



Information Meetings and Associated Provisions within the Family Law Act 1996

Summary of the Final Evaluation Report

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

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ISBN 1 84099 033 3

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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. 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. 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 through the Community Legal Service, (which has replaced the Legal Aid Board). 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 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.

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. The Final Report submitted to the Lord Chancellor in August 2000 marks the culmination of the main evaluation, although we are continuing to track our research subjects until June 2001.

Interim Research Reports

During the evaluation period we presented three substantive interim reports to the Lord Chancellor. 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 the Final Report is the first to take a retrospective look across all the pilots since they finished their work.

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 on September 1999 and these have since been published.

Research Reporting

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 businesslike, supportive and constructive. During the course of the research, the group has met on nine occasions and members have considered all our reports 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. All our reports to the Lord Chancellor have been considered in detail. Research reports have been presented to the National Interdisciplinary Forum (chaired by the Rt Hon. Lord Justice Matthew Thorpe), established to oversee the work 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 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 (including conducting 2,900 hours of interviews) and many of them have contributed to interim reports and to the 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. 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 all of them for their support and for regularly considering and approving the methodology and the approach we were taking.

The pilots were established precisely so that they could be evaluated. We would like to thank everyone, particularly pilot staff, presenters, facilitators and counsellors, who allowed us to enter the professional world of service delivery. 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. 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.

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. 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.

No one could describe this research as easy or straightforward. It has created many challenges. 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 had such a committed and steadfast team and I am truly grateful to all of them for their dedication and their support.

The Final Report

The Final 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. It is a lengthy report (some 900 pages) 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 the report.

There are seven main sections to the Final Report, and 36 chapters in all. In this Summary we have endeavoured to reflect the key findings and point to their policy implications. Obviously it is impossible to do justice in a summary to the breadth of material presented in the full report, which we believe merits close scrutiny.

The report and this summary represent the views of the research team and do 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 and this summary. 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.
Supervisor	The person responsible for professional supervision of the counsellors who conducted the meetings with a marriage counsellor.
Divorce-associated professional	Someone whose primary profession is related to the divorce process, for example a lawyer, family court welfare officer, mediator or counsellor.

1 Setting the Context

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

The Family Law Act (1996), which received Royal Assent on 4 July 1996, has been described as one of the most radical and far-reaching reforms in family justice of the last century. It signifies a wholly different approach to the legal process of divorce. The Act acknowledges divorce as a process rather than a discrete event; it removes the concept of fault as evidence of irretrievable breakdown in a marriage; it introduces a period of time for reflection and consideration (as to whether the marriage is over, and on the consequences of dissolution); and it requires that all arrangements for the future, including matters of finance and property, are made before divorce can be granted.

The Family Law Act (FLA) contains a number of novel provisions, including mandatory information meetings. Under Part II, Section 8(2), 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. This Summary presents an overview of the Final Research Report.

Divorce Reform and the Family Law Act 1996

I consider we have 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.²

The social, legal and policy changes which influenced the development of the FLA can be seen as the backdrop against which information meetings and associated provisions have been enacted. Fewer people are getting married than at any time in the past 40 years, and of those who do, twice as many are divorcing.³ These trends have caused considerable social concern, motivating the previous government to put forward its proposals for divorce reform, in the firm belief that the current system does little to support marriages in trouble, or to minimise the risks, particularly to children, when couples split up. There exists at present a great deal of uncertainty about what role law should play in family relations. It is generally agreed that the law cannot create happy, stable marriages or sustain

¹ Bainham, A., 'Changing families and changing concepts – reforming the language of family law', *Child and Family Law Quarterly* 10 (1), pp. 1–15 (1998).

² The Lord Chancellor, Lord Mackay of Clashfern, *Looking to the Future: Mediation and the Ground for Divorce: The Government's Proposals*, Cm 2799 (1995), p. ix. Referred to subsequently as The White Paper.

³ *Family Change, A Guide to the Issues*, Family Policy Studies Centre (2000).

unhappy ones, but it is expected that it should create a framework and appropriate processes which buttress and support family relationships in a variety of ways.

The Family Law Bill 1995 was introduced in the House of Lords after a period of lengthy and considered public debate and consultation beginning with the Report of the Matrimonial Causes Procedure Committee in 1985⁴ and culminating in a White Paper ten years later.⁵ Debates about divorce have, for centuries, aroused strong feelings about the place of marriage in society, and debates during the passage of the Family Law Bill were no exception. Discussions about marriage and divorce always evoke emotionally-charged responses driven by religious beliefs, moral attitudes, and concerns that the 'social fabric of our society is unravelling'⁶ and that we are 'letting down our children and thereby placing a time-bomb under our society'.⁷ Debates contained many references to the signals that might be transmitted and the messages the legislation might send about the importance of marriage, and about respecting its dignity. Marriage, however, has become an intensely private institution, and privatised marriage is the hardest kind to help since couples are reluctant to disclose their problems and others are reluctant to intrude.⁸ This poses a dilemma, evident in our evaluation of those aspects of the FLA which focus on saving and supporting marriage.

Change, in all aspects of everyday life, presents challenges. Policymakers respond to these by trying to create some sense of order and continuity. This inevitably means that certain sets of values are reinforced and promoted. Strengthening families in order to support parenting has become a goal of successive government policies, and successive reforms in family law have emphasised the importance of parental responsibility. Although family-oriented political action is constantly changing as a result of policy formulation and changing constructions of family life, the challenge is to find an appropriate balance between intervention and interference in the private realm of the family, a matter given considerable profile within the context of human rights. During the passage of the Family Law Bill both Houses gave lengthy consideration to how family life might be preserved to the greatest possible extent, including following divorce. There was little dissent from the view that underlining the marital partnership as one which should be for life ought to be the primary objective of new legislation. Nevertheless, it was well understood that, in reality, not all marriages are sustainable, so the legislation had to provide remedies which would both support marriage and encourage a more conciliatory approach to divorce. These goals were subsequently spelt out in Part I of the Act. There was much agreement that in order to encourage a new approach to divorce, everyone contemplating ending their marriage should be well-informed about the consequences and about the services which can help them, including counselling and mediation. Mandatory attendance at an individual information meeting became the mechanism for delivering this information, although group sessions had been proposed in the Family Law Bill.

