is designed as a tool or guide to be used by parents to assist them in discussing and planning their children's future. The Parenting Plan is introduced briefly within the individual meeting by the presenter and is given to attendees alongside the information pack at the end of the meeting. Seminars have been run in each pilot area to explain the Parenting Plan and its use to professionals working in the field who may be asked to assist parents in completing the plan or otherwise come into contact with it in the course of their work.

Offer of a meeting with a Marriage Counsellor

All operating pilots will offer married attendees the opportunity of a meeting with a marriage counsellor. In Model C the offer will be made during Part 1: in Model D it will be made during the group presentation: in models E and F the offer will be made within the CD-ROM presentation.

Postal Information Pack Initiative

From 19 October 1998, the Post Information Pack Initiative has been running in two pilot areas – London and Greater Manchester.

The London Information Meeting Pilot ceased to offer information meetings to the public on 5 October. From this date anyone who is considering or who has recently issued divorce or separation proceedings are invited to telephone a central booking line to request a copy of the Information Meeting Pack to be sent to them through the post. The pack can be collected from a central collection point where preferred.

In the Greater Manchester Pilot area the offer of a Postal Information Pack replaced the individual meeting of Model C. Anyone contacting the pilot who has not yet started divorce or separation proceedings is offered an Information Pack by post whilst those have already commenced divorce or separation proceedings or are considering making an application under the Children Act are invited to attend a group presentation.

Annexe 4

Telephone Interviews: Details of the Samples and Methodology

Initial Telephone Interviews

Initial telephone interviews with 3,311 attendees took place within approximately six weeks of their attending an information meeting. Initial telephone interviews with 552 postal pack recipients took place within six weeks of their receiving a pack (Figure A4.1).

A total of 5,104 information meeting attendees consented to be interviewed, but we met with various obstacles, which meant that not all of them were interviewed (Figure A4.2). Contact was attempted with attendees on at least five separate occasions, at times previously specified by them. Sixty-five per cent of information meeting attendees who consented were interviewed.

During the initial telephone interview, we obtained both quantitative and qualitative data. Attendees were asked similar questions about their experiences of the information meetings, although the questions varied depending on which model the attendee had attended. The interview schedules were developed over time as different issues emerged from interim analyses.

Follow-up Telephone Interviews

Follow-up telephone interviews took place with attendees who had agreed to further follow-up at the end of the initial interview. The interviews (1,838) took place 5 to 7 months after the information meeting. Follow-up telephone interviews were undertaken with 363 postal pack recipients (Figure A4.1).

The follow-up interview focused on the actions attendees had taken since the information meeting, their use of services, and their use of the information provided through the meeting. Attendees were encouraged to tell their own stories in addition to answering core questions. Attendees were contacted on at least five separate occasions. After at least five failed attempts to contact an attendee, we did not pursue contact.

In-depth Telephone Interviews

In-depth interviews were carried out with small subsamples of attendees who had already been interviewed twice and had consented to further interview. We employed a quota sampling methodology. At the time the in-depth interview samples were drawn, the pilots were still running. This was unavoidable given the time scale of the research. We drew in-depth samples to examine further two specific issues which were central to the research: promoting conciliatory divorce (Figure A4.3) and promoting continuing relationships between parents and children (Figure A4.4).

Promoting conciliatory divorce (N = 42)

Forty-two attendees were interviewed in depth about how they managed their divorce, and what services, if any, they had used. This subsample was selected from attendees who had entered the divorce process following an information meeting. It was our contention that they could have been influenced by the information meeting as to which route they chose to take through divorce.

We divided these attendees into two distinct groups: those for whom the information meeting was a first port of call (i.e. they had not consulted a solicitor, mediator or marriage counsellor in the twelve months preceding attendance at an information meeting); and those for whom the information meeting was not a first port of call (i.e. they had consulted at least one of the three services in the previous twelve months). Each group was then divided according to the attendee's use of mediation (Figure A4.3). We explored the use of mediation, reasons for not using mediation, and the role of solicitors.

Promoting continuing relationships between parents and children (N = 42)

Forty-two parents with children under 18 were interviewed about the information they had been given in relation to children, their use of the leaflets and the parenting plan, the arrangements they had for their children, and general issues around parenting during and after separation and divorce. This subsample of parents was selected from the follow-up database in respect of those models where the parenting plan was offered. In-depth interviewees were selected using a quota sampling methodology (Figure A4.4).

The parents were asked about their use of information they received at the information meeting, the arrangements for their children and how these had been negotiated, and how they felt their role as a parent had changed since their separation from their spouse.

Detailed Analysis of a Ten Per Cent Sample of Parents

The follow-up interviews elicited a large amount of qualitative data. In order to look in more depth at parents' responses to the information about children, we selected a 10 per cent sample of all parents on the follow-up database (N = 1,230). We selected every 10th case. We used logistic regression to identify any bias in the sample. This sample was sufficient to allow us to look in detail at parents' responses.

Leaflets for Children

Two leaflets included in the information pack were intended for parents to pass on to their children. We elicited views about these leaflets from children and parents in a number of ways (Figure A4.5).

Focus groups with children

A focus group was held in December 1997 with 25 children aged between 7 and 16 who had experienced their parents' divorce. This was not a representative sample, but the comments made by the children were valuable as regards the process of revising the

leaflets. The focus groups were set up and conducted by Erica De'Ath (Chief Executive of the National Council for Voluntary Child Care Organisations) and comprised children of parents who were members of Gingerbread.

Focus group with parents

The leaflets were revised in the light of the comments made by the children, and three new leaflets for children were designed, covering three different age ranges (8 and under, 9 to 12 years, and teenagers). The parents' leaflet was also revised. A focus group of twelve parents (five fathers and seven mothers) was arranged through Gingerbread. They were all resident parents and had been separated for various lengths of time. The parents discussed all four of the revised leaflets.

Classroom-based evaluation

In order to elicit opinions from children about the revised leaflets, we talked to children in five schools through classroom-based discussions. Children were not asked to disclose whether their parents were separated or divorced.

We talked to mixed-ability groups of twenty to twenty-five boys and girls in five co-educational schools (three in Newcastle, one in Mid-Glamorgan and one in Suffolk). In total, 301 children from 14 different classes and 5 different schools were involved in the discussions. Their ages ranged from 8 to 18. The children were provided with the leaflet appropriate to their age group. Where class age was around the transition age from one leaflet to another, children were given both appropriate leaflets, so some comparisons could be made. A member of the research team led the discussion, assisted by the class teacher.

The Child Support Agency panel study

The revised leaflet for the youngest age group, '*Me and my family*' (for children up to the age of 8 years approximately), was designed for use by a child with help from a parent or other appropriate adult. In a classroom situation we could not obtain opinions from parents on how well the leaflets worked as a joint activity for the parents and children, and so sought another way of obtaining these. We tested the leaflet on a group of parents who had experienced separation or divorce and who had a child aged between 5 and 8. Through our links with the Child Support Agency (CSA) we were able to obtain a sample of parents from the CSA panel of parents whom it consults about various matters and uses to gain feedback on new literature etc. The CSA identified 80 parents with children between the ages specified. In order to respect the CSA code of confidentiality the CSA contacted parents on our behalf. We sent the children's leaflet '*Me and my family*' and the revised parent's leaflet, together with two questionnaires (one for each leaflet) and a covering letter, to the CSA and the CSA posted these out to parents on our behalf. Some of the parents were contacted by phone by the CSA before the questionnaires were sent out, to explain a little more about the research. The questionnaire about the children's leaflet was designed so that parents could record the views of their children, as well as their own. Parents were asked to return the completed questionnaires and leaflets to the research team in a pre-paid envelope, and to provide a name and address if they wished to receive a £20 shopping voucher in acknowledgement of their help.

Eighty questionnaires were sent out and we received 40 responses. Of the 40 parents who replied, the majority completed both questionnaires. All the respondents were mothers.