The FLA has been described as conceptually unusual,⁹ primarily because attending an information meeting is a procedure which must be gone through before legal proceedings to terminate a marriage can be commenced, and because of the emphasis within the legislation on counselling and mediation which, for the first time, would be publicly funded. As we have found over the last three years, although the objectives of Part I of the Act appear incontestable (saving marriages, promoting a conciliatory approach to divorce, reinforcing the importance of continuity in parenting, and providing protection from violence and abuse), it is not necessarily easy to bring them together within a single 'first step', that is, an information meeting which in an implemented system may have to be delivered

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

⁵ *op. cit.* (1995).

⁶ Lord Moran, Official Report (H.L.), 30 November 1995 at col. 763.

⁷ The Lord Bishop of Worcester, Official Report (H.C.), 30 November 1995 at col. 715.

⁸ Clulow, C., 'Marriage: a new Millennium?', in C. Clulow (ed.), *Women, Men and Marriage: Talks from the Tavistock Marital Studies Institute*, Sheldon Press (1995).

⁹ Cretney, S.M. and Masson, J.M., *Principles of Family Law* (6th edn), Sweet & Maxwell (1997).

to between 200,000 and 400,000 people every year. 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.

Establishing Pilots

I am heartened to learn that many flowers will be encouraged to bloom. Perhaps afterwards we can assess the results.¹⁰

Governments have long been in the business of providing, directly or indirectly, information designed to influence behaviour to citizens in general or to particular groups. However, the requirement set out in the FLA 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 there was no existing blueprint for the best way of communicating the information. Instead, lessons were to be derived from commissioned research which would investigate the extent to which innovative pilot 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. Describing attendance at an information meeting, the (then) 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.

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.¹¹

He made it clear that a variety of options were being considered and that these would need to be tested. 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;

¹⁰ Lord Archer of Sandwell, Official Report (H.L.), 21 January 1996 at col. 839.

¹¹ See Walker, J. and Hornick, J.P., *Communication in Marriage and Divorce*, BT Forum (1996).

- (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.

Aims and Objectives of the Pilots

The pilots were established to discern the most effective way of implementing the novel provisions contained within Part II of the FLA. 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 whether they could actually save marriages within the context of existing legislation. It had been recognised that the final form of the information meeting might not emerge until after implementation of Part II.

The pilot information meetings 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 – provide knowledge – which is necessary in order for parties to be able to make informed choices in relation to their own circumstances.

Location of the Pilots

In March 1997, the 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. 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 having at least 6,000 divorces per year, and exhibiting an urban–rural mix and including people from a range of cultural backgrounds (Figure 1.1). These 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.



Figure 1.1 The pilot study areas

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. In each pilot area, a Local Interdisciplinary Forum or an interdisciplinary support group was established to promote an understanding of the provisions of the FLA and encourage local professional support. A new National Interdisciplinary Forum provided a vehicle for organised feedback from the pilots, and promoted interdisciplinary co-operation, communication and understanding through the co-ordination of professional interests.

Developing Models for Information Provision

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.¹²

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 in the light of the research findings and policy considerations.

¹² The White Paper, *op. cit.*, para 7.21.

In order to steer a course between different professional interests and views concerning the purpose and actual delivery of information, and also to pursue the twin objectives of saving marriages while facilitating less conflictual ways of ending unsaveable ones, the Lord Chancellor's Department conceived the information meeting as structured, impersonal and routine. The pilots sought to test different models 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 aim of the pilots was not to establish the perfect model, but to ascertain the best that could be devised in readiness for implementation.

At the beginning of the pilots, the Lord Chancellor's Department made it clear that the information meeting was not counselling, not mediation, and not advice. Pilot personnel 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 the information to be conveyed. It was to be pure information, unsullied by any hint of preferable options. The aim was to promote informed choice for as large a proportion of the population as possible.

The Lord Chancellor's Department concluded that the information meeting should be supported by a range of leaflets covering in some depth the subjects listed in Section 8(9). The National Council for Family Proceedings co-ordinated the production, asking the key professional bodies (such as the Law Society, marital support agencies and mediation services) and leading experts to prepare leaflets relevant to their area of work or knowledge. The result was a series of leaflets with a common logo which were placed in coloured plastic folders within a plastic box. During some models of information meeting the attendee was guided through the leaflets. Included in each pack was a directory of local services prepared by the pilots, offering the various types of services referred to in the leaflets. At the end of every information meeting, the pack was given to the attendee to take away and keep.

The Models Tested

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.

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, containing some twenty-three leaflets sorted into sections, 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. This was intended to be a lecture-style presentation to a group of up to twenty people, during which two presenters would offer 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 Lord Chancellor's Department 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, the Lord Chancellor's Department decided to test a new model of information meeting, known as Model C, which might reflect the concerns expressed in Parliament about supporting marriage more closely. Model C consisted of a brief individual meeting for people contemplating divorce, before they have 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 the 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 may 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 focused more fully on 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 involving two presenters.

Model C also provided for information to be given in two stages, the timing of these being 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 then became involved in divorce proceedings they were invited to Stage 2 – the group presentation. People wishing to attend an information meeting who had already filed for divorce were allocated to 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 disadvantages of attending a group presentation remained important considerations, particularly if delivering the information in two tranches appeared more helpful than delivering all at one moment in time. Because Models B and C, in an implemented system, would assume attendance at an individual meeting prior to any attendance at a group presentation, we argued that we could not know how far people's experiences of the group presentation were being influenced by their 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. 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 in Spring 1998 introduced Model D.

Model D consisted of a group presentation, for up to 20 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 out at the end.

Model E

Later in the piloting period, the Lord Chancellor's 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 offer the attendee a level of flexibility so that they could access the information they considered most relevant. Models E and F focused on the provision of information via computer technology.

Model E was intended to replicate Model A, but using a CD-ROM instead of a presenter. A facilitator introduced the presentation to the attendee and assisted in the use of the CD-ROM, to a prescribed script. The meeting was expected to last about an hour, with the attendee(s) 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 run through. 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 in the same way as 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. The 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 disentangle the impact of attending an information meeting from that of receiving the information pack by comparing the data from people who attended different kinds of information meetings with those from people who received the information pack without attending a meeting. This was, then, a research device which we felt would provide useful data for policy purposes. 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. 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.¹³

He acknowledged that marriage counselling may make no difference in respect of some 95 per cent of divorces, but believed that saving a few marriages would have a beneficial effect on society. The offer of a meeting with a marriage counsellor became enshrined in the legislation (Section 8(6)(b)), although detailed work on the format of the meeting was left to the Lord Chancellor's Department in discussion with the marriage support organisations.

In February 1998, the Lord Chancellor's Department decided that it would test the provision of the meeting with a marriage counsellor, and that this should be evaluated as part of the research programme. Five marital agencies (Relate, Marriage Care, the Institute of Marital Studies (Tavistock), 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. Like information meetings, the meeting with a marriage counsellor was an innovation, but it was structured around a solution-focused model¹⁴ 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 Lord Chancellor's Department required marriage 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 about whether to divorce would be enabled to make a firm decision.

The meeting with a marriage counsellor was offered free of charge during the pilots, and attendees could choose to attend alone or with their spouse.

The Research Task

Action research's challenge is to define and meet standards of appropriate rigour without sacrificing relevance.¹⁵

The evaluation was commissioned and conceived to inform policymakers about the implementation of the FLA. In terms of the means–ends spectrum of policy, it was firmly in the area of means, of

¹³ Edward Leigh, MP (Gainsborough and Horncastle), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 136.

¹⁴ See de Shazer, S., *Keys to Solution in Brief Therapy*, Norton (1986).

¹⁵ 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).

providing answers to ‘how’ rather than to ‘whether’ questions. At the broadest level, there were two main priorities for the research programme:

1. To provide research data which could inform policy decisions so as to ensure that information meetings would be structured in such a way as to support the principles specified in Part I 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.

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. 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 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.

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. Evaluation research typically provides an account of the effectiveness of a programme. We adopted a model of evaluation which, through feedback, could inform and influence the future direction of information meetings. We were trying to assess different forms of provision of information under conditions which could never replicate those which would pertain under the FLA, but with people who would have been likely to access an information meeting if it had been a compulsory step on the road to divorce. 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 assessing the merits and demerits of the models in such a way as to provide regular feedback so that design improvements could be made at opportune moments during the study period (e.g. when a new pilot was launched). The evaluation results in empirically justified value judgements about the merits of the programme being evaluated. Evaluation of information meetings is inevitably politically contextualised, with an emphasis on pragmatism and the production of useful data. The methodological approach was diverse, employing a variety of quantitative and qualitative modes of enquiry. The methodologies chosen were consistent throughout the pilots.

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 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 of these elements we outlined a number of research objectives and associated research questions. These guided our work, and the knowledge gained from, and modifications made to, the pilots informed the research questions being addressed. Furthermore, we considered it essential that some issues should be given particular attention within the evaluation, principally those which aimed to support the principles defined in Part I. We formulated a number of hypotheses prior to commencing the evaluation. We believed that the earlier in the process of marriage breakdown people accessed an information meeting, the more likely it would be that the information would influence behaviour and provide the basis for decision-making. If it is intended that information meetings should result in changes in people's expectations about the experiences of the divorce process, it would seem reasonable to hypothesise that there may be greater take-up of both marital counselling and mediation services. 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 was extended after the Lord Chancellor 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.

Primary Data Sources

There were four primary data sources: information presenters and facilitators, those attending information meetings, staff in pilot sites, and professionals in pilot areas (Table 1.1). We describe the data collection processes in respect of the different models of information meeting, the postal pack study and the MWMC in the Annexe. 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 see them for ourselves. An important part of our methodology, therefore, consisted of non-participant observations during which we kept detailed field notes. During the evaluation we observed 215 individual information meetings and 55 group presentations, and 19 meetings with a marriage counsellor. Overall, 7,690 of the people who attended an information meeting took part in our research. During the course of the evaluation we conducted over 6,000 research interviews.

Table 1.1 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

Special Studies

During the pilots, we undertook a series of special studies in order to address a number of key issues pertinent to the implementation of Part II.

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. In the pilot study we were able 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, using a range of methodologies. Furthermore, a parenting plan was developed for use in the pilots and introduced part-way through the Model C pilots. It was included in the information provided at Models D and F group meetings, but was not included in the CD-ROM meetings.

Safety and domestic violence

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

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

Cultural variations and ethnicity

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 minority communities was undertaken in the Leicester and East Midlands pilot. We examined the following:

- definitions of ethnicity
- diversity of family forms relevant to information provision
- conflict of laws
- venues for information meetings
- selection and training of presenters in respect of ethnic diversity and understanding

- cultural appropriateness of information as specified under the FLA
- style and mode of information delivery
- cultural appropriateness of the meeting with the marriage counsellor, and parenting plans

Prisoners

During the pilots we set out to establish whether information meetings could be provided within prison establishments. Permission was obtained for pilots to offer information meetings in a number of different penal establishments in the North East, East Anglia, Solent and the Isle of Wight, Merseyside, and Leicester and the East Midlands pilots. We obtained feedback from prisoners, prison officers and other staff working in prisons.