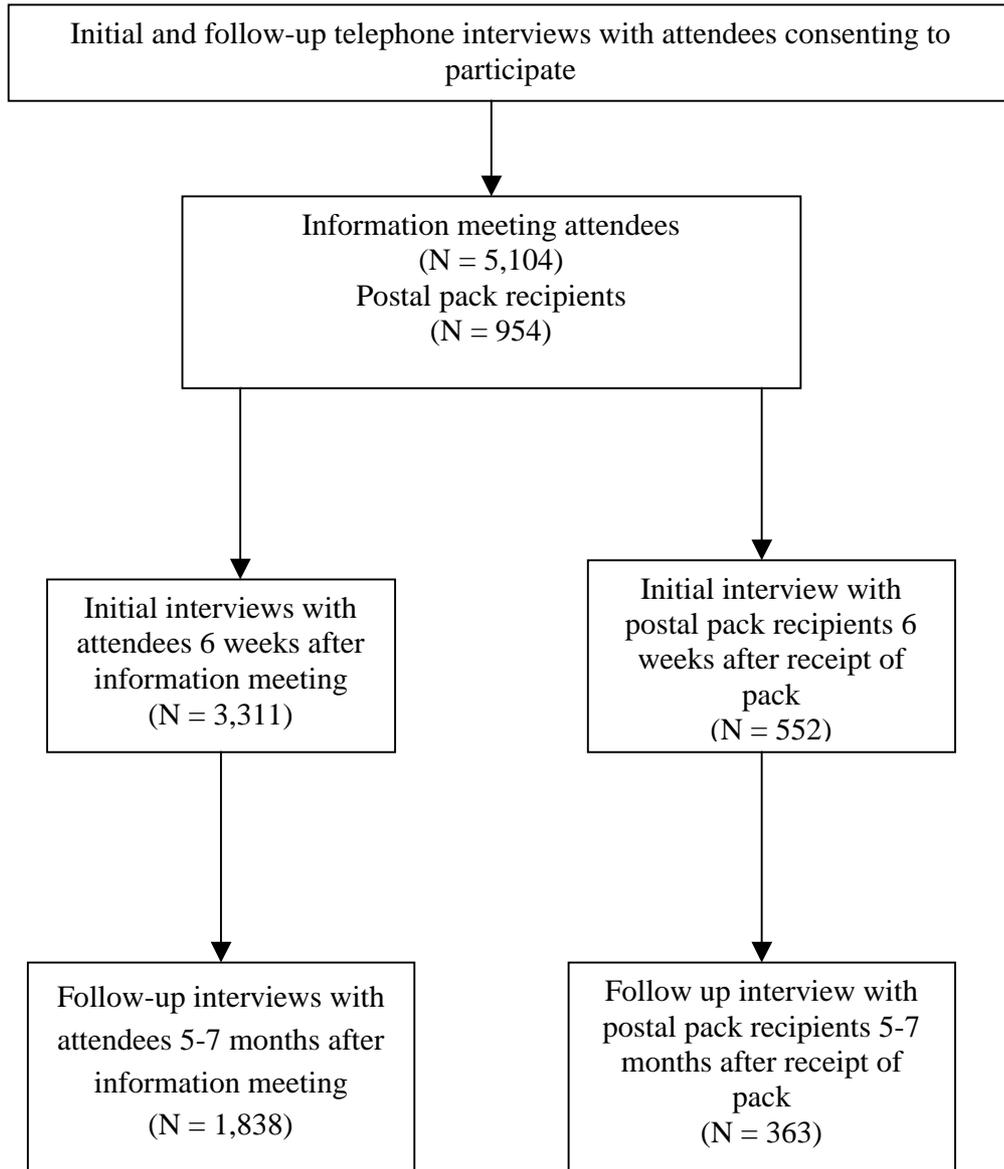


Figure A4.1 Details of initial and follow-up telephone interviews

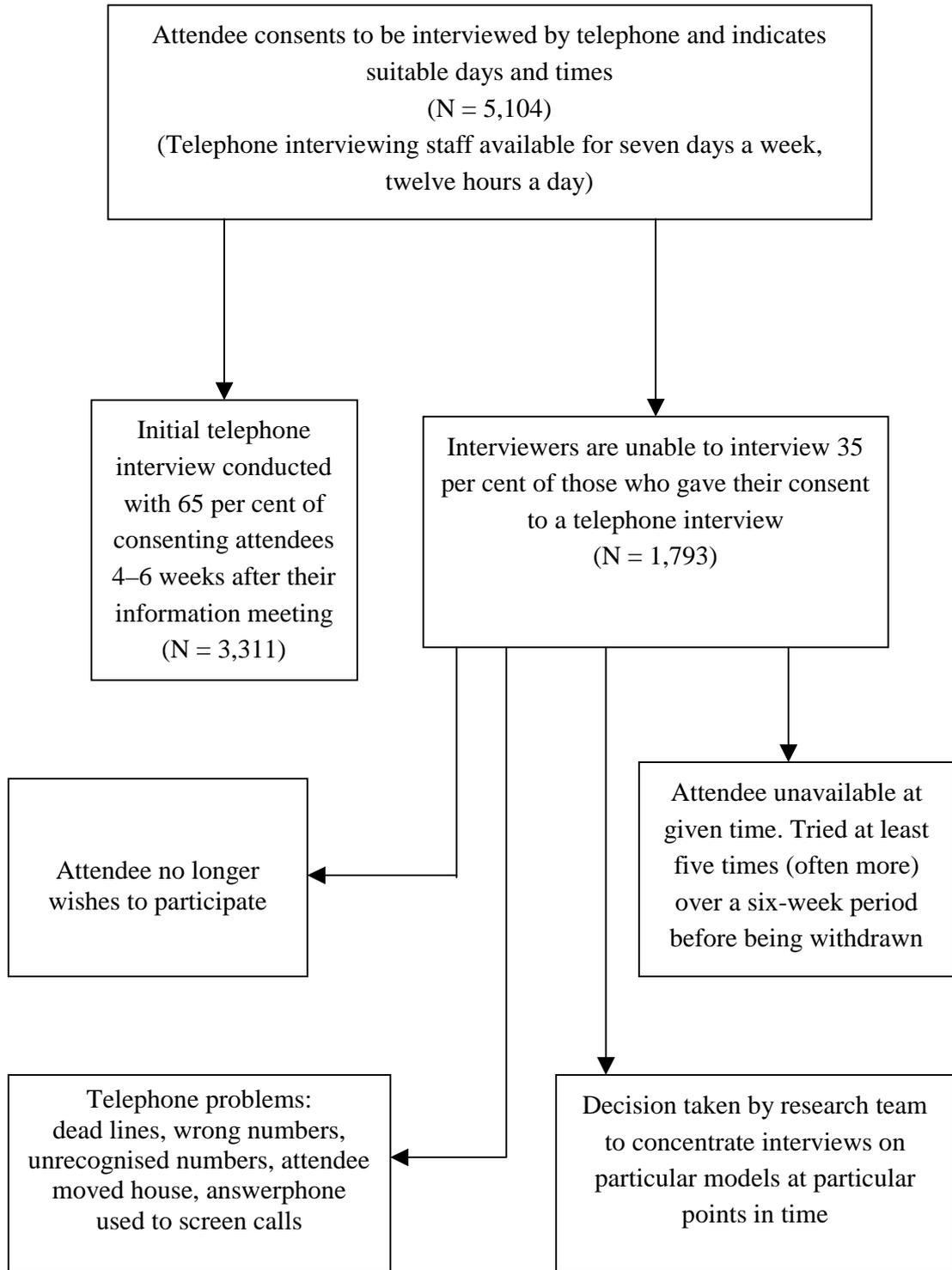


Figure A4.2 Protocol for initial telephone interviews with attendees

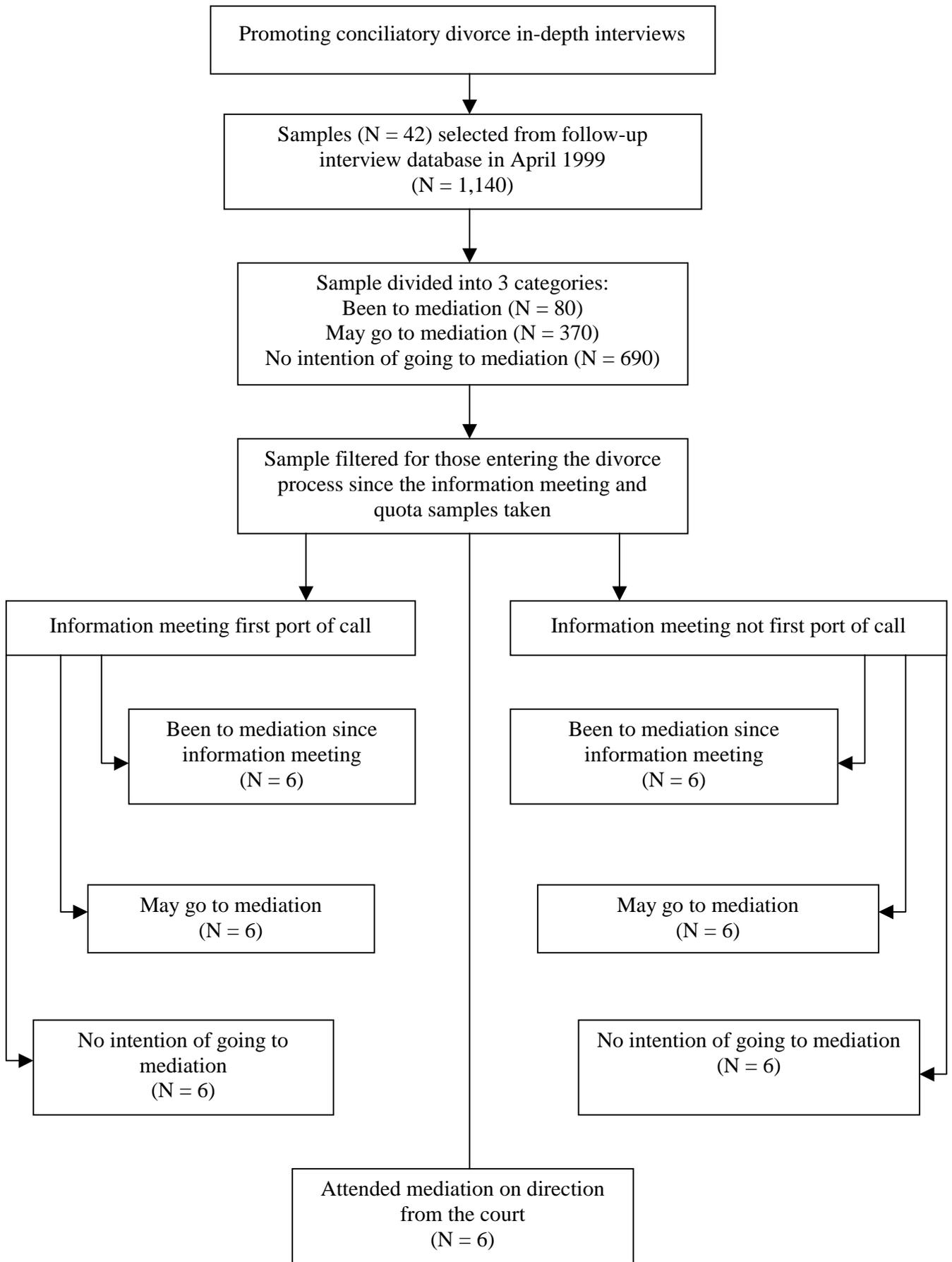


Figure A4.3 'Promoting conciliatory divorce' in-depth interviews

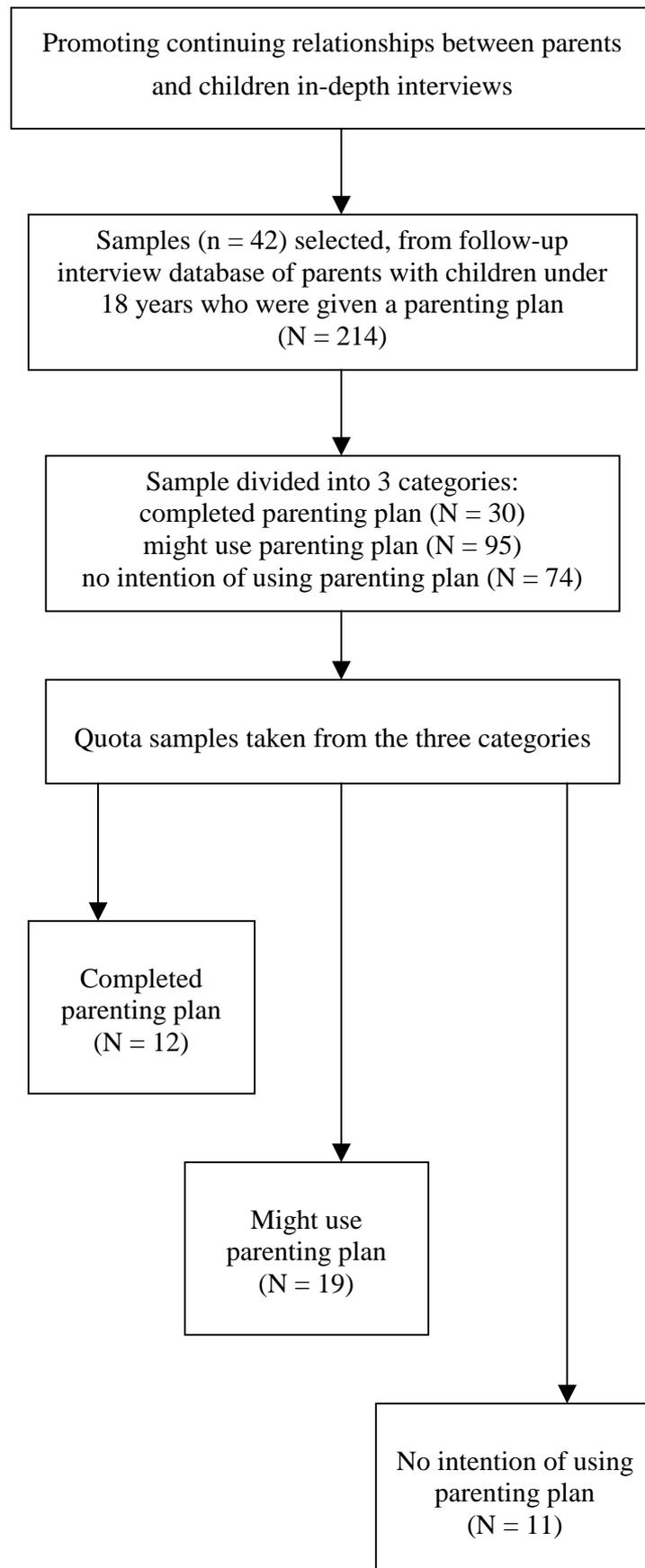


Figure A4.4 'Promoting continuing relationships between parents and children' in-depth interviews

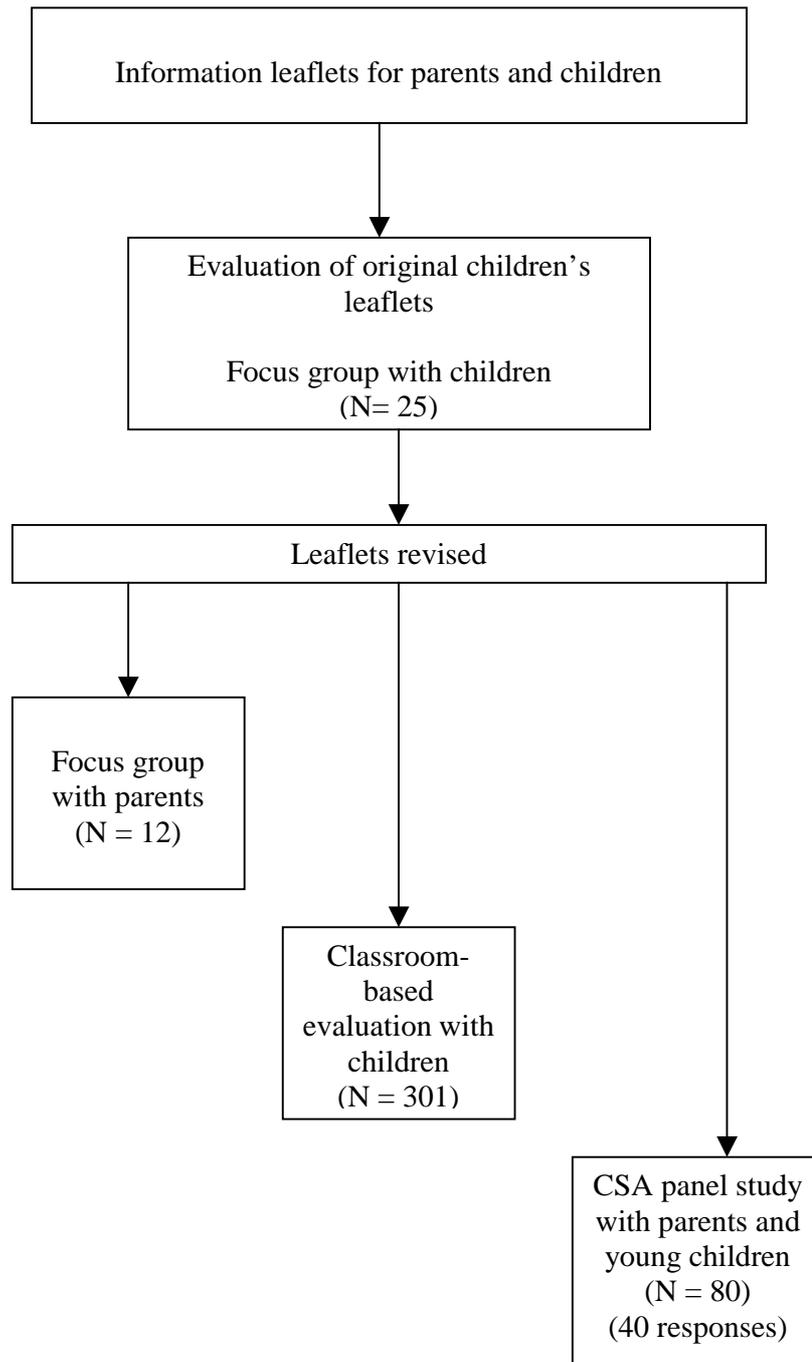


Figure A4.5 Evaluation of the information leaflets for parents and children

Annexe 5

Logistic Regression Tables

The tables contained in this annexe are based upon a binary logistic regression procedure. This form of regression is useful for understanding the data produced by the evaluation of information meeting provision because it can be used where the dependent or response variable to be studied is dichotomous (describing an event either occurring or not occurring), and the independent explanatory variables are either continuous (e.g. age) or categorical (e.g. gender). It was employed for the purpose of examining the models while controlling for the effect of various explanatory factors that may have had intervening effects on the dependent variable. Logistic regression techniques use a variety of significance tests to assure the development of a workable model.¹ The following data are provided in the tables.

Column One. This contains the independent variables that were entered into the model, for example 'Gender' and 'Parental status'. The final category of each variable is the reference group with which the other categories are compared. In Table A5.1, for instance, the first independent variable is 'Model' and the last category, Model C, is contrasted with Model B and Model A. The odds ratio value for each of the reference categories is set at 1.00.

Column Two. This column contains the values of the logistic regression coefficient for each category. This coefficient represents the extent to which a change in the factor produces a change in the score on the dependent variable. Minus values indicate a negative effect.

Column Three. This column describes the standard error. Its value denotes the expected distribution of the regression coefficient, and helps to determine levels of significance.

Column Four. This column provides an indicator of the degree of confidence that one can have that the population logistic regression coefficient is greater than zero. In most cases, a value of less than 0.05 would be considered to be indicative of a statistically significant relationship between the independent and the dependent variables.

Column Five. This column shows the odds ratio concerning the association between the independent category and the dependent variable. The odds ratio is usually defined as the ratio of the probability of an event occurring to the probability that it will not. The odds ratio is calculated by dividing one set of odds by another. In general, the greater the difference between the value of the odds ratio of one category, and the odds ratio of the reference category (1.00), the greater the association between the independent and the dependent variable. In Table A5.1, for instance, the dependent variable would be the likelihood of finding an individual meeting useful, and the odds that a Model A meeting attendee would find the information useful were approximately one and a half times greater than those of someone attending a Model C meeting.

¹ For more detailed information about logistic regression techniques see e.g. Hair, J.F., Anderson, R.E., Tatham, R.L. and Black, W.C., *Multivariate Data Analysis*, Prentice-Hall (1984).

Values at the foot of the tables

1. Number of cases – refers to how many attendees the table is based on. For example, in Table A5.1, the calculations are based on the responses of 3,829 individual meeting attendees.
2. Nagelkerke's R^2 – a modification of the Cox and Snell coefficient. It shows the strength of the association between the independent variables entered into the model and the dependent variable with values ranging between 0 and 1.
3. -2LL value – represents the -2 Log Likelihood value of the model created by the inclusion of the independent variables. It is used to assess the goodness of fit of the model when compared to the -2 Log Likelihood value of the null model (i.e. one that assumes no associations are present within the model between the independent and dependent variables). A likelihood is a probability that the observed values of the dependent variable can be predicted from the observed values of the independent variables. Like all probabilities, the likelihood ranges from 0 to 1. It is customary to use -2 times the log of the likelihood (-2LL) as a measure of how well the estimated model fits the data. A good model is one that results in a high likelihood of the observed results, which translates into a small value for -2LL.
4. LL Chi-squared – this value is equal to the difference in the -2 Log Likelihood value for the null model, and the -2 Log Likelihood value of the model including the independent variables. It acts as a test of significance, and the larger the difference, the better the indication of a good fitting model.

Table A5.1 Logistic regression of the likelihood of individual meeting attendees finding the meeting very useful

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	.410	.105	.000	1.51
B	.274	.102	.007	1.32
C				
<i>Parental status:</i>				
children under 5	.177	.119	.137	1.19
children 5–11	.136	.114	.230	1.15
children 12–17	.178	.126	.157	0.19
children over 18	.241	.137	.071	1.27
no children				
<i>Gender:</i>				
male	-.168	.073	.021	0.85
female				
<i>Address:</i>				
with spouse	.058	.069	.399	1.06
apart from spouse				
<i>Number of marriages:</i>				
one	-.052	.106	.622	0.95
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.128	.080	.109	0.88
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.241	.074	.001	0.79
no				
<i>Socio-economic status:</i>				
A	.013	.162	.935	1.01
B	-.001	.107	.986	1.00
C1	.151	.118	.199	1.16
C2	.024	.125	.845	1.02
D	.158	.157	.314	1.17
E	.040	.219	.855	1.04
not economically active				

Number of cases = 3,829; Nagelkerke's $R^2 = .011$; -2LL = 5030.578; LL Chi-squared = 43.901.

Table A5.2 Logistic regression of the likelihood of individual meeting attendees saying they would definitely recommend the meeting to others

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	.223	.118	.060	1.25
B	-.045	.114	.695	0.96
C				
<i>Parental status:</i>				
children under 5	-.089	.140	.528	0.92
children 5–11	-.004	.135	.977	1.00
children 12–17	-.050	.147	.735	0.95
children over 18	.012	.156	.939	1.01
no children				
<i>Gender:</i>				
male	-.107	.083	.196	0.90
female				
<i>Address:</i>				
with spouse	-.192	.078	.014	0.83
apart from spouse				
<i>Number of marriages:</i>				
one	-.311	.127	.014	0.73
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.103	.094	.273	1.12
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.088	.084	.299	0.92
no				
<i>Socio-economic status:</i>				
A	.350	.205	.087	1.42
B	-.084	.124	.498	0.92
C1	-.108	.134	.423	0.90
C2	-.236	.142	.096	0.79
D	-.267	.177	.132	0.77
E	-.335	.239	.160	0.72
not economically active				

Number of cases = 3,468; Nagelkerke's $R^2 = .011$; -2LL = 4074.592; LL Chi-squared = 39.944.

Table A5.3 Logistic regression of the likelihood of individual information meeting attendees subsequently consulting a solicitor

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	.024	.190	.898	1.02
B	.255	.187	.173	1.29
C				
<i>Parental status:</i>				
children under 5	.067	.241	.781	1.06
children 5–11	.394	.233	.091	1.48
children 12–17	.258	.257	.296	1.29
children over 18	-.228	.255	.373	0.80
no children				
<i>Gender:</i>				
male	-.012	.142	.932	0.99
female				
<i>Address:</i>				
with spouse	-.081	.137	.554	0.92
apart from spouse				
<i>Number of marriages:</i>				
one	.087	.207	.674	1.09
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.149	.154	.331	1.16
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	.505	.412	.000	1.66
no				
<i>Socio-economic status:</i>				
A	.264	.312	.397	1.30
B	.275	.212	.193	1.32
C1	-.201	.231	.384	0.82
C2	.419	.262	.110	1.52
D	.132	.315	.676	1.14
E	.059	.421	.889	1.06
not economically active				

Number of cases = 1,016; Nagelkerke's $R^2 = .055$; -2LL = 1345.599; LL Chi-squared = 42.398.

Table A5.4 Logistic regression of the likelihood of individual meeting attendees subsequently going to see a marriage counsellor

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	.002	.279	.994	1.00
B	-.064	.276	.818	0.94
C				
<i>Parental status:</i>				
children under 5	.739	.395	.061	2.09
children 5–11	.427	.393	.277	1.53
children 12–17	.063	.430	.883	1.07
children over 18	.275	.434	.527	1.32
no children				
<i>Gender:</i>				
male	-.082	.211	.698	0.92
female				
<i>Address:</i>				
with spouse	.373	.197	.059	1.45
apart from spouse				
<i>Number of marriages:</i>				
one	-.182	.288	.527	0.83
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.548	.205	.007	1.73
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.079	.207	.701	0.92
no				
<i>Socio-economic status:</i>				
A	.259	.416	.533	1.30
B	-.173	.301	.566	0.84
C1	-.055	.327	.856	0.95
C2	-.467	.399	.242	0.63
D	-.382	.481	.728	0.68
E	-.290	.670	.665	0.75
not economically active				

Number of cases = 1,016; Nagelkerke's $R^2 = .048$; -2LL = 758.397; LL Chi-squared = 26.437.