Gender

We were mindful of the extent to which legislative processes and policy reforms are gendered in terms of their conceptual framework and implementation. Work on gender has permeated our research design and our analyses in an implicit rather than an explicit way throughout the 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, relatively few unmarried parents attended an information meeting.

Spatial 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 that 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 this 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?

During our study, supplementary questions turned on the comparison between the level of accessibility 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 weight on the use of marriage support and/or mediation services needs to take account of the variation across England and Wales in the level of accessibility of those services. An additional component in the modelling exercise was to map and profile the pilots and their areas. We have developed a customised information system for the Lord Chancellor's Department and have advised on the location of information meetings for an implemented system.

The Costs of Providing Information Meetings

Throughout the parliamentary debates on the Family Law Bill questions were raised about the costs of providing information meetings, and the anticipated sources of funding. The purpose of the costs study 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. A preliminary report relating to Models A and B was submitted to the Department in December 1998. Similar calculations have been 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, and a separate summary. It is referred to here in Sections 2 and 3.

Developing a Conceptual Framework

In designing an appropriate research programme to meet the research objectives, the research team did not set out with any predetermined views about how Part II of the FLA might best be implemented, nor with any preconceptions about the findings that might emerge from the various pilots.

Information is commonly regarded as a social good, but it is important to ask whether the need for knowledge is spread (more or less) equally across the topics prescribed in the FLA. It is understandable that, as a fairly recent innovation in alternative dispute resolution, mediation 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. Via the rich qualitative data that we obtained from extensive interviews with attendees, we identified three conditions of ignorance, each of which relates to a specific group of attendees so far as the self-attribution of ignorance and interests is concerned. The people attending information meetings in the pilots tended to fall into one of three categories at the time of attending:

1. Those who did not know what to do.
2. Those who did not know how to proceed.
3. Those who did not know how to deal with specific issues.

Not knowing what to do about a marriage that is in trouble

My husband had left me and I was seven months pregnant. So I was emotionally quite upset and very distressed really. We'd been married for nearly eight years. All of a sudden your husband decides he wants a divorce – my God, what do I do now? At first you just sit and cry, don't really talk to anybody, but bottle it up. Then I thought I needed to talk to someone about it. (F)

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 of legal process which has now come to have significance for them. That their marriage was breaking down may have been a relatively recent realisation, and consequently they do not know what to do about it. Alternatively, the marriage may have been difficult for a while, but the attendee may not have 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 mixture of support, advice, counselling and guidance. Information provision needs to take account of this rather 'helpless' or 'directionless' stage.

Not knowing how to proceed with divorce

I have actually separated. I have no clue about how to get a divorce. I wanted more information about the process. (F)

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 they should take seemed unclear or uncertain, those in this second group were looking for information about how to manage the divorce process, the options available, and the best way forward, and to know what would be fair, legal and appropriate.

Not knowing how to deal with specific issues

I wanted information about issues to do with children – independent and objective. Advice on the likely effect [of divorce] on the children and ways to lessen the damage. (M)

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 finances, 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 solutions 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 restricted in the choices they could make about the steps to take. They were 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, they have provided a helpful framework for understanding attendees' needs and for making sense of their reactions and responses to the information meeting. 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 impact of information provision. This is a theme to which we return on numerous occasions throughout our final report.

Information Meeting Applicants and Attendees

Human knowledge is personal and responsible, an unending adventure at the edge of uncertainty.¹⁶

During the pilot programme, 9,900 married people applied to attend an information meeting, and 7,863 actually attended one. As Table 1.2 shows, of these, 5,553 attended an individual meeting only, 1,879 went to a group meeting and 431 people attended both an individual meeting and a group meeting (mostly 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, this was not always made clear to attendees, with the result that the majority of attendees did not go on to the group meeting. A total of 1,937 people attended the first part of Model B and only 399 attended both parts. With regard to 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 meeting 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 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 across all the pilots were accompanying a spouse who had made the appointment to attend an information meeting.

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, and this information seems to have had an impact on whether they would attend. They were most likely to opt out 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 those who were told that they would be attending a face-to-face meeting with an individual presenter. People clearly preferred a face-to-face meeting to a group presentation or one at which they would be required to use a computer.

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

The pilots covered a wide geographic area containing urban and rural populations. The sample of attendees, which is a large one, provided a broad representation of these populations, including people from all socio-economic and most ethnic groups. Attendees tended to be older than members of the divorcing population, in marriages of longer duration, and more likely to have dependent children. The sample contained some bias in favour of non-manual occupational categories, but a substantial number of people in manual occupations did attend. Five per cent of attendees indicated that they were members of an ethnic minority, which is not very different from the proportion of ethnic minorities in the general population. Particular efforts were made in one pilot to increase the throughput of people from ethnic minorities, but this was not particularly successful.

¹⁶ Bronowski, J., *The Ascent of Man*, BBC (1973).

Table 1.2 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.

The majority (83%) of attendees had children from their current marriage, and 9 per cent had children from their previous relationships. Some of these children were over 18, and indeed one offspring of an attendee was over 50. As Figure 1.2 shows, 74 per cent of the parents who attended an information meeting had children under 18.

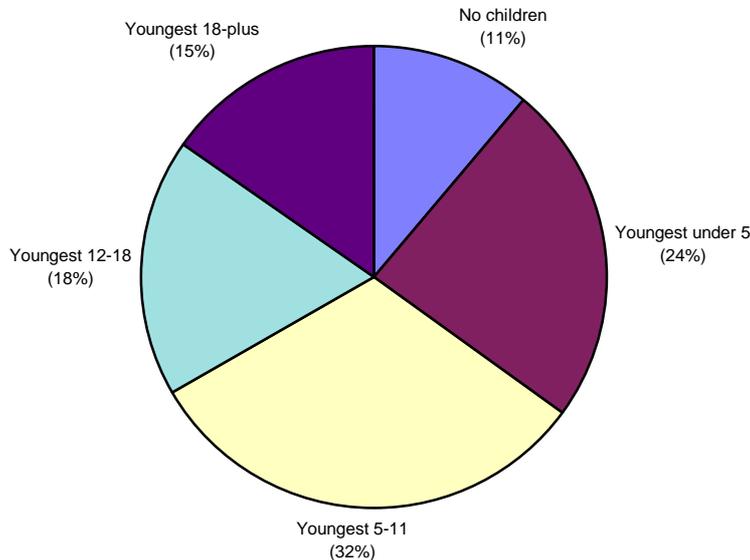


Figure 1.2 Family composition by age of youngest child (N = 7,793)

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

The ages of attendees ranged from 20 to 87. It seems from the distribution, however, that younger people (under 35) whose marriages faced difficulty were less inclined than those aged between 35 and 55 to seek information before proceeding with divorce. Younger people, of course, are less likely to have children. Inevitably, duration of marriage correlates with age.

Generalising from the Research

... 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.¹⁷

If Part II of the FLA is implemented, attendance at an information meeting will be mandatory for everyone who wishes to make an application for divorce, except those who are exempt. 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.

¹⁷ Lord Archer of Sandwell, Official Report (H.L.), 22 February 1996 at col. 1182.

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. We would ideally 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. We were charged with testing what was intended to be a mandatory provision using a sample of volunteers. Although such problems are common in social research, and are often faced in the field of psychology,¹⁸ and in the conduct of clinical trials in medicine,¹⁹ 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. The use of volunteers to evaluate what will be a statutory provision is clearly problematic, but whereas much research merely acknowledges the problems, we have continued to address them openly.

We feel confident that most of those who attended an information meeting would have done so if the FLA had been implemented and attendance at a meeting had been required for all those intending to make an application for divorce. Since we were dependent on volunteers, however, there has been a risk of selection bias. To test this probability we have compared our results, based on the research data, with results from data weighted to match the divorcing population in terms of either levels of social deprivation or of gender, age at marriage, marriage duration and presence of children. Since both sets of weighted results were remarkably similar to those we obtained without weighting, we believe that our in-depth, multi-method approach to evaluation, which employs both quantitative and qualitative data, has been sufficiently robust for us to be confident about how the various models will be experienced by users, and about the 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 decision-making to be far more evidence-based than was possible in advance of the pilot programme. 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.

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, questions about whether information changes behaviour have predominated. 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 new model, we would be considerably more reticent about using the findings to assert exactly how implementation of the FLA might affect divorcing behaviour. We are able to engage in informed speculation about this issue, and we would contend that such speculation, which is made on the basis of the experiences of users and providers of information meetings, is of considerable value for the process of making decisions about whether or how to implement Part II of the FLA.

¹⁸ 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.

¹⁹ 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.

2 Evaluating Models for the Provision of Information

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.¹

The models of information meeting tested in the pilots 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 meetings based on the delivery of information via CD-ROM introduced by a facilitator. Later in the piloting period, we undertook the postal pack study.

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.

Individual Information Meetings

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)

I expected it to be more personal and I expected it to go into areas I wanted to talk about. (F)

In total, 4,028 people attended a face-to-face information meeting with a presenter: 38 per cent attended a Model A meeting, 48 per cent attended a Model B meeting, and 14 per cent attended a Model C meeting. There were 106 individual meeting presenters.

Attendees' first impressions of the information meeting were overwhelmingly positive. Exit questionnaires reveal that only one per cent of attendees said they had not found the meeting useful in some way. User satisfaction was higher for individual face-to-face meetings than for either group or CD-ROM presentations. Attendees at Model C meetings which focused on establishing whether the marriage was over were less likely to find the meeting helpful than either Model A or B attendees. There was no optimum length of individual meeting beyond which user satisfaction declined. The longer the meeting, the more satisfied the attendees were.

Relevance and Timing

Relevance and timing emerge as key factors in the evaluation of all the models: the focus in Model C on marriage support was perceived by many attendees to be too late to save the marriage. One attendee put it like this:

We are separated and not going to save the marriage. It's over. (F)

¹ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 22 February 1996 at cols. 1184, 1185.

The meeting was clearly more relevant for those in the early stages of marriage breakdown, particularly those who had not yet separated. The evaluation has revealed a consistent tension between presenting, within the context of the same meeting, information about marriage saving and presenting information about how to handle a divorce. Attendees' expectations of the meeting were not always realised: people expected a one-to-one meeting to be more personally tailored to their individual needs. Both presenters and attendees were frustrated by the rigidity of the meetings. The disappointment presenters expressed at not having the kind of interaction with attendees that they 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 comment demonstrates what presenters felt to be difficult:

In keeping to the script I have felt oppressive by ranting on about counselling when someone has clearly been in a violent relationships for ten years, or when they have come to the meeting with a new partner of nine years' duration, etc.

Presenters 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. A sizeable minority of presenters attempted to be responsive, tailoring the information to reflect their perceptions of the attendees' concerns and thereby risking omitting sections of the information which should have been delivered.

Different Expectations

People had attended an information meeting with a range of different expectations. Some expected to get information that was relevant to their circumstances; others went with specific questions to which they needed answers. Many thought that the information was too basic and general, and had expected to get information which covered the issues in a little more depth. So, for example, attendees told us:

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 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, this 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)

To be bombarded with information was nevertheless exactly what some attendees were wanting. The distinction between providing information and giving advice was unclear. Presenters frequently refrained from answering any questions for fear of 'giving advice'. Although all presenters encountered questions which undoubtedly did require specialist advice, many questions related to specialist areas, and were, in fact, of a largely procedural nature. For example:

Don't I need to be referred from a GP [to marriage counselling]?

There is no doubt that, in an implemented system, presenters would need better guidelines and better training so as to be able to answer questions which do not require the provision of legal advice.