Table A5.5 Logistic regression of the likelihood of individual meeting attendees subsequently using mediation services

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	.134	.393	.733	1.14
B	.049	.389	.899	1.05
C				
<i>Parental status:</i>				
children under 5	-.195	.459	.672	0.82
children 5–11	-.215	.445	.629	0.81
children 12–17	-.448	.495	.365	0.64
children over 18	-1.212	.636	.058	0.30
no children				
<i>Gender:</i>				
male	.080	.282	.776	1.08
female				
<i>Address:</i>				
with spouse	.649	.278	.019	1.91
apart from spouse				
<i>Number of marriages:</i>				
one	.399	.484	.411	1.49
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.697	.276	.012	2.01
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.099	.292	.736	0.91
no				
<i>Socio-economic status:</i>				
A	.565	.587	.336	1.76
B	.354	.444	.425	1.42
C1	-.767	.578	.184	0.46
C2	.043	.559	.939	1.04
D/E	-.051	.616	.934	0.950
not economically active				

Number of cases = 1,020; Nagelkerke's $R^2 = .078$; -2LL = 453.235; LL Chi-squared = 30.445.

Table A5.6 Logistic regression of the likelihood of attendees describing the video as 'very useful'

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Video:</i>				
<i>A Better Way</i>	.322	.126	.012	1.38
<i>Looking to the Future</i>				
<i>Parental status:</i>				
children under 5	.745	.201	.000	2.12
children 5–11	.475	.197	.038	1.61
children 12–17	.341	.208	.101	1.41
children over 18	-.072	.219	.741	0.93
no children				
<i>Gender:</i>				
male	-.252	.103	.014	0.78
female				
<i>Address:</i>				
with spouse	.041	.103	.687	1.04
apart from spouse				
<i>Attended counselling before the information meeting:</i>				
yes	.120	.112	.281	1.13
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	.070	.101	.487	1.07
no				
<i>Socio-economic status:</i>				
A	.003	.258	.992	1.00
B	.001	.164	.997	1.00
C1	-.216	.169	.201	0.81
C2	.055	.185	.768	1.06
D	.008	.221	.970	1.01
E	.098	.285	.732	1.10
not economically active				

Number of cases = 2,066; Nagelkerke's $R^2 = .027$; -2LL = 2528.044; LL Chi-squared = 55.932.

Table A5.7 Logistic regression of the likelihood of group presentation attendees finding the information presentation very useful

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	-.256	.188	.172	0.77
C	.244	.206	.237	1.28
D	-.121	.162	.455	0.89
F				
<i>Parental status:</i>				
children under 5	.598	.181	.001	1.82
children 5–11	.316	.175	.071	1.37
children 12–17	.176	.186	.345	1.19
children over 18	-.128	.192	.505	0.88
no children				
<i>Gender:</i>				
male	-.009	.098	.928	0.99
female				
<i>Address:</i>				
with spouse	.068	.099	.489	1.07
apart from spouse				
<i>Number of marriages:</i>				
one	-.186	.132	.161	0.83
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.050	.108	.641	0.95
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.162	.102	.113	0.85
no				
<i>Socio-economic status:</i>				
A	-.655	.262	.012	0.52
B	-.148	.154	.338	0.86
C1	-.167	.158	.291	0.85
C2	-.122	.175	.485	0.88
D	-.060	.211	.775	0.94
E	-.143	.276	.604	0.87
not economically active				

Number of cases = 2,076; Nagelkerke's $R^2 = .021$; -2LL = 2720.406; LL Chi-squared = 43.656.

Table A5.8 Logistic regression of the likelihood of group presentation attendees finding the information presentation 'very relevant'

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
C	.193	.219	.377	1.21
D	-.115	.175	.510	0.89
F				
<i>Parental status:</i>				
children under 5	1.269	.218	.000	3.56
children 5–11	1.005	.213	.000	2.73
children 12–17	.450	.229	.049	1.57
children over 18	-.297	.248	.231	0.74
no children				
<i>Gender:</i>				
male	.034	.114	.768	1.03
female				
<i>Address:</i>				
with spouse	.135	.117	.246	1.14
apart from spouse				
<i>Number of marriages:</i>				
one	.114	.156	.466	1.12
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.083	.125	.570	1.09
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.125	.121	.303	0.88
no				
<i>Socio-economic status:</i>				
A	-.511	.300	.088	0.60
B	.020	.179	.911	1.02
C1	-.202	.183	.270	0.82
C2	-.242	.205	.238	0.79
D	-.043	.244	.859	0.96
E	.288	.298	.334	1.33
not economically active				

Number of cases = 1,696; Nagelkerke's $R^2 = .071$; -2LL = 2043.820; LL Chi-squared = 124.360.

Table A5.9 Logistic regression of the likelihood of group presentation attendees stating they would definitely recommend the presentation to others

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	-.564	.183	.002	0.57
C	.298	.207	.149	1.35
D	-.019	.158	.904	0.98
F				
<i>Parental status:</i>				
children under 5	.714	.176	.000	2.04
children 5–11	.656	.169	.000	1.93
children 12–17	.527	.179	.003	1.69
children over 18	.414	.183	.023	1.51
no children				
<i>Gender:</i>				
male	-.050	.096	.603	0.95
female				
<i>Address:</i>				
with spouse	.161	.097	.099	1.17
apart from spouse				
<i>Number of marriages:</i>				
one	-.124	.132	.346	0.88
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.204	.106	.054	1.23
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	.027	.100	.788	1.03
no				
<i>Socio-economic status:</i>				
A	-.122	.245	.619	0.89
B	-.180	.154	.242	0.84
C1	-.042	.157	.789	0.96
C2	-.176	.174	.312	0.84
D	-.129	.209	.537	0.88
E	-.048	.271	.860	0.95
not economically active				

Number of cases = 2,078; Nagelkerke's $R^2 = .027$; -2LL = 2802.528; LL Chi-squared = 57.736.

Table A5.10 Logistic regression of the likelihood of group presentation attendees learning 'a lot more' about marriage support

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	-.132	.218	.546	0.88
C	.064	.222	.773	1.07
D	-.245	.174	.159	0.78
F				
<i>Parental status:</i>				
children under 5	-.046	.193	.810	0.95
children 5–11	-.217	.186	.244	0.81
children 12–17	-.028	.197	.886	0.97
children over 18	-.219	.203	.282	0.80
no children				
<i>Gender:</i>				
male	-.019	.109	.859	0.98
female				
<i>Address:</i>				
with spouse	.076	.110	.493	1.08
apart from spouse				
<i>Number of marriages:</i>				
one	-.299	.144	.038	0.74
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.348	.125	.005	0.71
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.217	.115	.060	0.80
no				
<i>Socio-economic status:</i>				
A	-.604	.298	.043	0.55
B	-.160	.172	.351	0.85
C1	-.133	.174	.445	0.88
C2	.174	.191	.363	1.19
D	.121	.231	.601	1.13
E	.119	.291	.684	1.13
not economically active				

Number of cases = 1,888; Nagelkerke's $R^2 = .018$; -2LL = 2270.761; LL Chi-squared = 33.485.

Table A5.11 Logistic regression of the likelihood of group presentation attendees learning 'a lot more' about the emotional aspects of separation and divorce

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	-.283	.231	.220	0.75
C	-.137	.236	.561	0.87
D	-.273	.183	.136	0.76
F				
<i>Parental status:</i>				
children under 5	.026	.206	.898	1.03
children 5–11	.018	.198	.929	1.02
children 12–17	-.138	.214	.519	0.87
children over 18	-.099	.217	.649	0.91
no children				
<i>Gender:</i>				
male	-.033	.115	.772	0.97
female				
<i>Address:</i>				
with spouse	.075	.117	.520	1.08
apart from spouse				
<i>Number of marriages:</i>				
one	-.190	.152	.211	0.83
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.083	.126	.512	1.09
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.176	.122	.148	0.84
no				
<i>Socio-economic status:</i>				
A	-.749	.322	.020	0.47
B	-.311	.179	.082	0.73
C1	-.186	.180	.301	0.83
C2	-.009	.199	.963	0.99
D	-.086	.245	.726	0.92
E	-.229	.323	.478	0.80
not economically active				

Number of cases = 1,894; Nagelkerke's $R^2 = .008$; -2LL = 2097.376; LL Chi-squared = 16.111.

Table A5.12 Logistic regression of the likelihood of group presentation attendees learning 'a lot more' about family mediation

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	.048	.207	.816	1.05
C	-.131	.211	.535	0.88
D	-.171	.163	.295	0.84
F				
<i>Parental status:</i>				
children under 5	.642	.184	.001	1.90
children 5–11	.398	.175	.023	1.49
children 12–17	.376	.186	.043	1.46
children over 18	-.092	.188	.626	0.91
no children				
<i>Gender:</i>				
male	-.226	.102	.027	0.80
female				
<i>Address:</i>				
with spouse	.336	.105	.001	1.40
apart from spouse				
<i>Number of marriages:</i>				
one	-.033	.139	.811	0.97
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.075	.113	.508	1.08
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.272	.107	.011	0.76
no				
<i>Socio-economic status:</i>				
A	-.197	.250	.431	0.82
B	.259	.161	.106	1.30
C1	.344	.163	.035	1.41
C2	.317	.183	.083	1.37
D	.398	.224	.075	1.49
E	.094	.277	.734	1.10
not economically active				

Number of cases = 1,907; Nagelkerke's $R^2 = .035$; -2LL = 2495.881; LL Chi-squared = 68.698.

Table A5.13 Logistic regression of the likelihood of group presentation attendees learning 'a lot more' about issues connected with children

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	.133	.216	.539	1.14
C	.148	.223	.507	1.16
D	-.221	.175	.205	0.80
F				
<i>Parental status:</i>				
children under 5	.977	.214	.000	2.66
children 5–11	.621	.209	.003	1.86
children 12–17	.440	.221	.050	1.55
children over 18	.057	.232	.806	1.06
no children				
<i>Gender:</i>				
male	.312	.107	.004	1.37
female				
<i>Address:</i>				
with spouse	.123	.110	.264	1.13
apart from spouse				
<i>Number of marriages:</i>				
one	-.385	.143	.007	0.68
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.054	.120	.649	0.95
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.052	.114	.647	0.95
no				
<i>Socio-economic status:</i>				
A	-.765	.302	.011	0.47
B	-.190	.174	.277	0.83
C1	.093	.175	.593	1.10
C2	.214	.192	.267	1.24
D	.398	.228	.080	1.49
E	-.028	.298	.927	0.97
not economically active				

Number of cases = 1,882; Nagelkerke's $R^2 = .048$; -2LL = 2276.701; LL Chi-squared = 92.916.

Table A5.14 Logistic regression of the likelihood of group presentation attendees learning 'a lot more' about the financial side of separation and divorce

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	-.355	.263	.177	0.70
C	.114	.259	.660	1.12
D	-.237	.206	.249	0.79
F				
<i>Parental status:</i>				
children under 5	.214	.230	.351	1.24
children 5–11	-.032	.226	.888	0.97
children 12–17	.083	.237	.726	1.09
children over 18	.001	.242	.998	1.00
no children				
<i>Gender:</i>				
male	-.254	.128	.047	0.78
female				
<i>Address:</i>				
with spouse	.148	.127	.244	1.16
apart from spouse				
<i>Number of marriages:</i>				
one	-.363	.161	.024	0.70
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.072	.141	.611	0.93
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.360	.135	.008	0.70
no				
<i>Socio-economic status:</i>				
A	-.952	.388	.014	0.39
B	-.387	.195	.047	0.70
C1	-.403	.198	.042	0.67
C2	.230	.210	.274	1.26
D	.308	.248	.214	1.36
E	.036	.335	.915	1.04
not economically active				

Number of cases = 1,902; Nagelkerke's $R^2 = .025$; -2LL = 1823.729; LL Chi-squared = 47.764.

Table A5.15 Logistic regression of the likelihood of group presentation attendees learning 'a lot more' about domestic violence

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	.371	.277	.180	1.45
C	.147	.295	.619	1.16
D	-.143	.232	.538	0.87
F				
<i>Parental status:</i>				
children under 5	-.304	.265	.251	0.74
children 5–11	-.094	.250	.707	0.91
children 12–17	.093	.259	.721	1.10
children over 18	.097	.264	.715	1.10
no children				
<i>Gender:</i>				
male	-.376	.148	.012	0.69
female				
<i>Address:</i>				
with spouse	-.023	.146	.873	.098
apart from spouse				
<i>Number of marriages:</i>				
one	-.034	.193	.858	0.97
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.093	.157	.552	1.10
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.100	.151	.507	0.90
no				
<i>Socio-economic status:</i>				
A	-1.04	.462	.024	0.35
B	-.449	.220	.042	0.64
C1	-.307	.220	.162	0.74
C2	-.006	.243	.982	0.99
D	.225	.281	.422	1.25
E	.349	.344	.310	1.42
not economically active				

Number of cases = 1,879; Nagelkerke's $R^2 = .018$; -2LL = 1501.133; LL Chi-squared = 34.956.

Table A5.16 Logistic regression of the likelihood of group presentation attendees saying they are more likely to use marriage support services

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	.718	.443	.105	2.05
C	.304	.509	.550	1.36
D	.716	.413	.083	2.05
F				
<i>Parental status:</i>				
children under 5	.556	.527	.292	1.74
children 5–11	.989	.507	.051	2.69
children 12–17	.724	.523	.167	2.06
children over 18	.038	.551	.945	1.04
no children				
<i>Gender:</i>				
male	-.410	.215	.056	0.66
female				
<i>Address:</i>				
with spouse	.324	.209	.121	1.38
apart from spouse				
<i>Number of marriages:</i>				
one	-.366	.254	.149	0.69
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.411	.233	.078	0.66
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.261	.214	.223	0.77
no				
<i>Socio-economic status:</i>				
A	-.458	.577	.427	0.63
B	-.284	.348	.415	0.75
C1	.008	.349	.982	1.01
C2	.045	.383	.908	1.05
D	.506	.478	.290	1.66
E	.284	.654	.665	1.33
not economically active				

Number of cases = 802; Nagelkerke's $R^2 = .081$; -2LL = 684.163; LL Chi-squared = 39.610.

Table A5.17 Logistic regression of the likelihood of group presentation attendees saying they are more likely to consult a solicitor

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	1.767	.475	.000	5.85
C	-.144	.633	.821	0.87
D	1.165	.459	.011	3.21
F				
<i>Parental status:</i>				
children under 5	-.013	.430	.977	0.99
children 5–11	.472	.405	.244	1.60
children 12–17	.052	.425	.903	1.05
children over 18	.193	.256	.651	1.21
no children				
<i>Gender:</i>				
male	-.733	.203	.000	0.48
female				
<i>Address:</i>				
with spouse	.205	.195	.294	1.23
apart from spouse				
<i>Number of marriages:</i>				
one	.210	.258	.416	1.23
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.584	.229	.011	0.56
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.728	.204	.000	0.48
no				
<i>Socio-economic status:</i>				
A	-.551	.522	.291	0.58
B	-.208	.323	.519	0.81
C1	-.279	.334	.404	0.76
C2	.312	.352	.375	1.37
D	-.304	.493	.537	0.74
E	.296	.645	.646	1.34
not economically active				

Number of cases = 814; Nagelkerke's $R^2 = .177$; -2LL = 741.320; LL Chi-squared = 98.202.

Table A5.18 Logistic regression of the likelihood of group presentation attendees saying they are more likely to use mediation

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
B	-.517	.354	.144	0.60
C	-.011	.310	.972	0.99
D	-.026	.257	.919	0.97
F				
<i>Parental status:</i>				
children under 5	.653	.332	.049	1.92
children 5–11	.036	.321	.910	1.04
children 12–17	.326	.337	.332	1.39
children over 18	-.330	.342	.335	0.72
no children				
<i>Gender:</i>				
male	.067	.168	.689	1.07
female				
<i>Address:</i>				
with spouse	.535	.181	.003	1.71
apart from spouse				
<i>Number of marriages:</i>				
one	.049	.215	.820	1.05
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.057	.183	.755	0.94
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.229	.180	.207	0.80
no				
<i>Socio-economic status:</i>				
A	-.089	.427	.835	0.92
B	.332	.269	.217	1.39
C1	.650	.274	.018	1.91
C2	.232	.299	.438	1.26
D	.554	.393	.158	1.74
E	-.255	.560	.650	0.78
not economically active				

Number of cases = 695; Nagelkerke's $R^2 = .080$; -2LL = 914.749; LL Chi-squared = 43.007.