Acting on the Information

We found that there was no difference in the actions attendees took after attending an information meeting on the basis of the model of information delivery. Although Model C attendees had indicated

that they were more likely to use marriage support services, there was no difference between models regarding the numbers who actually used them. Willingness did not necessarily translate into action. 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. 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 arrangements about the division of assets and about 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. We have to conclude that the direct impact of the information meetings in terms of subsequent behaviour was limited. In the majority of cases, only one spouse received information from an information meeting. It is difficult to foresee the meeting impacting upon a relationship, for example, when only one person has acquired the knowledge with which to exercise choice. Looking back, one attendee noted:

I felt 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)

The key finding from our evaluation of the individual information meetings is that it is unrealistic to expect that one all-encompassing, one-size-fits-all meeting will achieve all the objectives of the FLA. The need to disentangle the provision of general information, the offering of emotional support, listening, meeting specific information needs and professional advice continues to beset information meetings, which are based on one human being attending a meeting with another. In our view, the problem could be alleviated by tailoring the relevant information, and possibly by providing information that is most needed and most relevant. Even then, however, there can be no guarantee that information will have a significant impact on the routes people choose to take through the divorce process.

The Cost of Providing Information 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.² These data included start-up costs, staff costs, the costs of accommodation and equipment, communication costs and experimental costs. These latter were connected with the experimental nature of the pilot scheme, and would not be incurred in national implementation.

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 £29.7 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 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.

² The LCD decided not to commission analysis of the costs involved in providing Models C, E and F.

Receiving Information in a Group

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)

Four different models of group presentation were tested, three of which formed the second part of a more structured two-stage process. In practice, the differences between the structure and content of the group meetings were minimal. A total of 311 group presentations were conducted during the pilot programme, involving 2,310 attendees. Attendance was variable, with only three meetings attended by as many as 20 people.

Conveying Information via a Video

Group presentations were received positively, but did not offer the same levels of consumer satisfaction as individual meetings. 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. Conveying this information via a video was regarded as particularly helpful, especially by parents of young children. Group presentations seemed to be more effective than individual meetings in conveying information about mediation, although there was no discernible difference in the take-up rate for mediation (nor, indeed, in that for other services). The second – supposedly improved – video was less well-received than the first. We doubt whether either of the videos used would be suitable for an implemented system, but new videos could be made, developed on the basis of the findings from the pilots.

Meeting Different Needs

The group presentations failed to meet the needs of certain types of attendee. People with no children or with only adult children found much of the information irrelevant. They felt that the meeting focused too much on children. On the other hand, unmarried parents with children complained about the extent of the focus on divorce. Some attendees suggested that there should be either separate presentations for parents or separate presentations for divorcing people. We note that it proved difficult to attract non-married parents to group presentations, and the opt-out rate was also higher.

Although some people who attended a group presentation indicated that they derived comfort from being in the presence of others with similar problems to their own, others described feeling distinctly uncomfortable, but this may have been heightened by the fact that some groups had very low attendance and could hardly be called groups at all. We note that the non-attendance rate was higher for group presentations than for individual meetings. Group presentations were more likely to be appreciated by parents than by those without dependent children.

Most people who attended a group presentation after having received an invitation from the court where they or their spouse had filed for divorce felt that they were too far down the road to divorce to benefit from an information meeting of the kind tested. The following remark is typical of many:

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)

Presentation Skills

Presenters from divorce-associated backgrounds were no more competent than others in delivering the information to a group of people. Presentation skills were a more important attribute than experience as a lawyer, mediator or court welfare officer. Regrettably, many of the group presenters who were observed in action tended not to have particularly good presentation skills, and presentations could be extraordinarily dull and prosaic. As in the individual meetings, presenters seem reluctant to answer even the most general questions, and on occasion did not even provide attendees with an opportunity to ask any.

Receiving Information by CD-ROM

You can just sit there with you eyes on the screen and just absorb the information. (F)

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)

During the pilots, information meetings were subject to experiment with new technologies. Two models tested provided information through a CD-ROM. A total of 2,438 people booked into a CD-ROM meeting, of whom 1,956 kept their appointment. The CD-ROM-based models were not as well received as face-to-face interviews, but most of those who used them thought they were useful, and a good way of providing information. Although there were initial concerns in the pilots about the appropriateness of computer-based systems for certain types of attendee (e.g. older people, people from lower socio-economic groups or people who had never used a computer) few people reported real difficulties, and the fears were unfounded.

Pros and Cons

Some people appreciated the anonymity of sitting in front of a computer, and 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 or for reflection. The following comments are typical of many we received:

I had never gone near a computer in my life, but my fears were soon dispelled. (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)

It was more comfortable with the CD-ROM, as you can go at your own pace, and take everything on board – repeating and clarifying. (M)

The CD-ROM was helpful in providing basic information, but there were questions as to whether the information provided went far enough. It was felt that the CD-ROM program could have provided more than basic information and have given users more opportunity for interaction and/or asking of questions. Attendees complained about having to run sections that they felt were not relevant to them:

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)

They also complained about the impersonal nature of the meetings, and about the fact that questions or requests for advice did not get appropriate responses. Facilitators, like presenters, tended to respond to most questions by suggesting to the attendee that they consult a solicitor.

Assessing Relevance

Like Model C, Model F was targeted on marriage support, and again was less relevant for people who were convinced that their marriage was over. 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. A third of those who answered them did not find the exercise helpful.

Although the CD-ROM meetings were regarded as complying with the requirements of the FLA, we question whether a meeting is necessary to view a CD-ROM. 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 were appropriate numbers of people with both sufficient knowledge of computing and access to a home computer to have rendered this worthwhile.

Although the actual CD-ROMs used in the pilots do not provide a blueprint for an implemented system, using technology to convey information is an approach with unlimited possibilities, although one that will not be suitable for everyone. It seems that, on the whole, attendees thought that a CD-ROM was a better means of reviewing information than just getting written material, but not as helpful as having a one-to-one meeting. It was occasionally problematic for attendees who went to the meeting with their spouse, and the research suggests that CD-ROMs are more suited to use by an individual than to use by a couple, at least in the environment of a meeting. Although we would suggest that it may be better to offer CD-ROMs as supplementary material to people for use at home, the CD-ROM could be a cost-effective mode of information delivery since it provides the potential, as one facilitator put it,

to house three or four separate booths to retain customer privacy. One facilitator could then manage to run multiple meetings.

Receiving Information by Post

It clarified things we were not sure of. For instance, whether we needed a solicitor and how to get information. 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)

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 was sometimes difficult to know whether the impacts they described related to their experience of attending and/or to their being given extensive information to take away. During the postal pack study, 1,468 applications for information packs were received by the call centre located at the Greater Manchester pilot. Postal pack applicants were similar in terms of their personal characteristics to those who applied to attend an information meeting.

Sixty-two per cent of the 552 people we interviewed who had received a postal pack indicated that they had been seeking specific information, most commonly about the legal process of divorce. Others

were wanting information about financial matters, and about children (including contact, residence and child support issues). The findings show that the information pack tended to be most helpful to people who had not previously consulted a solicitor or a counselling service.

Changing Behaviour

All the postal pack applicants were sent an invitation to a meeting with a marriage counsellor, but only 3 per cent took up the offer. Receiving information by post had significantly less impact in respect of the MWMC than the least effective individual meeting (Model E CD-ROM). Furthermore, significantly fewer postal pack applicants than information meeting attendees used mediation. In the absence of other means of reinforcing messages – such as an information meeting – there must be doubts as to how much impact the leaflets would have on those who read them. Although some people who received the pack commented that the information had helped them to feel more in control of events, there is evidence to suggest that reading the information does not significantly change what people do. There were indications, nevertheless, that the information pack had helped those who received it to find their way through the divorce process or to make decisions about what to do, as the following remark indicates:

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)

Limitations

The postal pack proved to be a useful but limited way of providing information. It is clearly a relatively cheap, quick and practical means for disseminating information, but it has serious limitations. Information packs could be made available for both parties relatively easily, but there is no way of knowing how many would actually read them. We suspect that many people would be unable to do so, given that one in six British adults is unable to read well enough to cope with such simple tasks as reading a bus timetable or a menu.

Concerns were expressed about the overwhelming bulk of written information, and there were suggestions that the leaflets tended to be complex and over-detailed. We would question the extent to which providing written information alone can achieve the objectives of the FLA, particularly in respect of encouraging people to stop and think about saving their marriage, or encouraging them to consider the use of mediation. The information pack is probably of most use to those who have decided to divorce and are looking for general information about the process.

Understanding Impact

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 the break. In a sense it's reassuring because you've taken that step; you've made a positive decision to investigate ... that's helpful when you are in a turmoil. (F)

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 [stay married]. I have absolutely no regrets – I would recommend anyone going. (M)

Over the course of the research, increasing attention had been paid to the impact and outcomes of information meetings. These have included outcomes such as encouraging people to consider marriage counselling in order to save marriages, and bringing about the increased use of mediation services. As a result of our conducting over 5,000 telephone interviews with information meeting attendees it became apparent to us that, for some, the information meeting had little if any impact on what actions they took subsequently, and did not influence them in any particular way. For others, however, the experience of having attended an information meeting had impacted in a variety of more subtle ways which attendees themselves felt to be significant.

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 had already embarked; 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 would be best for their children, how to avoid the detrimental 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.

Policymakers anticipating the impact of information meetings may have underestimated the existence of factors such as the state of mind of the attendee, the stage they had reached in the breakdown of their marriage, 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 which will invariably influence how the information meeting is valued and the subsequent actions which are taken. We would caution against making a simple link 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 divorce.

Valuing the Meeting, the Information, or Both

Although attendees occasionally described the information meeting as having had a massive impact on them or as being a watershed in their lives, for most, the information meeting was but a stopping-off point along the road to separation and divorce. Nevertheless, going to the information meeting was a big step for some people:

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)

Because separation and divorce often constituted a momentous experience, the messages given at information meetings had to be fitted into complex lives. Information meetings were converted to the use that individual participants cared to make of them. Some valued attendance for what it symbolised; others described how attendance had enabled them to feel more in control; others again 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.

The overwhelming majority (90%) of attendees were glad that they had gone to an information meeting, for a variety of reasons: it had been generally helpful and they had gained some new information at the meeting; it had had a positive effect on the way they were feeling and had made them more confident; it had reassured them in some way; and it had helped them to look at things differently:

It broadened my horizons really. I never thought it was going to be so complicated really. I thought it [divorce] was just going to be sign on paper and it's over and done with. (M)

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)

The few who were not glad they had gone to the meeting commented that they had learned nothing new or had not had their questions answered. What is apparent is the lack 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 would appear that the information meeting was not particularly effective in marshalling individuals along particular pathways. Nevertheless, attendees were not concerned only with pathways, but also with motivations, their feelings and thoughts, and the need for information that accomplished a wide range of purposes. The information meeting could provide the opportunity for attendees 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 to take time to stop and think about whether the relationship might be revitalised:

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. (F)

We would suggest that these impacts are positive.

3 Supporting and Saving Marriage

At the end of the day, a relatively small proportion of marriages – perhaps one in 20 – might be saved as a result of the intervention of a counsellor. The number might be less than that – we do not know ...¹

Although many hours of parliamentary debate were devoted to the need for the new legislation to do as much as possible to save marriage, 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 on providing information about and access to marital counselling. All the models of information meeting involved the provision of such information. Model C focused specifically on exploring with the attendee whether the marriage was 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 and were likely to include unmarried parents as well. Both CD-ROMs covered marriage support, with Model F providing the same focus as Model C. In addition, the meeting with a marriage counsellor was piloted in eight information meeting pilot areas and through the postal pack special study.