Table A5.19 Logistic regression of the likelihood of attendees at a CD-ROM presentation finding the computer 'very easy' to use

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
F	.999	.136	.000	2.72
E				
<i>Gender:</i>				
male	.187	.137	.173	1.21
female				
<i>Socio-economic status:</i>				
A	1.508	.409	.000	4.52
B	.508	.220	.201	1.66
C1	.903	.233	.000	2.47
C2	.093	.242	.703	1.10
D	.459	.270	.089	1.58
E	-.039	.372	.917	0.96
not economically active				
<i>Ethnicity:</i>				
white	.801	.288	.006	2.23
non-white				
<i>Age</i>	-.070	.007	.000	

Number of cases = 1,710; Nagelkerke's $R^2 = .126$; -2LL = 1610.517; LL Chi-squared = 230.661.

Table A5.20 Logistic regression of the likelihood of postal pack recipients finding the information pack 'very helpful'

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Parental status:</i>				
children under 5	.293	.345	.395	1.34
children 5–11	-.210	.363	.563	0.81
children 12–17	-.245	.437	.574	0.78
children over 18	-.340	.460	.460	0.71
no children				
<i>Gender:</i>				
male	.190	.199	.340	1.21
female				
<i>Address:</i>				
with spouse	-.110	.197	.578	0.90
apart from spouse				
<i>Number of marriages:</i>				
one	-.679	.316	.032	0.51
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.497	.242	.040	0.61
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.427	.195	.028	0.65
no				
<i>Socio-economic status:</i>				
A	.547	.595	.357	1.73
B	-.040	.277	.886	0.96
C1	.086	.275	.755	1.09
C2	.179	.320	.577	1.20
D	-.027	.385	.944	0.97
E	-.311	.539	.564	0.73
not economically active				
<i>Duration of marriage:</i>				
0–5 years	.353	.447	.429	1.42
6–10 years	.143	.367	.696	1.15
11–15 years	-.344	.338	.309	0.71
15–20 years	-.373	.346	.282	0.69
more than 20 years				

Number of cases = 530; Nagelkerke's $R^2 = .086$; -2LL = 688.666; LL Chi-squared = 35.134.

Table A5.21 Logistic regression of the likelihood of postal pack recipients describing the information pack as having come 'too late'

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Parental status:</i>				
children under 5	.381	.454	.401	1.46
children 5–11	.845	.469	.072	2.33
children 12–17	.294	.548	.592	1.34
children over 18	-.196	.605	.746	0.82
no children				
<i>Gender:</i>				
male	.524	.238	.028	1.69
female				
<i>Address:</i>				
with spouse	-.325	.247	.189	0.72
apart from spouse				
<i>Number of marriages:</i>				
one	.130	.378	.731	1.14
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.440	.286	.125	1.55
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	1.559	.231	.000	4.75
no				
<i>Socio-economic status:</i>				
A	-.011	.695	.988	0.99
B	.099	.345	.774	1.10
C1	.169	.340	.619	1.18
C2	-.042	.398	.916	0.96
D	-.112	.517	.829	0.89
E	-.504	.726	.488	0.60
not economically active				
<i>Duration of marriage:</i>				
0–5 years	-1.073	.569	.060	0.34
6–10 years	-.603	.439	.169	0.55
11–15 years	-.315	.405	.437	0.73
15–20 years	.235	.388	.544	1.27
more than 20 years				

Number of cases = 532; Nagelkerke's $R^2 = .250$; -2LL = 509.753; LL Chi-squared = 99.310.

Table A5.22 Logistic regression of the likelihood of attendees saying they were more likely to use marriage support services after the information meeting

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	-.947	.168	.000	0.39
B individual only	-.470	.154	.002	0.63
B with group	-.603	.220	.006	0.55
C individual	-.090	.193	.641	0.91
D, C or F group	-.754	.154	.000	0.47
F individual	-.046	.186	.804	0.96
E				
<i>Parental status:</i>				
children under 5	.321	.189	.090	1.38
children 5–11	.189	.184	.304	1.21
children 12–17	-.080	.200	.689	0.92
children over 18	-.227	.211	.282	0.80
no children				
<i>Gender:</i>				
male	-.181	.102	.076	0.83
female				
<i>Address:</i>				
with spouse	.411	.101	.000	1.51
apart from spouse				
<i>Number of marriages:</i>				
one	-.173	.135	.203	0.84
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.514	.125	.000	0.60
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.148	.104	.156	0.86
no				

Number of cases = 2,645; Nagelkerke's $R^2 = .045$; -2LL = 2650.769; LL Chi-squared = 121.562.

Table A5.23 Logistic regression of the likelihood of information meeting attendees saying they knew more about marriage support after the meeting

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	.572	.127	.000	1.77
B individual only	.623	.131	.000	1.86
B with group	.85	.165	.000	2.34
C individual	.273	.161	.090	1.31
D, C or F group	.023	.123	.860	1.02
F individual	.583	.203	.004	1.79
E				
<i>Parental status:</i>				
children under 5	.189	.147	.198	1.21
children 5–11	.009	.142	.952	1.01
children 12–17	-.137	.152	.367	0.87
children over 18	-.203	.156	.194	0.82
no children				
<i>Gender:</i>				
male	.152	.079	.055	1.16
female				
<i>Address:</i>				
with spouse	.002	.080	.978	1.00
apart from spouse				
<i>Number of marriages:</i>				
one	-.114	.110	.297	0.89
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.94	.090	.000	0.39
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.089	.080	.267	0.92
no				

Number of cases = 3,039; Nagelkerke's $R^2 = .060$; -2LL = 4007.105; LL Chi-squared = 188.872.

Table A5.24 Logistic regression of the likelihood of information meeting attendees finding the information on marriage support useful

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	.568	.130	.000	1.77
B individual only	.729	.136	.000	2.07
B with group	.829	.174	.000	2.29
C individual	.238	.162	.143	1.27
D, C or F group	.073	.129	.569	1.08
F individual	.589	.213	.006	1.80
E				
<i>Parental status:</i>				
children under 5	.202	.153	.187	1.22
children 5–11	.099	.147	.503	1.10
children 12–17	-.128	.156	.411	0.88
children over 18	-.086	.161	.593	0.92
no children				
<i>Gender:</i>				
male	-.030	.082	.714	0.97
female				
<i>Address:</i>				
with spouse	.245	.085	.004	1.28
apart from spouse				
<i>Number of marriages:</i>				
one	-.122	.115	.289	0.89
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	-.111	.092	.229	0.90
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.151	.083	.069	0.86
no				

Number of cases = 3,002; Nagelkerke's $R^2 = .032$; -2LL = 3758.618; LL Chi-squared = 98.484.

Table A5.25 Logistic regression of the likelihood of attendees going to marriage counselling before the follow-up telephone interview

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
A	-.113	.233	.629	0.89
B individual only	-.293	.254	.248	0.75
B with group	.043	.286	.881	1.04
C individual	-.070	.291	.811	0.93
D, C or F group	-.059	.239	.807	0.94
F individual	.390	.289	.177	1.48
E				
<i>Parental status:</i>				
children under 5	.398	.304	.191	1.49
children 5–11	.366	.294	.213	1.44
children 12–17	.321	.312	.303	1.38
children over 18	.192	.321	.550	1.21
no children				
<i>Gender:</i>				
male	-.102	.149	.494	0.90
female				
<i>Address:</i>				
with spouse	.602	.147	.000	1.83
apart from spouse				
<i>Number of marriages:</i>				
one	-.357	.195	.067	0.70
more than one				
<i>Attended counselling before the information meeting:</i>				
yes	.414	.159	.009	1.51
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	-.235	.154	.128	0.79
no				

Number of cases = 1,790; Nagelkerke's $R^2 = .045$; -2LL = 1369.764; LL Chi-squared = 44.719.

Table A5.26 Logistic regression of the likelihood of information meeting attendees subsequently attending a meeting with a marriage counsellor

	Regression coefficient	Standard error	Significance	Odds ratio
<i>Model:</i>				
C individual	.471	.199	.018	1.60
D group	-.139	.142	.328	0.87
F individual	.451	.144	.002	1.57
E				
<i>Parental status:</i>				
children under 5	-.030	.210	.885	0.97
children 5–11	.082	.200	.681	1.09
children 12–17	.160	.215	.456	1.17
children over 18	.205	.220	.351	1.23
no children				
<i>Gender:</i>				
male	-.197	.116	.090	0.82
female				
<i>Address:</i>				
with spouse	.389	.114	.001	1.47
apart from spouse				
<i>Attended counselling before the information meeting:</i>				
yes	-.272	.149	.067	0.76
no				
<i>Consulted a solicitor before the information meeting:</i>				
yes	.086	.123	.483	1.09
no				

Number of cases = 3,183; Nagelkerke's $R^2 = .015$; -2LL = 2303.737; LL Chi-squared = 48.158.

Annexe 6

The Statistical Problem of Evaluating the Effect of Information Meetings on Divorce Outcomes

Tim Barmby and Peter Dolton

Introduction: The Family Law Act 1996 and Information Meetings

The Family Law Act 1996 (FLA) establishes a multi-stage process of divorce which places increased emphasis on saving marriages that are capable of being saved. Section 8 of the FLA requires that any person who wishes to file a statement of marital breakdown with the court must have attended an information meeting at least three months previously. Attendance at this information meeting will be a compulsory first stage in the process of divorce.

Unfortunately, during the evaluation period of this measure, the information meeting being conducted was *not* compulsory for people seeking divorce. This means that there is a substantive problem in evaluating the effect of the information meeting on the divorce outcome, namely trying to assess the effect of a compulsory measure from a trial period in which the measure is only voluntary.

This Annexe seeks to explain the statistical problems involved in such evaluation. The similarities with other related sample selection problems are described and their implications for statistical estimation explained. The Annexe describes how selection bias may operate through observables or non-observables. In the case of the former, matching processes are suggested to create a synthetic control group. In the case of the latter the Annexe suggests a two-stage method of evaluation, but spells out the restrictive conditions under which this method will provide consistent estimates of the effects of the information meeting. The difficulties of using this method, which involves modelling the propensity to volunteer (for the information meeting), are detailed and the limited alternative methods of evaluation discussed.

The Selection Bias Problem in Social Programme Evaluation

In recent years politicians have introduced many social programmes, which they believe will improve people's lives. The Family Law Act is designed to facilitate the repairing of marriages which can be saved, and the more satisfactory dissolution of marriages which cannot. One of the aims is to minimise the potentially damaging consequences of parental separation for children.

However, the evaluation of exactly what effect such social policies have is a difficult statistical task. This task is compounded in its difficulty if the social programme or intervention is provided at the behest of the recipient: that is, if the help is provided only at the request or application of the potential recipient. The core of such a problem is that it is very difficult to distinguish the effects of the programme *per se* from the fact that the kind of person volunteering to benefit from the programme may be more likely to have

achieved a less traumatic or more satisfactory outcome of their divorce without the intervention which is provided.

If selectivity is due to unobservable factors, the propensity to benefit from receipt of the social programme and the likelihood of volunteering for the programme in the first place may need to be modelled simultaneously if the researcher wishes to understand the mechanism by which the social programme may operate or the effectiveness of the programme. Alternatively, if the selectivity bias arises from observables, creating a synthetic control group via the method of matching may facilitate the estimation of the effect of information meetings. This matching process involves using observable characteristics to create an artificial control group which 'looks like' the treatment group so that their average outcomes may be directly comparable.

Although the problem of selection bias has been acknowledged in the social policy literature, potential solutions developed in other disciplines are easily overlooked. In particular, econometricians and applied statisticians have developed methods for correcting the biases resulting from incomplete recruitment, drop-out and sample selection. In this Annexe, we aim to explain their use in the context of the example of the evaluation of information meetings in the divorce process.

In theory, the classic controlled experiment takes place in a perfect statistical world in which the investigator can determine recruitment to the sample, treatment and follow-up, but allocation to treatment and control groups is strictly randomised in the traditional 'double blind' manner. However, this is not true in practice in most social policy evaluations. In most social situations in the UK it is practically impossible randomly to assign individuals to receiving or not receiving a social programme.¹ The only alternative would be an approach which compares a time period following introduction of a programme with a period prior to its introduction. This kind of comparison presumes that all other social conditions are either independent of the outcome of the social programme or affect individuals in both time periods in exactly the same way.

Divorce law reform research (and social policy programme research more widely) cannot afford to ignore the problems of sample selection, which can occur in at least four ways: first, exclusion from the survey recruitment by the researchers may mean an unrepresentative sample compared with the original population; secondly, the propensity to volunteer for the information meeting can induce sample selectivity bias; third, problems may arise from the non-random assignment of people to treatment and control groups (or between treatment types); and fourth, drop-out or attrition may occur at a later stage in the study. Here we describe how econometricians have dealt with these issues.

Modelling Divorce Outcomes in Marital Law Reform Evaluation

A common example from applied econometric research will serve to explain the context of the sample selection problem. Assume that we wish to evaluate the effect of an active labour market intervention programme which involves targeting and training the unemployed. We wish to evaluate the effect on individuals of their being in this

¹ There are a few exceptions in the UK, one of which was the experimental evaluation of the Restart unemployment experiment (see Dolton, P. and O'Neill, D. (1996), 'The restart effect and the return to full-time stable employment', *Journal of the Royal Statistical Society*, Series A, vol. 159, pp. 275–88).

programme in terms of how long they remain unemployed. Clearly, if participation in this programme is voluntary, the people most likely to volunteer may also be those most likely to find a job more quickly. To gauge the effect of the programme, independently of the indirect effects of volunteering for the programme, requires experimental data with a random assignment to treatment, the use of matching methods to validate the comparison of mean outcome differences between treated and non-treated groups, or the statistical modelling of the volunteering process *simultaneously* with the programme evaluation.

This analogous economics example, which will later be used to illustrate further statistical evaluation arguments for controlled experiments, requires the estimation of a simultaneous equation model. A similar statistical model is necessary if we wish to model the propensity of a potential divorcee to attend a voluntary information meeting and then evaluate the effect that this information meeting may have had on outcomes.

First, let us assume that the outcome of the marital divorce process for each married pair j is a continuous variable M_j ,² such as the time taken for completion of the separation process, the saving of the marriage or the quality of the amicable separation in terms of agreed arrangements for the split of the property or satisfactory arrangements for the children. It is, of course, possible that such a variable is a latent variable, of which we observe only a discrete realisation: coded 1 if the marriage ended in divorce, or 0 if the marriage was saved. We pass over these details at this juncture. The key theoretical task in our simplified model is to measure the effect of the information meeting (for all married couples), I_j , on that outcome. In ideal conditions the treatment would be randomised, such that $I_j = 1$ if the information meeting is attended and $I_j = 0$ if it is not. Assuming that the characteristics of the marriage (indexed by q) such as the duration of the marriage, the number of children, the age difference and educational difference of the partners (J_{jq}), and individual (i) characteristics of the reporting individual such as age, gender and occupation (indexed by k) (X_{ik}), need to be controlled for, the statistical model may be written as follows:

$$M_j = \alpha_0 I_j + \beta_{1q} J_{jq} + \gamma_{1k} X_{ik} + u_{1j} \quad (1)$$

where u_{1j} is an error term representing unmeasured effects on outcome, and α_0 , β_{1q} and γ_{1k} are estimable coefficients. The value of α_0 will give an estimate of the treatment effect of the information meeting.

As was described above, biased sample selection may be introduced at any of the four stages of recruitment, volunteering, assignment to treatment and drop-out. In the first stage, individuals considering divorce are likely to make the first move in the process, by going to a solicitor, a marriage counsellor, the Citizen's Advice Bureau or some other organisation. The extent to which this 'population at risk of divorce' can be sampled representatively is unclear, since if we collect data only on those consulting a marriage counsellor we may, of course, bias the sample from the outset towards those who are

² Although we index M and I by j this does not mean that the couple necessarily attended the information meeting together. Indeed, we can more easily think of both attendance and outcomes as individual-specific, in which case (1) simplifies accordingly. Hence the framework here is slightly more general in case we wish to distinguish between partnership attributes and individual attributes.

seeking to repair their relationship rather than those who are already convinced that they wish to seek divorce.

At the second stage of volunteering it is quite clear that, if the attendance at an information meeting is voluntary, those choosing to attend this meeting may be an unrepresentative sample of the 'population at risk of divorce', since on average they may be the kind of people who are more concerned about the welfare of their children and more cautious about the whole process of divorce, its costs and difficulties. This in turn may mean that the type of person who will agree to go to an information meeting may, on average, be more educated, more thoughtful and more caring. It is also possible that attendees at information meetings are more likely to be those with more time (i.e. those who do not work full-time and the female rather than the male in the marriage). The end result is that we could reasonably expect a better outcome to the divorce process from the type of person who would go to such a meeting, irrespective of the actual effect of the meeting itself.

In the third stage, even after an individual volunteers to go to the information meeting, assignment to the treatment type group could easily be non-random if it is not double blind. Thus if there are different-length information meetings it is quite possible that assignment to one type of meeting or another may not occur totally at random. Bias arises if any of the factors influencing assignment to treatment is correlated with other unknown factors affecting outcome, such as the researcher's belief in the efficacy of a particular treatment for a particular individual or couple. Thus, if it is assumed that allocation to treatment is random when it is not, the estimate of the effect of the treatment may be biased.

The fourth source of bias is that which can occur if individuals drop out of the trial at different stages in the follow-up. This 'attrition' bias occurs if those dropping out are in any way atypical of the target population at large. For example, if those fathers who are in dispute with the Child Support Agency are less likely to respond to questionnaires following up on their divorce, the sample achieved may not be representative of the divorcing population. Bias may arise at any of these four stages, but here we focus on the second stage, that of volunteering. The econometric literature contains a number of well-established methods of dealing with this problem.

Evaluation by Experimental and Related Techniques

In the evaluation of social programmes, 'true' experimental data are widely sought after in order to overcome such selection bias problems, because if assignment to the treatment or control is truly random and there is no volunteering problem, then α_0 in equation (1) would be an unbiased measure of the effect of the treatment on the outcome since those with $I=1$ are a random draw. True experimental data are very rare and many social science researchers have turned to 'natural or quasi experiments' and the measurement of 'local average treatment effects' as a second-best solution.³ This involves exploiting some differences in the law, regional circumstances or social and/or economic conditions which create two or more distinct groups where there is no scope for choice about which regimes the respondents are subject to. In our economics example this may involve being

³ See e.g. Angrist, J. and Imbens, G., 'Identification and estimations of local average treatment effects', *Econometrica*, vol. 62, no. 2 (1994), pp. 467–75.

able to exploit a procedure for training the unemployed which is compulsory in one US state, but does not exist in another (assuming differences by state can be controlled for). Another example might involve the assessment of the effect of raising the school leaving age on labour market prospects. Clearly, by tracking the effects of a cohort who were able to leave school at 15 one year and comparing them with a similar cohort who were compelled to leave at 16 in a different year may provide a ‘natural experiment’ which enables us to assess the effect of a treatment, in this case raising the school leaving age.

Quasi-experimental techniques would also be applicable to our problem of divorce law reform evaluation. Assume that in Region A the Family Law Act has made the information meeting compulsory, but in Region B has not. In this case, collection of a balanced sample of couples from both regions controlling for the differences in their characteristics and measuring the incidence of the outcome M_j would constitute a ‘natural’ experiment and allow unbiased estimation of the treatment effect, α_o . Another example might be the case where one kind of compulsory information meeting (e.g. a lecture and information dissemination to a group) is standard in one area and a different kind of meeting is compulsory in another. Here a natural experiment could be used for treatment evaluation provided there is no element of choice about the area one lives in and the type of information meeting to which the couple are referred.

Matching Models on the Basis of Observables

The essential idea of the matching model is that it is possible to compare those treated with those who are not treated by conditioning on the observable factors. Hence the procedure is to make the synthetic control group ‘look like’ the treatment group using observable characteristics in order to be able to compare the average treatment effect. In our case, this means that we could take the group of those who have volunteered to receive the information meeting and match them with a group of those who have not volunteered to receive the information meeting on the basis of observable factors only. Then our evaluation of the treatment of an information meeting can be assessed by comparing the average of the outcome of these two groups. Naturally, this procedure requires some strict assumptions in order to be valid. In the interests of clarity, we spell these out below.

In order to describe this modelling procedure we need some notation. We will refer to the individual’s treated divorce outcome (as if they had received an information meeting) as M^t and their divorce outcome (as if they had not received one) as M^n . We will denote the information being received as $I = 1$ and the information meeting not being received as $I = 0$. Hence the essence of the evaluation may be written as the attempt to calibrate the average effect of the treatment (IM receipt). We denote this quantity as α :

$$\begin{aligned}\alpha &= E(M^t - M^n | I = 1) \\ &= E(M^t | I = 1) - E(M^n | I = 1)\end{aligned}$$

Ordinarily the evaluation of this quantity is impossible since the counterfactual element, $E(M^n | I = 1)$, is unobservable. The contribution of the matching literature is to clarify the assumption under which this term can be estimated.

The conditional independence assumption (CIA) is a necessary identification condition for the method of matching. This assumption is that

$$M^t, M^n \perp I | X = x$$

where the \perp symbol denotes independence. This CIA assumption implies

$$E(M^n | I = 1, X = x) = E(M^n | I = 0, X = x)$$

which is equivalent to assuming that assignment to receiving treatment is independent of the outcome for a given value of the covariate.

Hence the idea is that we can adjust away the differences between those receiving and not receiving an information meeting by using the regressors. If this is a valid assumption we can predict how the people who have not received the information meeting would have fared if they had received it provided we condition on X .

Defining a propensity score as

$$P(x) = P(I = 1 | X = x)$$

Rosenbaum and Rubin⁴ show

$$E[M^n | I = 1, P(X) = P(x)] = E[M^n | I = 0, P(X) = P(x)]$$

Hence,

$$E[M^n | I = 1] = E\{E[M^n | I = 0, P(X) = P(x)] | I = 1\}$$

This implies that a valid procedure under the CIA is first to estimate a probit equation for whether someone receives (volunteers for) an information meeting, and secondly to compute the propensity scores (or predicted probabilities) of receiving an information meeting for all the individuals in the data, whether in the treated (T) or the non-treated group (N).⁵ Third, we match each person in the treated group with their nearest neighbour in the non-treated group.⁶ Finally, we can compare our treated and non-treated pairs by computing our estimate of the average treatment effect α .

⁴ Rosenbaum, P. and Rubin, D., 'The central role of the propensity score in observational studies of causal effects', *Biometrika*, vol. 70 (1983), pp. 41–50.

⁵ Since the non-treated group is smaller in our problem, this matching would have to be done the other way round, i.e. by matching each non-treated person with a treated person – but formally this would not constitute a problem.

⁶ There are many different ways of performing this algorithm. See Heckman, J., Ichimura, H. and Todd, P., 'Matching as an econometric evaluation estimator: evidence from evaluating a job training programme', *Review of Economic Studies*, vol. 64, no. 4 (1997), and Heckman, J., LaLonde, R. and Smith, J., 'The economics and econometrics of active labor market programmes', forthcoming in O. Ashenfelter and D. Card (eds), *Handbook of Labor Economics Vol. III* (1999), for a summary of a few of the main methods.

Although the matching result sounds an ideal solution to the problem of being able to compare the treated and non-treated groups we should be warned of the strength of the CIA assumption. Basically it is equivalent to assuming that all the important differences between the groups who volunteer and do not volunteer for the information meeting can be seen in their observable characteristics. This means that we need to assume that unobservable factors would play no role in volunteering and that there is no correlation between these unobservables in this process and the divorce outcome process. How we should proceed if this assumption is not justified is the subject of the next section.

The Statistical Approach to Sample Selection on Unobservables

In a situation in which the attendance at the information meeting is not compulsory by law not everyone will attend and hence the treatment may be administered to an unrepresentative sample of all couples presenting themselves as candidates for divorce. Whether an individual, i , volunteers to attend the information meeting, $I_i = 1$, may be a function of the characteristics of their marital match, J_{jq} , or of their own characteristics, Z_{ip} , where this includes at least one exogenous variable not included in X_{ik} in equation (1).

$$I_i = \beta_{2q} J_{jq} + \gamma_{2k} Z_{ip} + u_{2i} \quad (2)$$

Those who refuse to be part of the trial, $I_j = 0$, cannot be used in the statistical analysis of the treatment equation (1). (The reliability and statistical precision of such an equation will obviously depend directly on there being a reasonable number of people who do not volunteer, i.e. have $I_i=0$.) This sample selection problem exists if there are unobservable factors which are likely to determine the probability of volunteering, such as: responsibility, caring attitude towards children, sensitivity, intelligence, stress, and mental state (taken account of in the u_{2i} term), which may also influence the effect of the treatment (through u_{1i}). In this context, sample selection may operate through the correlation of u_{1i} and u_{2i} which biases the estimation of the α_o coefficient in equation (1). A suggested approach to deal with this sample selection is the simultaneous modelling of equations (1) and (2) in a way which recognises their interdependence and corrects for the attendant sample selection bias. (A similar problem arises if a person initially consents but then, later, drops out of the survey. This non-random drop-out has the same statistical structure as the attrition problem discussed by econometricians.⁷ This problem is another potential source of sample selection bias and can be modelled with very similar techniques.) Modelling volunteering propensity in this way could obviate the need for a random experiment of the kind which is used for statistical evaluation in the medical trials.

Formally, simultaneous equation models such as those described above can be consistently estimated using maximum likelihood estimation where the model can be identified on the non-linear parametric assumption relating to the joint distribution of u_{1i} and u_{2i} . This involves maximising a likelihood for the joint probability of observing all

⁷ Diggle, P. and Kenward, M.G. (1994) 'Informative drop-out in longitudinal data analysis', *Applied Statistics*, vol. 43, no. 1, pp. 49–93.

the data points in the sample. Such a likelihood can be complex and difficult to solve. An alternative is to use a two-stage estimation procedure. The first stage consists of estimating a probit (0,1 probability equation) for the likelihood of volunteering. The second stage consists of using this inverse Mills ratio, commonly called a λ , as an extra regressor in an ordinary least squares estimation of the M equation (1). Such a procedure also provides consistent estimates of the regression coefficients, which also provides us with a 'rule of thumb' as to the importance of potential sample selection bias. This comes in the convenient form of a t-test of the significance of the coefficient on the λ , sample selection term in the second stage of the ordinary least squares estimation of equation (1). This provides a formal test of the correlation of the u_{1j} and u_{2i} errors and hence a test for the presence of sample selection. Care should be taken, however, before attempting to infer any special significance to the sign of such a coefficient.⁸

An alternative to the two-stage method is the recursive method,⁹ using non-linear parametric identification restrictions to circumvent or mitigate the effects of sample selection bias. In a statistical model such as that represented by equations (1) and (2) it is now well-known that the model may be very sensitive to specification in the sense that it may be over-reliant on the non-linear parametric modelling assumptions. In such models it is difficult to be sure of the extent to which the magnitude and significance of the estimated coefficients may be due to the assumption of the bivariate normality of u_{1i} and u_{2i} . Such models can be sensitive to particular specification in terms of the inclusion or exclusion of particular regressors.¹⁰ This means that changing even one of the variables included in one of the equations can alter the size, sign and statistical significance of the estimated coefficients. In this context, it is important to try to identify the estimating equations with exclusion restrictions. In this case one needs to find at least one independent variable which influences whether the individual (or married couple) volunteers to attend an information meeting, but which does not influence the outcome. Such a model can then be estimated semi-parametrically or non-parametrically.¹¹ In practice, it is difficult to find such variables which can be included in equation (2) but excluded from (1) to identify the model. These sample selection problems have been discussed extensively in the econometrics literature¹² and the statistics literature.¹³ Despite these technical problems, the statistical methods described above could be used to ameliorate the effects of sample selection bias, provided we know the outcome for all married couples (including those who did not volunteer for the information meeting).

The essence of the problem in interpreting data on outcomes of a divorce process where the data have been gathered from individuals attending an information meeting is that these individuals may not be representative of the population of individuals 'at risk' or, in other words, considering divorce. If these individuals have unobservable characteristics which will both make them more likely to volunteer and have systematic effects on the

⁸ See Dolton, P. and Makepeace, G., 'Interpreting sample selection effects', *Economics Letters*, vol. 24 (1987), pp. 373–9.

⁹ See Mallar, C., 'The estimation of simultaneous probability models', *Econometrica*, vol. 45, no. 7 (1977), pp. 1,711–22.

¹⁰ See Goldberger, A., 'Abnormal selection bias', in *Studies in Econometrics, Time Series and Multivariate Statistics*, Academic Press (1983), pp. 67–84.

¹¹ See Manski, C., 'Nonparametric bounds on treatment effect', *American Economic Review*, vol. 80 (1990), pp. 319–23.

¹² See Burtless, G., 'The case for social experiments', in *Measuring Labour Market Measure*, Ministry of Labour (1993), pp. 15–34.

¹³ See Little, R. and Rubin, D., *Statistical Analysis with Missing Data*, Wiley (1987).

‘outcomes’ of the divorce process (i.e. they are more likely to make better provision for children, for example) then looking at the relationship between outcomes and individual characteristics for a non-random sample of this type is likely to be misleading.

Equally, in terms of estimating the effect of the information meetings, the non-random selection of individuals into information meeting attendees and non-attendees will suggest that the following estimation procedure will be necessary. Using the previous notation we would seek to estimate equation (3) at the second stage after having estimated equation (2), described earlier, at the first stage,

$$M_j = \alpha_0 I_j + \beta_{1q} J_{jq} + \gamma_{1k} X_{ik} + \eta MR_j + u_{1j} \quad (3)$$

$$MR_j = \begin{cases} \frac{\phi(\theta_j)}{1 - \Phi(\theta_j)} & \text{if } I_j = 1 \\ \frac{-\phi(\theta_j)}{\Phi(\theta_j)} & \text{if } I_j = 0 \end{cases}$$

where ϕ, Φ are respectively the probability density function and cumulative distribution function of u_{2i} and $\theta_j = -(\beta_{2q} J_{jq} + \gamma_{2k} Z_{ip})$.

Essentially, what the MR term in this equation (which is the inverse Mills ratio referred to earlier) is doing is taking into account the effect of the non-random selection of individuals into the two possible groups. This procedure will potentially allow for the effect of the information meeting on appropriate outcomes to be gauged. It must be made clear, however, that for this to be at all possible, we must be able to measure variables which explain the propensity to attend an information meeting. If we cannot do this, this procedure will not be implementable. It also explains why if individuals were randomly allocated to information meetings this problem would not arise, since there would not be any potential selection bias.

Searching for an Instrumental Variable for the Propensity to Volunteer

It should be apparent that whether the group receiving the information meeting is different from the group which does not, on grounds of observable or unobservable attributes, the use of either the two-step selectivity correction or the matching procedure, both described above, requires the estimation of a probit equation which models the process of attending an information meeting. In such an equation it is important to search for correlates of the propensity to volunteer.

A priori, it is not clear how to obtain predictors of an individual’s propensity to attend information meetings. The principal method of attempting to find the important factors which contribute to the increased likelihood of attending an information meeting is to examine the influence of relevant explanatory variables. Most specifically we are interested in the factors which may directly measure the extent to which an individual has income, property, or the future of children at stake in the divorce process. Hence the

characteristics which may impact on the decision of a 'rational agent' are: their own income, their partner's income and whether or not the parties live together in the same house at the moment, and whether the house is owner-occupied, the presence of children, and their ages. We may also hypothesise that the decision to attend an information meeting may be different depending on family and personal socio-demographic characteristics such as the age of the person, their gender, their ethnicity, their educational background, their social class, and whether or not the couple had previously attended a meeting with a marriage guidance counsellor.

Aside from employing standard statistical analysis using a probit with these factors as regressors we also seek to identify characteristics of individuals according to a taxonomy of the types of people who may respond. Such a categorisation must inevitably be crude and stylised, but we make some preliminary suggestions below. In each case our suggested variables relate to questions posed in our volunteering questionnaire. These questions attempt to elicit information on whether respondents are 'information gatherers', 'good citizens', 'responsible parents', 'participants' or 'help seekers' and try to measure characteristics which will correlate with these.

We focus primarily on five groups of variables:

(1) Information gatherers

'Information gatherers' are those people who need to know what is happening in the world around them, and are unlikely to make any decision without first gathering all the information which may pertain to their decision process and their perceptions of the possible consequences. These are people who use all types of media (newspapers, television news, Ceefax, etc.) in their quest for information.

(2) Good citizens

'Good citizens' are the kind of people who have a strong social or moral conscience about helping others or their commitment to and contribution to a fair and just society. They have a strong sense of duty as members of society and this may be represented, for example, by their attitudes to charity and their sense of an obligation to vote.

(3) Responsible parents

The 'responsible parent' is the type of person who accords high priority to the role of parenting and will commit the necessary time to parenting tasks. Such attitudes may be revealed by their treatment of parents' evenings at their children's school.

(4) Participants

The 'participant' is the kind of person who feels most comfortable with an active involvement in social processes and would attend a meeting for these reasons. Such a person may regularly attend trade union or other meetings, for example.

(5) Help seeker

The 'help seeker' is the type of person who will be more likely to consult an expert or someone in authority about problems, for example the police or the Citizen's Advice Bureau.

(6) The privacy-conscious

This type of person is reluctant to share information with other people. We measured this tendency by constructing an item non-response measure for the sample observed, which is simply the cumulative non-response to all applicable questions for each individual.

Within these broad typologies there are questions designed to pick up different aspects of volunteering. More specifically, we are trying to elicit attributes which relate to the propensity to volunteer but are not related to existing personal characteristics. For example, in our questionnaire we attempt to capture the availability of reference material in the marital home which may indicate a general attitude to taking decisions and family matters seriously. It may be, of course, that what we pick up is only related to education, but our intention is to seek a proxy for a less easily defined latent variable.

The questions asked can be thought of as being proxies for underlying characteristics of individuals which will potentially affect both the decision to attend meetings and the outcome of the divorce process. The extent to which we are able to represent the characteristics is a critical determinant of how far we can make any statements about the effect of information meetings.

It is very important to be clear about the limitations of the analysis. It is impossible to say beforehand which variables will be relevant ones. Therefore, if we obtain an insignificant result, it could reflect one of two possible scenarios: first, that no systematic relationship exists to explain an individual's propensity to attend information meetings, or secondly that there is a systematic relationship but that the variables we have been able to measure do not capture it sufficiently well. Therefore, if we obtain no significant effects it will not necessarily be safe to assume that an individual's volunteering behaviour has no influence on any measured effect of information meetings.

Other Statistical Problems

There are many other potential problems of a statistical nature which can occur in studies involving measurement of specific outcomes. Not all of them can be addressed here, but it is important to be aware of them and the limitations which they impose.

(1) Outcome measures

If the aim were to measure the outcome of the divorce process, it would be important to be able to track people effectively through to whether they eventually divorce or not, and to be able to measure particular aspects of the divorce (i.e. the extent to which amicable arrangements were arrived at for child contact, etc.). If individuals were not tracked for long enough to discover whether they divorce or not this would add extra difficulty to the

analysis. This is called the censoring problem, and it involves recognising that the amount of time over which the follow-up survey is conducted may influence the proportion of the sample for whom the outcome is known.

The issue of how long it takes for the divorce process to reach a conclusion is important, since it is quite possible that one effect of the introduction of the compulsory information meeting is to lengthen the process of divorce, in the sense of the time it takes from the initial contemplation of divorce to the actual divorce itself, but possibly not affect the underlying eventual probability of divorce. It is possible that information meetings might simply alter the temporal distribution of the same outcomes.

Another possibility is that the outcome of the divorce process is more appropriately measured in terms of the quality of the divorce settlement, in the sense of the agreement of the divorcing couple over the arrangements for the provision of children or the split of the property and income and maintenance arrangements.

(2) Unit of observation, the individual or the couple

A second additional problem of concern would be that the unit of observation in the divorce process is the married couple, whereas the unit of observation in whether the information meeting is attended is the individual. Typically, the questionnaire about volunteering is responded to by the individual responsible for the initial inquiry.

Another potential problem caused by this difference in units of observation is that variables about the other partner in the marriage which should have been included in the equations may have been omitted.

(3) Types of information meeting

A further issue is the difficulty of the assessment of different possible types of information meeting. In the information meetings which were taking place in the evaluation there were six different types of meeting, ranging from an hour-long individual information meeting to the use of a CD-ROM instead of presenters. It must be stressed that in this situation all the statistical problems that we have so far summarised apply to this context. However, in this k-type information meeting equation (1) can be modelled as equation (4):

$$M_j = \alpha_k I_{jk} + \beta_{1q} J_{jq} + \gamma_{1k} X_{ik} + u_{1j} \quad (4)$$

It must be stressed that this model may not give us reliable estimates of the effect of the information meetings on the outcome, but only some guidance on the possible effect information meetings have on the type of person who volunteers. This is not necessarily the same effect that may be generated if such meetings are compulsory.

(4) Timing of the information meeting

Individuals might receive the information meeting at varying stages in the divorce process. This could substantially influence the effect that the information meeting may have. Hence one would need to control for the various different stages at which the individual may experience this meeting.

(5) Completing the initial questionnaire

The suggestion outlined above for the two-stage estimation of equations (1) and (2) assumes that data collected from all those contemplating divorce represent a complete sample survey of all of the married population at risk of divorce. However, any individuals who decline to complete the questionnaire may constitute a non-random subset of the at-risk population. If this is the case, the coefficients of equation (2) cannot be estimated unbiasedly and the rest of our suggested procedure is invalid.

Conclusion

Evaluating the effect of the information meeting on outcomes is statistically difficult. In an ideal world the compulsory information meeting would be experimentally evaluated either by a controlled experiment with random assessment or by invoking the act in one region of the country and not in another, and by assessing a random sample of couples from both regions. It is appreciated that neither of these two alternatives was politically feasible.

As a precondition for the statistical approach providing consistent estimates of the treatment effect of information meetings, it is necessary that a random sample of all those seeking divorce in an area is taken, and that the outcome of this divorce process can be measured and observed for all those in our original random sample seeking divorce. If these conditions are satisfied, we would still have the problem of how to compare the divorce outcomes of those who receive information meetings with the outcomes of those who do not, if these groups are dissimilar. The econometric way of proceeding will depend on whether the differences in these two subgroups is based mainly on observable factors such as gender, age and earnings, or unobservable factors such as responsibility, caring, sensitivity and mental state, and whether these observables are correlated with the decision to attend an information meeting and divorce outcomes.

We suggested a way forward in the case of selection of unobservables which may be adopted, provided certain statistical conditions are met. This statistical procedure involves modelling jointly the propensity to volunteer and outcomes, and assumes that instruments to explain propensity to volunteer which do not correlate with divorce outcome can be found.

In the case of selectivity bias based only on observable factors, we suggest that the method of matching estimator may be adopted. This involves the creation of a synthetic control group to facilitate the calculation of differences in expected mean outcomes.

In the case of either of the two approaches discussed above, this Annexe has raised the important question of how to model the observed volunteering for a social programme,

and specifically, to identify valid proxies for the propensity to volunteer. This problem is of much wider importance than simply regarding the evaluation of information meetings, and has applications to the evaluation of any social programme in which participation is voluntary.

Annexe 7

Indicators Relating to Propensity To Volunteer

The indicators employed in our analysis of propensity to volunteer discussed in Chapter 6 were created from weighting responses to a questionnaire completed by people who attended an information meeting at one of three information pilots, people who consulted a solicitor but did not attend an information meeting, and people who declined an offer to attend an information meeting after they had started divorce proceedings. The weights were assigned as shown below.

Information Gatherer Index

The idea behind this index is that it gives weight to using different types of media (television CEEFAX, public libraries and newspapers), but also weights having access to information reference sources at home. The weights employed for the construction of the indicator were:

- 7 – if the person regularly watches news/documentaries on television
- 4 – if the person uses CEEFAX daily
- 3 – if the person uses CEEFAX weekly
- 2 – if the person uses CEEFAX monthly
- 1 – if the person uses CEEFAX three-monthly
- 4 – if the person has used the library to get information this week
- 3 – if the person has used the library to get information this month
- 2 – if the person has used the library to get information in the last three months
- 1 – if the person has used the library to get information in the last year
- 1 – if the person has a dictionary in the family home
- 1 – if the person has a bible in the family home
- 1 – if the person has an encyclopaedia in the family home
- 1 – if the person has a family health guide in the family home
- 1 – if the person has a family law guide in the family home
- 1 – if the person subscribes to *Which*
- 1 – if the person has a Encarta or equivalent CD-ROM in the family home
- 1 – if the person regularly reads a local daily newspaper
- 2 – if the person regularly reads a national tabloid daily newspaper
- 3 – if the person regularly reads a national broadsheet daily newspaper

Good Citizen Index

A cumulative score which sums the values below

- 1 – if the person regularly gives to charity
- 1 – if the person voted in the last General Election
- 1 – if the person has ever responded to a postal questionnaire
- 1 – if the person has ever agreed to be interviewed by a survey researcher in the street
- 1 – if the person thinks it compulsory for people over 17 to vote in a General Election

Help Seeker Index

Takes the value of 1 if the person has ever sought the help of the police or a marriage guidance counsellor, 2 if they have done both and 0 otherwise.

Participant Index

This is a cumulative score that adds the values below:

- 1 – if the person has ever done voluntary work
- 1 – if the person voted in the last General Election
- 1 – if the person has ever attended any public meeting, rally or demonstration
- 1 – if the person attends church regularly

Responsible Parent Index

If the person always attends parents' evenings at their children's school score 1, otherwise score 0.

Privacy Index

A cumulative score which allocates 1 for each incident of non-response on selected items in the questionnaire.

Annexe 8

Probit Regression

Probit regression is a log-linear approach for handling categorical dependent variables. Whereas logistic regression is restricted to dependent variables with only two categories, probit regression can deal with more than two. The probit coefficient indicates how much difference a unit change in the independent variable makes in terms of the cumulative normal probability of the dependent variable. It is a measure of the effect of the independent variable.¹

The following tables (A8.1–A8.2) are referred to in Chapter 6 as part of the discussion on modelling the propensity to volunteer.

¹ For a more detailed discussion see Liao, T.F., *Interpreting Probability Models: Logit, Probit and Other Generalised Linear Models*, Sage (1994).

Table A8.1 Probit estimation of the decision to attend an information meeting for the pilot and solicitor sample (Chapter 6, Table 6.4, groups 1, 2, 5)

	Equations			
	1 Coefficient	2 Coefficient	3 Coefficient	4 Coefficient
Constant	-1.0254**	-0.6056**	-0.3072	-0.9865**
Gender	-0.1259	0.4106	0.5864	-0.117
Child	0.6817**	0.7893*	1.0704**	0.6778**
Own house	0.2434	0.1679	-0.0152	0.242
Own salary	0.1846**	0.1609*	0.1187	0.1852**
Own salary*gender		0.0193	-0.1603	
Partner's salary		0.0928	0.1336*	
Partner's salary*gender		-0.1507*	0.1995	
Same address	0.4532**	-0.0842	-0.2931	0.4565**
Age	0.03528**	0.0389**	0.0313*	0.0355**
Marriage guidance	0.3277**	0.0024	0.1995	0.3350**
Privacy index	0.1499*	0.7032**	0.8727**	0.1554
Youngest child>18		-0.6703*	-0.863*	
Own house*same address		0.5985	1.1793*	
Privacy index*gender				-0.0257
Information gatherer		-0.0295*	-0.0356*	-0.0033
Good citizen index		0.0233	-0.0481	
Parents' evening		-0.3173	-0.4063	
Participant		-0.0033	-0.0216	
Help seeker		0.1636	0.0435	
Social class		0.0589	-0.1229	
Ethnicity		-0.3827	-0.6313	
Parents divorced		-0.1315	0.0938	
Advanced education		0.174	0.748**	
Partner's social class			0.0015	
Observations	1,369	958	764	1,369
LR Chi-square	92.01	86.8	87.88	92.11
Pseudo R ²	0.1916	0.2662	0.3473	0.1918
LnL	-194.110	-119.645	-82.587	-194.059

Significance levels; *<.1; **<.05.

Table A8.2 Probit estimation of the decision to attend an information meeting for the court-based sample (Chapter 6, Table 6.4, groups 3, 4)

	Equations			
	1	2	3	4
	Coefficient	Coefficient	Coefficient	Coefficient
Constant	-1.5059**	-2.0037**	-2.249**	-1.6883**
Gender	0.0157	0.545	0.3376	0.0703
Child	0.3969**	0.2172	0.1092	0.3996**
Own house	0.3709**	0.3188*	0.3979*	0.3407**
Own salary	-0.0139	0.0131	-0.0085	0.0229
Own salary*gender		-0.037	0.0025	
Partner's salary		0.0158	0.0308	
Partner's salary*gender		0.0895	-0.097	
Same address	0.6654**	1.0589**	1.237*	0.6871**
Age	0.0162*	0.0316**	0.0364**	0.0166*
Marriage guidance	0.4960**	0.5465**	0.6528**	0.4961**
Privacy index	0.0155	0.0753	-0.1297	-0.1521
Youngest child>18		-0.2894	-0.4862	
Own house*same address		-0.4025	-0.6107	
Privacy index*gender		-0.7014*	-0.0622	
Information gatherer		0.0363**	0.0394*	0.0131
Good citizen index		-0.0708	-0.0318	
Parents' evening		-0.0520	-0.1084	
Participant		-0.0842	-0.1256	
Help seeker		-0.1123	-0.1197	
Social class			-0.0182	
Ethnicity			0.1392	
Parents divorced			0.1863	
Advanced education			-0.1543	
Observations	319	271	227	319
LR Chi-square	45.78	48.37	46.22	47.32
Pseudo R ²	0.1037	0.1290	0.1470	0.1072
LnL	-197.771	-163.245	-134.058	-197.002

Significance levels; *<.1; *<.05.

Annexe 9

Specification of Methods Used

Simon Raybould and Mike Coombes

Chapter 31 describes the rationale for, and results from, the various forms of analysis which lead to the identification of a plausible set of sites for information meetings. Here some more technical information on the implementation of these analyses is provided. The structure follows that of the chapter, taking in turn the four main modules of the analysis.

Distance Deterrence

For each person registering with a pilot, their *nearest* IM site was identified by calculating straight-line distances between their home postcode and the locations of all information meeting sites which provided at least one meeting after the date on which the person registered. All cases were then grouped into categories according to these distances (i.e. the first category includes all who lived under 1 km from their nearest site, the second category includes those at least 1 km from a site but less than 2 km away, and so forth). For each category, an appropriate ‘typical’ distance was assumed (e.g. for the first category this was 0.3 km, and for the second 1.3 km). The proportion of those in each category who did not subsequently attend an information meeting then provides the dependent variable in a non-linear regression against the ‘typical’ distances (using SPSSx). The beta value from the regression is taken to be the distanced deterrence coefficient.

Demand Modelling

Annexe 11 provides considerable further detail on these analyses. In technical terms, the ordinary least squares regression was implemented in SPSSx with the Stepwise option: the probability of entry for a variable was set at 0.05 while removal was set at 0.1. (NB: these can be seen as default values.)

Site Selection

The postcoded address list of Benefit Offices made it a straightforward task to identify the ward in which each Office is located. (NB: some Offices had to be excluded because they did not serve their local area and so are not relevant here.) The market locations were not postcoded, so they had to be allocated to wards by hand: in many towns and cities more than one ward covered at least part of the central area, so where one of these wards included a Benefit Office that same ward was taken as the location of the market. The commuting foci indicator first identifies wards to which at least one other ward sent at least 10 commuters. (NB: because the 1991 Census commuting data is a 10 per cent sample, this flow size represents 100 actual commuters.) Other wards whose centroids are less than 1.5 km away are also then deemed to be job foci: this device sidesteps the tendency in some towns for a major employer to be located a short distance away – and

thus possibly in a different ward – from the high street where the Benefit Office and/or market is likely to be located. The candidate sites are then defined as wards which have at least 2 out of the following 3 characteristics: they house a Benefit Office *and/or* they are in a town with a market *and/or* they are – or are within 1.5 km of – a focus for substantial flows of commuters.

Location-Allocation

The final module of the analysis utilises advanced Geographic Information System (GIS) functionality: in practice, the modelling here used the ARCPLOT module within the ARC/info software. The 647 candidate sites from the site selection module provided the input, along with the demand model's estimate of demand from each ward and the distance deterrence coefficient. The analyses used *mindistpower* as the *locatecriteria*. (This means that the analyses sought to choose sites which minimise the total distance travelled, but with these distances weighted by the distance deterrence coefficient.) The optimisation procedure needed to be as fast as possible, given the very large number of wards and sites involved, so the default heuristic GRIA was applied. Calculating the level of accessibility of any set of sites required exporting the allocation results to Excel for post-processing and presentation.

Annexe 10

Estimating Divorce Court Catchment Areas

Mike Coombes and Simon Raybould

The first stage of this process was to define county court areas. The information available was combined in a directory which the Department publishes, in which each of a list of over 25,000 'places' is allocated to a court. The research required that these court catchment areas¹ were defined in terms of the 1991 wards for which Population Census data are available. Substantial efforts were needed, using a Geographic Information System dedicated to this project, to allocate each of over 10,000 wards to a court area. (NB: the difficulty arose owing to there being no existing linkage between the 'places' listed in the directory and any standard statistical or administrative areas such as wards.) A further necessary step was to group together some of these county courts because petitions are not heard in every court. Information about other patterns of movement, notably commuting, was used for this grouping: for example, the Caerphilly county court area was grouped with Cardiff because this city is the predominant destination of out-commuters from Caerphilly and the adjacent villages. The output from this step is the estimated catchment area of each divorce court: Figure A10.1 illustrates the detail of the process involved in the North East region.

An examination of a postcoded subsample of people who petitioned at courts in some of the pilot areas has been completed for those who petitioned at courts in the North East region. Table A10.1 presents the evidence from this data set on the appropriateness of the catchment areas, which have been estimated on the basis described above. Over three-quarters of petitions were from people who did indeed live within the catchment areas as estimated. The proportion was slightly less for male petitioners, but they are notably in the minority in practice. Of those who petitioned at North East courts but did *not* live within that court's estimated catchment area, most lived just across that estimated catchment area boundary in one of the adjacent areas. A substantial degree of 'boundary hopping' is in fact inevitable with courts as closely spaced as Newcastle and Gateshead (with both North and South Shields also having divorce courts). In many parts of the Tyneside conurbation neighbouring people have petitioned at different courts, so adjustments to the estimated catchment area boundaries could barely, if at all, reduce 'boundary hopping' in such areas.

¹ Alternative methods for defining catchment areas are described in Pearce, J., 'Techniques for defining school catchment areas for comparison with census data', *Regional Studies*, vol. 34 (2000), pp. 283–303.

Table A10.1 Court subsample petitioners at North East courts

	Column %		
	<i>female</i>	<i>male</i>	<i>all</i>
Petitioned in 'local' court	77.6	72.5	76.2
Petitioned in 'adjacent' court	17.3	12.3	15.9
Petitioned elsewhere in region	2.3	11.6	4.9
Petitioner from outside region	2.8	3.6	3.1
	<i>N</i>	<i>353</i>	<i>138</i>
			<i>491</i>

This interpretation is borne out by the results in the other pilot areas where a court sample was collected. Those areas which cover a similar urban/rural mix to the North East (Leicester & East Midlands, Merseyside & North Wales, South West and East Anglia) were all found to have a very similar proportion of court sample members petitioning at their 'local' court. By contrast, the heavily urbanised pilot areas of Greater Manchester and – especially – London had noticeably higher proportions of petitioners 'boundary hopping' to use a different court from the one within whose boundary they lived.

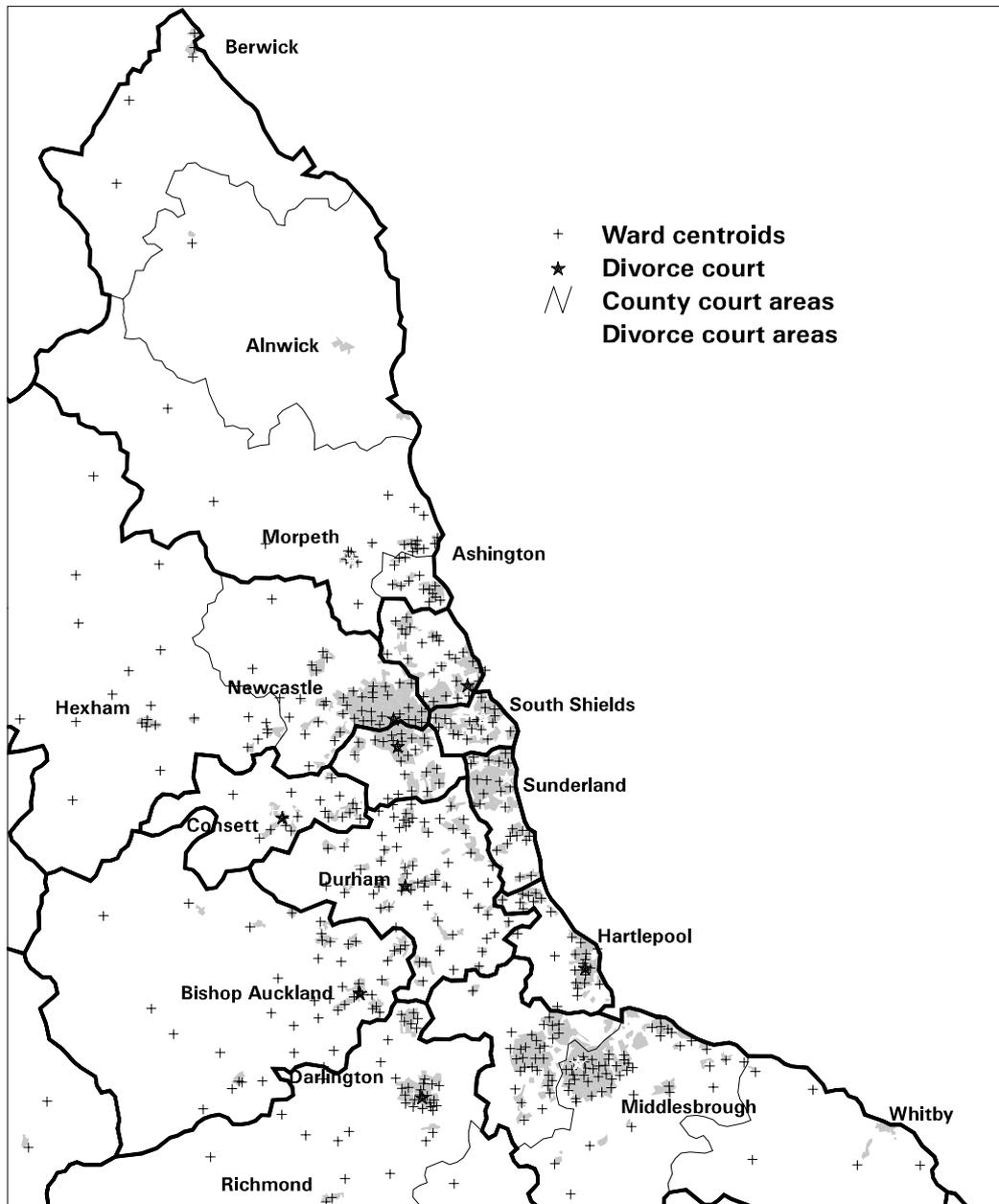


Figure A10.1 Estimating divorce court catchment areas in North East England

Annexe 11

Independent Variables in the Demand Modelling

Mike Coombes and Simon Raybould

The variables which were assessed statistically were chosen to represent factors identified in the literature¹ as influences on the likelihood of divorce. Apart from the 16–44 age group variable which is in the final model, the modelling also experimented with more detailed age groups (e.g. one representing those aged 45–54). Ethnic minority populations were represented by four variables which measured the proportion of men aged 20–54 who were (a) Afro-Caribbean or (b) Pakistani/Bangladeshi or (c) Indian/ Chinese or (d) Irish. (NB: these variables stem from people's self-declared origin in the Census data.)

As well as the variable on the proportion of men in low-skilled occupations, two alternative measures of male unemployment were made available to the model as options to represent the issue of poverty and/or insecure employment. Three other employment-related variables – all representing factors which were hypothesised as being positively associated with increased rates of divorce – were (a) the proportion of employed men who have security-related occupations, (b) the proportion of married women who either are self-employed or have full-time jobs, and (c) the proportion of all households which included two earners but no children.

The variable on the proportion of younger men who are married was one of a group which represent more demographic factors which could be having either a compositional or contextual influence on the local level of divorce. The other variables in this group were (a) the proportion of household heads aged 16–44 who had moved house in the last year, (b) the proportion of 25–54-year-old heads of households with children who are in a 'couple' (i.e. not single parents), and (c) the proportion of households including a 'couple' who had no dependants.

The two final variables assessed were both more familiar features of area-based modelling. A housing tenure variable measured the proportion of households which are owner-occupied (this has been argued to be negatively associated with the probability of divorce). The other variable tested was an Index² which measures the level of urbanisation in each area.

One important feature of area-based modelling such as this is that two variables which have similar distributions across the areas analysed can 'cancel each other out' in their effect on the dependent variable. As a result, modelling the difference between areas' populations can yield rather different results from modelling the behaviour of the individuals who make up those populations. For example, the information available through the divorce registration procedure suggests that once partners have been married for over twenty years they are less likely³ to get divorced. This pattern could be expected

¹ For example Thornes, B. and Collard, J., *Who Divorces?*, Routledge (1979); Kiernan, K. and Mueller, G., *op. cit.*

² See Coombes, M. and Raybould, S. 'Public policy and population distribution: developing appropriate indicators of settlement patterns', *Government & Policy* (forthcoming, 2001).

³ See e.g. Gibson, C., 'Contemporary divorce and changing family patterns', in M. Freeman (ed.), *Divorce: Where Next?*, Dartmouth (1996).

to cause the modelling here to find that the more an area's population is made up of older people, the less likely it is to have a high divorce rate. In practice, those areas which *do* tend to have more older people (e.g. coastal towns) also tend to have other characteristics (e.g. higher levels of unemployment) which are associated with *higher* levels of divorce. A particularly clear example of this 'cancelling out' involves the ethnicity variables. It is known⁴ that Afro-Caribbeans have higher divorce rates than white people, while the Pakistani and Bangladeshi groups have low rates. Figure A11.1 illustrates that, at the scale of analysis undertaken here, the same areas – in practice, the more rural areas – tend to have populations which include very few people from either of these broad minority ethnic groups. As a result of this similarity between the *geographical* patterns of the Afro-Caribbean and the Pakistani/Bangladeshi variables, they tend to 'cancel each other out' in the court area analyses.

The eventual model can be illustrated here by taking a single court area – Stockport – and describing how the statistics work out in that case. Over the two years 1995 and 1996 there was a national annual average divorce rate of 15.19 per thousand married men (taking the 1991 Census number of married men as the denominator); Stockport had the value of 12.26 per thousand. The demand model, which emerged from a lengthy process of experimentation, predicts an area's divorce rate to equal

18.63 (the constant, or 'background level' of divorce) *plus*

0.1301 multiplied by the area's % of married men who are aged 44 or less *plus*

0.2505 multiplied by the area's % of men who are low-skilled *minus*

0.2586 multiplied by the area's % of younger men who are currently married

Stockport's values for these independent variables are 41.78 per cent (married men under 45), 16.81 per cent (low-skilled groups' share of all economically active men), and 55.59 per cent (proportion of all those aged 20–44 who are married). Applying the demand model equation to Stockport's independent variable data gives the following result:

$$18.63 + (0.1301 * 41.78) + (0.2505 * 16.81) - (0.2586 * 55.59) = 13.90$$

This is not very far from Stockport's actual value of 12.26 per thousand married men divorcing per year.

⁴ Beishon, S., Modood, T. and Virdee, S., *Ethnic Minority Families*, Policy Studies Institute (1998); Berrington, A., 'Marriage patterns and inter-ethnic unions', in D. Coleman and J. Salt (eds), *Ethnicity in the 1991 Census: Demographic Characteristics of the Ethnic Minority Populations*, ONS (1996).

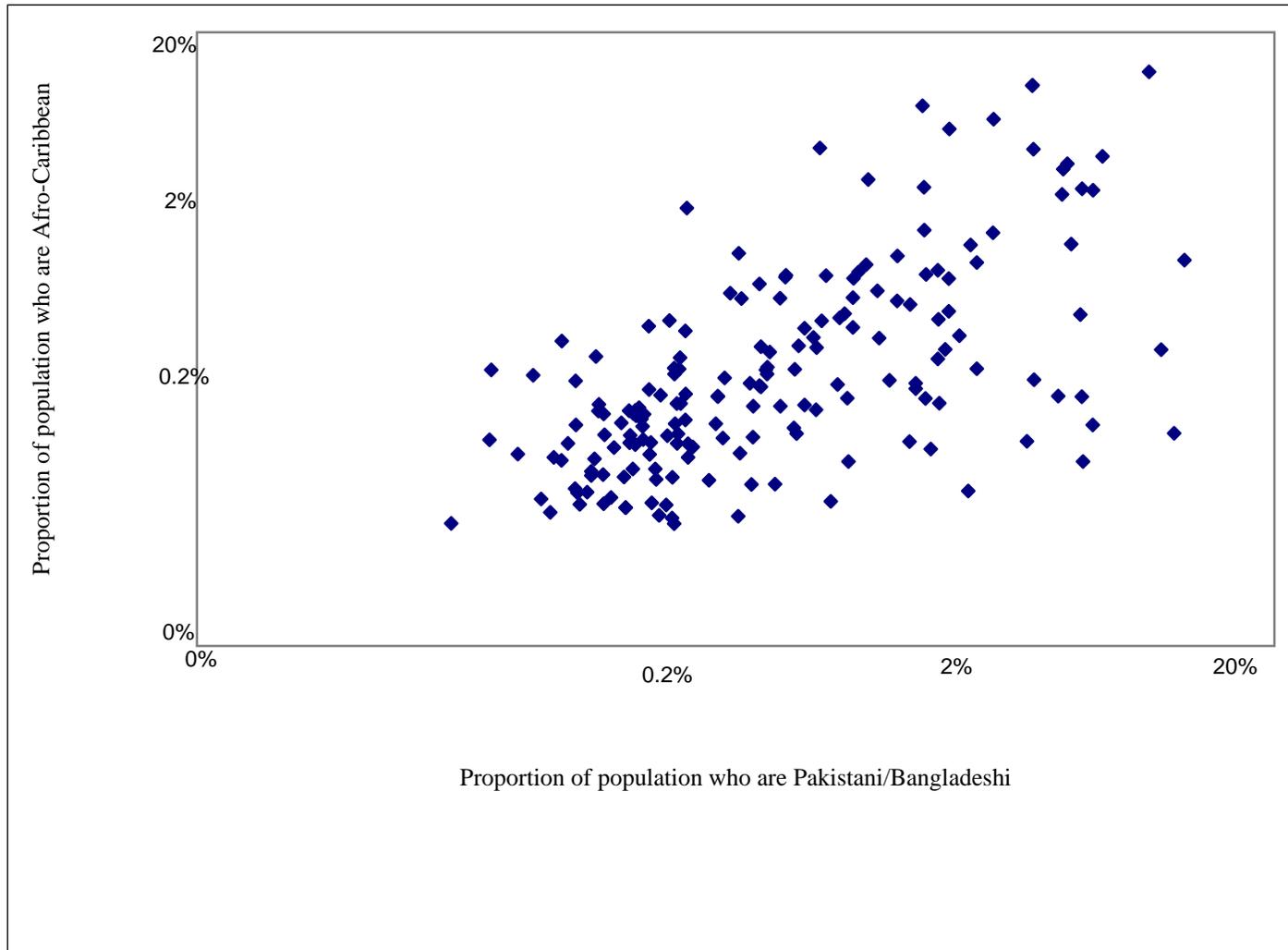


Figure A11.1 Ethnicity of divorce court catchment populations (log scales)

Annexe 12

Management Regions

Mike Coombes

In identifying 250 potential information meeting sites, the location-allocation model also estimated the number of attendees – the throughput – at each site. Turning now to defining Management Regions (MRs), we note that four criteria have been set by the Department:

1. Twenty MRs are required.
2. The throughput of all the MRs should be closely similar. (The largest should have a throughput of less than 1.5 times that of the smallest.)
3. The MRs should group together nearby sites so that they would be convenient for management.
4. The Welsh border should not be crossed.

Given an estimated total throughput of 400,000 it is simple to see that the mean MR size would be 20,000 with 20 MRs altogether. The throughput at the 21 sites in Wales totalled 22,857, so a single MR will cover the principality.

The remaining task is to divide England into 19 MRs in a way which best meets the first three criteria. The criterion which is most complex to implement is the third one, which calls for MRs whose boundaries demarcate ‘easy to manage’ territories. In practice, this amounts to the need for relatively compact MRs which are oriented along major transport routes. The best method of defining such regions is to refer to patterns of movement which themselves reflect the availability of good transport links between areas. This was achieved by analysing commuting patterns and defining ‘city regions’ which grouped together those areas with strong linkages. The most appropriate method to use is a variant of the one devised to define Travel-to-Work Areas,¹ and this approach also has the advantage of ensuring that the requirement for the right number of similarly-sized MRs can be met.

The output from the regionalisation analysis is at a high level of detail, having allocated individually each of the 8,619 wards in England. (NB: Wales and Scotland are analysed simultaneously, but this variant of the program prevents any grouping together of areas on different sides of a national boundary.) It is then relatively straightforward to identify the region into which each information meeting site falls – because their locations too are defined in terms of wards – and this then leads on to the calculation for each MR of the total predicted throughput at all the sites within its boundary.

The groupings of sites which emerge from this process are finally subjected to some adjustments ‘around the edges’ to optimise the boundaries. For example, the regions

¹ Office for National Statistics and Coombes, M., *1991-based Travel to Work Areas*, Office for National Statistics (1998).

covering more rural areas with large total throughputs might be better if they are at the smaller end of the permitted size range because a sprawling area is likely to pose higher management costs over and above those associated with the simple number of people attending information meetings at sites in the region. At the other extreme, the regions covering compact areas, such as those in the more urbanised parts of the country, could be at the larger end of the size range. An exception to this size guideline was made for MRs covering central London, where *smaller* predicted throughputs were sought. The reasoning here is that the predicted throughput at each of the 250 sites derives from a model which is based on everyone attending information meetings after a journey from their home. In practice, quite a high proportion of people may travel from their place of work and/or as part of a trip for shopping or other purposes. As a result, more people are likely to attend information meetings in city centres than would be predicted by the model which considers these sites' catchment areas to only include the population *living* near city centres. This issue is most pronounced in relation to central London, so the regions which include the Cities of London and Westminster have here both been limited to rather low predicted throughputs in order to allow for this probable under-estimation of throughput at city centre sites. To emphasise this point further, it may be worthwhile adding a site in Westminster as part of the requirements for the service to be provided within the MR covering that area.

The general point to remember is that the location-allocation modelling is to be seen as *indicative* rather than definitive. In other words, the selected sites make up a coherent and cohesive pattern *but* in some cases it may be that adjustments could be made to the set of sites within MRs with little overall effect on the suitability of the service provided. There are also simplifying assumptions in the modelling which may mean that, for example, the residents of town X are here predicted to attend information meetings in city Y when in practice they may by and large find the site in city Z to be a more convenient location. Consequently it seems important to define the MRs in terms of *territories* as well as lists of sites: in this way the emphasis is placed on the areas which are to be serviced, with the site list then given its due weight as an indicative set of sites which would provide an appropriate service to that territory. To make these territory definitions more readily recognised, a number of minor adjustments were made to the MRs so that more of their boundaries fell along county boundaries. Table A12.1 specifies the MRs in terms of territories, and the boundaries are illustrated in Figure A12.1.

Table A12.1 The boundaries of the MRs and the 250 sites grouped within them

MR nodal cities	MRs as territories made up of local authority areas
Newcastle	Northumberland, Tyne & Wear, County Durham, former county of Cleveland, North Yorkshire (except Craven, Harrogate, Selby, York), Cumbria (except Barrow, South Lakeland)
Leeds	North Yorkshire (Craven, Harrogate, Selby, York), former county of Humberside, West Yorkshire
Sheffield	South Yorkshire, Nottinghamshire, Derbyshire (except High Peak, South Derbyshire)
Manchester	Greater Manchester, Lancashire (Blackburn, Hyndburn, Rossendale, Burnley, Pendle, Ribble Valley), Cheshire (Macclesfield), Derbyshire (High Peak)
Liverpool	Cumbria (except Barrow, South Lakeland), Lancashire (except Blackburn, Hyndburn, Rossendale, Burnley, Pendle, Ribble Valley), Merseyside, Cheshire (except Macclesfield, Congleton, Crewe & Nantwich)
Wolverhampton	Cheshire (Congleton, Crewe & Nantwich), Staffordshire (except Tamworth, East Staffordshire), Shropshire, West Midlands (Wolverhampton, Walsall, Sandwell, Dudley)
Birmingham	West Midlands (except Wolverhampton, Walsall, Sandwell, Dudley), Staffordshire (Tamworth, East Staffordshire), Leicestershire, Warwickshire, Derbyshire (South Derbyshire)
Peterborough	Lincolnshire, Cambridgeshire, Norfolk, Suffolk (Waveney, Forest Heath)
Ipswich	Suffolk (except Waveney, Forest Heath), Essex (except part in Metropolitan Police district)
Luton	Northamptonshire, Bedfordshire, Hertfordshire (except part in Metropolitan Police district), Buckinghamshire (except Chiltern, South Bucks, Wycombe)
Reading	Buckinghamshire (Chiltern, South Bucks, Wycombe), Oxfordshire, Berkshire, Gtr London (Hillingdon)
Maidstone	Kent, East Sussex (Hastings, Rother)
Brighton	East Sussex (except Hastings, Rother), West Sussex, Surrey (except part in Metropolitan Police district), Hampshire (Hart, Rushmoor)
Southampton	Hampshire (except Hart, Rushmoor), Isle of Wight, Wiltshire (Salisbury), Dorset (except West Dorset)

Bristol	Wiltshire (except Salisbury), former county of Avon, Gloucestershire, Herefordshire, Worcestershire
Plymouth	Dorset (West Dorset), Somerset, Devon, Cornwall
Southwark	Gtr London (Southwark, Lewisham, Lambeth, Wandsworth, Hounslow, Richmond-upon-Thames, Kingston-upon-Thames, Merton, Sutton, Croydon, Bromley, Bexley, Greenwich), Surrey (part in Metropolitan Police district)
Westminster	Gtr London (City of Westminster, Kensington & Chelsea, Hammersmith & Fulham, Brent, Camden, Islington, Haringey, Enfield, Barnet, Harrow, Ealing) Hertfordshire (part in Metropolitan Police district)
London	Gtr London (City of London, Hackney, Tower Hamlets, Newham, Barking & Dagenham, Havering, Redbridge, Waltham Forest), Essex (part in Metropolitan Police district)
Cardiff	All of Wales

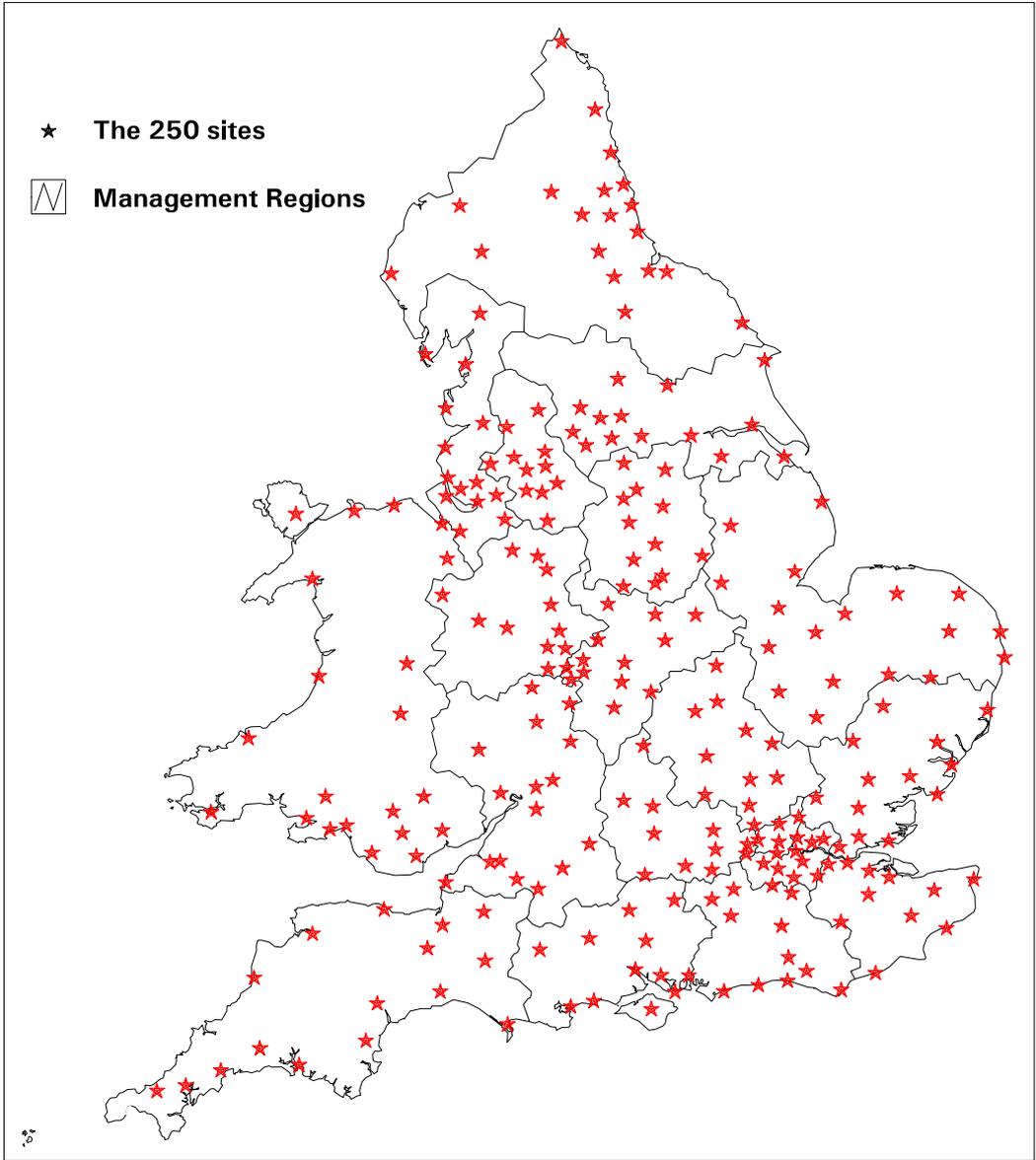


Figure A12.1 Management regions and 250 information meeting sites

Annexe 13

The Selected 249 Sites: Predicted Annual Attendance (and Contrast with the 250 Sites Shown in Figure 31.7)

Mike Coombes and Simon Raybould

<i>County (as at 1991)</i>	Sites not in the 249 which were in the 250	Sites in the 249 which were also in the 250	Sites in the 249 which were not in the 250	Predicted level of demand at the selected 249 sites	
<i>Greater London</i>		City East		2,904	
			Croydon	3,918	
			Ilford	3,587	
			Lewisham East	2,785	
			Orpington	2,107	
			Romford	3,316	
			Twickenham	3,672	
		Barnet		Hornsey	3,494
		Golders Green		Wandsworth	3,667
		Hammersmith		Westminster	3,862
		Harrow West		Edgware	2,358
		Uxbridge		Bexley	2,803
		Walthamstow		Ealing	3,260
		West Drayton		Enfield	3,650
		Wimbledon		South Ruislip	2,743
	<i>Greater Manchester</i>		Hyde		2,146
			Sale		2,309
		Stockport		2,483	
		Wigan		2,730	
		Bolton		Farnworth	3,856
		Chadderton		Manchester	2,871
		Pendlebury		Royton	3,202
		Rochdale			
<i>Merseyside</i>		Birkenhead		3,533	
		Knotty Ash		3,777	
		Southport		1,710	
		St Helens		1,809	
		Crosby			
<i>South Yorkshire</i>		Barnsley		1,974	
		Doncaster		2,120	
		Rotherham		2,784	
		Sheffield		3,086	

<i>Tyne & Wear</i>		Newcastle upon Tyne		3,932	
		North Shields		2,266	
		Sunderland		1,871	
<i>West Midlands</i>		Bournville		1,982	
		Brierley Hill		3,058	
		Coventry		2,523	
		Erdington		2,655	
		Walsall		2,822	
		Wolverhampton		2,391	
		Acock's Green	Birmingham		3,454
	Smethwick	Solihull		2,029	
<i>West Yorkshire</i>		Huddersfield		2,624	
		Ossett		1,796	
		Bingley	Keighley		1,440
		Killingbeck	Bradford		3,762
		Pontefract	Leeds		3,561
		Pudsey	Castleford		2,054
		Sowerby Bridge			
<i>Avon</i>		Bath		1,220	
		Bristol		3,321	
		Fishponds		2,316	
		Weston-super-Mare		1,281	
<i>Bedfordshire</i>		Bedford		1,386	
		Biggleswade		844	
		Luton		2,241	
<i>Berkshire</i>		Reading		2,176	
		Bracknell		1,611	
		Newbury		831	
		Maidenhead	Slough		1,724
<i>Buckinghamshire</i>		Aylesbury		1,252	
		High Wycombe		1,786	
		Milton Keynes		1,932	
<i>Cambridgeshire</i>		Cambridge		1,684	
		Ely		700	
		Huntingdon		978	
		Peterborough		1,831	
		Wisbech		873	

<i>Cheshire</i>		Chester		1,332
		Crewe		1,271
		Macclesfield		1,122
		Northwich		1,055
		Warrington		1,828
	Widnes		Runcorn	1,428
<i>Cleveland</i>	Guisborough		Eston	2,426
	Middlesbrough		Stockton-on-Tees	1,645
<i>Cornwall</i>		Camborne		799
		Penzance		479
		St Austell		958
		Truro		963
	Bude		Launceston	783
	Liskeard			
<i>Cumbria</i>		Barrow-in-Furness		876
		Carlisle		1,092
		Cleator Moor		1,038
		Kendal		674
		Penrith		390
<i>Derbyshire</i>		Chesterfield		1,844
		Derby		2,198
		Ripley		1,675
<i>Devon</i>		Axminster		798
		Barnstaple		1,170
		Exeter		1,777
		Newton Abbot		1,755
		Plymouth		2,869
			Tiverton	554
		Totnes	866	
<i>Dorset</i>		Poole		2,867
		Shaftesbury		624
		Weymouth		915
		Christchurch		1,619
<i>County Durham</i>		Bishop Auckland		1,326
		Chester-le-Street		1,895
		Consett		955
		Darlington		1,021
		Peterlee		1,166

<i>East Sussex</i>		Brighton	1,865
		Eastbourne	1,198
		Hastings	1,285
		Lewes	1,064
<i>Essex</i>		Basildon	2,595
		Chelmsford	1,338
		Clacton-on-Sea	616
		Colchester	1,488
		Harlow	2,027
		Harwich	783
		Southend-on-Sea	2,811
		Braintree South Ockendon	Witham 1,202
<i>Gloucestershire</i>		Cheltenham	1,320
		Cinderford	878
		Gloucester	1,224
		Stroud	995
<i>Hampshire</i>		Andover	619
		Basingstoke	1,404
		Fareham	1,258
		Havant	1,726
		Portsmouth	1,958
		Southampton	3,042
		Winchester	967
		Aldershot	Farnborough 2,275
<i>Hereford & Worcestershire</i>		Evesham	741
		Hereford	1,002
		Kidderminster	1,238
		Redditch	1,225
		Worcester	1,564
<i>Hertfordshire</i>		Hemel Hempstead	1,510
		Stevenage	1,508
		Watford	1,820
		Waltham Cross	Hatfield 1,622
<i>Humberside</i>		Bridlington	528
		Goole	937
		Grimsby	1,497
		Kingston-upon-Hull	3,282
		Scunthorpe	1,256

<i>Isle of Wight</i>	Newport		867
<i>Kent</i>	Ashford		818
	Canterbury		1,145
	Chatham		2,030
	Folkestone		1,157
	Gravesend		1,785
	Maidstone		1,897
	Ramsgate		1,426
	Sittingbourne		1,070
	Tunbridge Wells		1,647
	Dartford		
<i>Lancashire</i>	Blackburn		2,015
	Blackpool North		2,413
	Morecambe		1,288
	Nelson		1,930
	Preston		2,433
<i>Leicestershire</i>	Leicester		4,017
	Loughborough		1,386
	Melton Mowbray		496
<i>Lincolnshire</i>	Boston		844
	Grantham		655
	Lincoln		1,506
	Spalding		713
	Mablethorpe	Louth	453
		Skegness	343
<i>Norfolk</i>	Diss		612
	Fakenham		841
	Gt Yarmouth		917
	King's Lynn		1,049
	North Walsham		598
	Norwich		2,443
	Thetford		659
<i>Northamptonshire</i>	Northampton		1,989
	Wellingborough		1,168
	Corby		1,314

<i>Northumberland</i>	Alnwick	624	
	Ashington	1,217	
	Berwick-upon-Tweed	266	
	Hexham		
<i>North Yorkshire</i>	Harrogate	1,265	
	Northallerton	725	
	Scarborough	687	
	York	1,805	
		Malton	409
		Whitby	315
<i>Nottinghamshire</i>	Beeston	1,908	
	Mansfield	1,923	
	Newark	583	
	Nottingham	3,144	
	Worksop	1,443	
<i>Oxfordshire</i>	Banbury	900	
	Didcot	1,114	
	Oxford	1,810	
	Witney	838	
<i>Shropshire</i>	Oswestry	538	
	Shrewsbury	1,027	
	Telford	1,398	
<i>Somerset</i>	Bridgwater	761	
	Taunton	931	
	Wells	666	
	Yeovil	1,110	
		Minehead	
<i>Staffordshire</i>	Burton-upon-Trent	1,354	
	Cannock	1,494	
	Longton	2,542	
	Stafford	986	
	Tamworth	1,175	
	Tunstall	1,815	

<i>Suffolk</i>		Bury St Edmunds		755
		Haverhill		683
		Ipswich		1,849
		Leiston		389
		Lowestoft		880
			Sudbury	539
<i>Surrey</i>		Epsom		3,270
		Godalming		1,432
		Woking		1,570
	Caterham		Staines	1,527
<i>Warwickshire</i>		Nuneaton		1,596
		Rugby		1,065
		Warwick		1,274
<i>West Suffolk</i>		Burgess Hill		812
		Crawley		2,197
		Worthing		1,727
	Bognor Regis		Chichester	1,215
<i>Wiltshire</i>		Calne		928
		Salisbury		950
		Swindon		1,912
		Trowbridge		1,225
<i>Clwyd</i>		Connah's Quay		1,523
		Rhyl		807
		Wrexham		1,175
<i>Dyfed</i>		Aberystwyth		423
		Cardigan		347
		Llanelli		955
		Pembroke Dock		961
	Ammanford		Carmarthen	532
<i>Gwent</i>		Cwmbran		2,203
	Brynmaur		Ebbw Vale	1,405
<i>Gwynedd</i>		Llandudno Junction		661
		Porthmadog		512
	Llangefni		Bangor	633
			Holyhead	310

<i>Mid Glamorgan</i>	Aberdare	1,118
	Bridgend	1,184
	Pontypridd	1,734
<i>Powys</i>	Llandrindod Wells	341
	Newtown	371
<i>South Glamorgan</i>	Llandaff	3,005
<i>West Glamorgan</i>	Neath	1,435
	Swansea	1,432