Saving Marriage: The Impact of Information Meetings

We had marriage counselling beforehand and gave up because it wasn't working. By the time I went to an information meeting, I was trying to initiate divorce, not salvage the marriage. So circumstances didn't allow me to consider counselling. (M)

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 talk to my wife. I was just desperate to get help, but my wife wasn't willing to talk. (M)

Our evaluation devoted attention to the questions of whether information increased knowledge about marriage support and the increased 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. More than half (55%) 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. Our telephone interviews revealed that many others had attended counselling more than a year before they applied to attend an information meeting, indicating how dealing with marital problems and ending a marriage can be a long-drawn-out process during which a range of different kinds of help might be sought.

Going to Counselling

Information about marriage support had little impact on people who had been to marriage counselling in advance of attending an information meeting. Moreover, there was no evidence that any of the models of information meeting were more effective than others in 'diverting' people to marriage counselling. It seems that counselling is more likely to be seen as an option by those who have not yet separated. Spouses living at the same address when they attended an information meeting were twice as likely as those living apart to have gone to counselling afterwards. When we conducted our time-slice survey in January 2000, 23 per cent of research respondents (N = 701) had been to counselling

¹ Mr Paul Boateng MP (Brent, South), Official Report (H.C. Standing Committee E), 7 May 1996 at col. 128.

since having attended the information meeting. Ten per cent of these people indicated that the information meeting had ‘very much’ influenced their decision to do so.

Not all of those who went to counselling did so with the hope of saving their marriage, however. As Figure 3.1 shows, men were more likely than women to go with that objective but were less likely than women to have achieved their objective. 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.

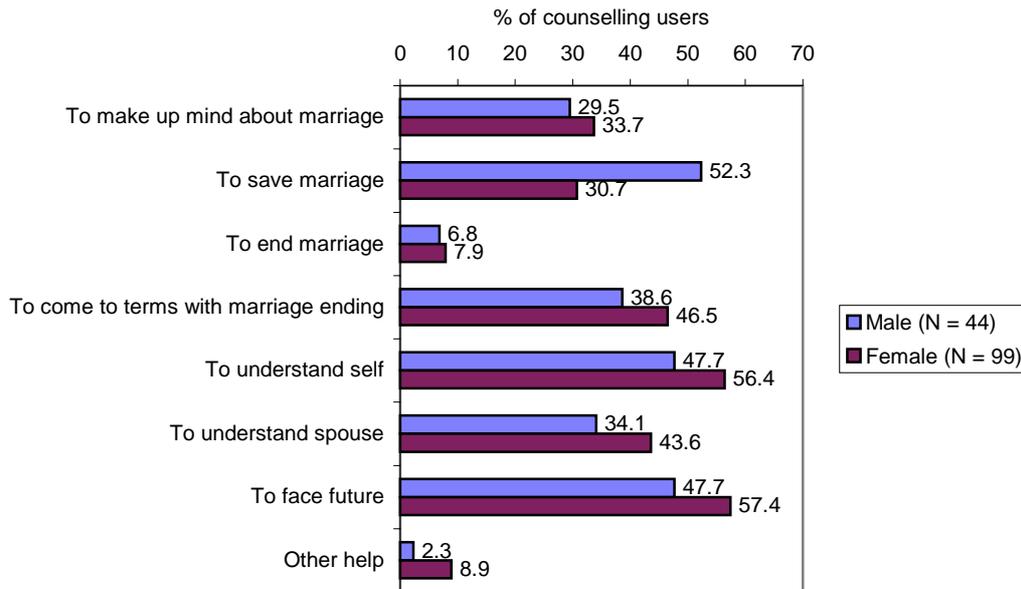


Figure 3.1 Reasons attendees gave for going to counselling

The Importance of Early Intervention

Almost half of those who went to counselling attended alone, primarily, it seems, because their partner was unwilling to participate. The evidence suggests that counselling which follows an information meeting is of limited success in saving marriages, and that the predictions of 5 per cent suggested in Parliament during the passage of the Family Law Act would seem to be a realistic target. By the time most people went to an information meeting it was too late for them to save their marriage. If the objective of providing information is to facilitate marriage saving, the evidence suggests that it will be more effective if it is provided while spouses are still together and before they make the decision to live apart. How to achieve this, however, is a question with which marriage support agencies have wrestled since their inception. Although relatively few attendees at information meetings subsequently saved their marriage through counselling, there is evidence that counselling helped people to cope with the ending of their marriage.

Meeting with a Marriage Counsellor

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)

Thirty-five counsellors from six marriage agencies were trained to deliver the meeting with a marriage counsellor (MWMC). During the pilots, a total of 4,811 people, of whom 4,281 had not started divorce proceedings, received an invitation to attend a MWMC (3,465 invitations were given out at information meetings, and 1,346 were sent with the postal packs). The offer was taken up by 445 people, 26 per cent of whom were accompanied by their spouse, and consequently the number of people who attended a MWMC was 561. Women were more than twice as likely as men to attend alone.

The average take-up of the MWMC by people who had attended an information meeting was 12 per cent, although the models which focused on marriage saving (Models C and F) had higher take-up rates (17% and 16% respectively). This may have been because these information meetings focused on marriage support or because they were relatively short in duration and attendees went on to the MWMC to get more information and have their questions addressed. The take-up rate from group presentations was lower, primarily, we suspect, because many attendees had embarked on the divorce process already. Three-quarters of MWMC attendees said they were glad they had gone, but nearly half indicated that it would have been more beneficial if they had gone sooner.

The Decision To Attend a MWMC

Just under half of those who attended a MWMC went with the intention of saving their marriage (Figure 3.2).

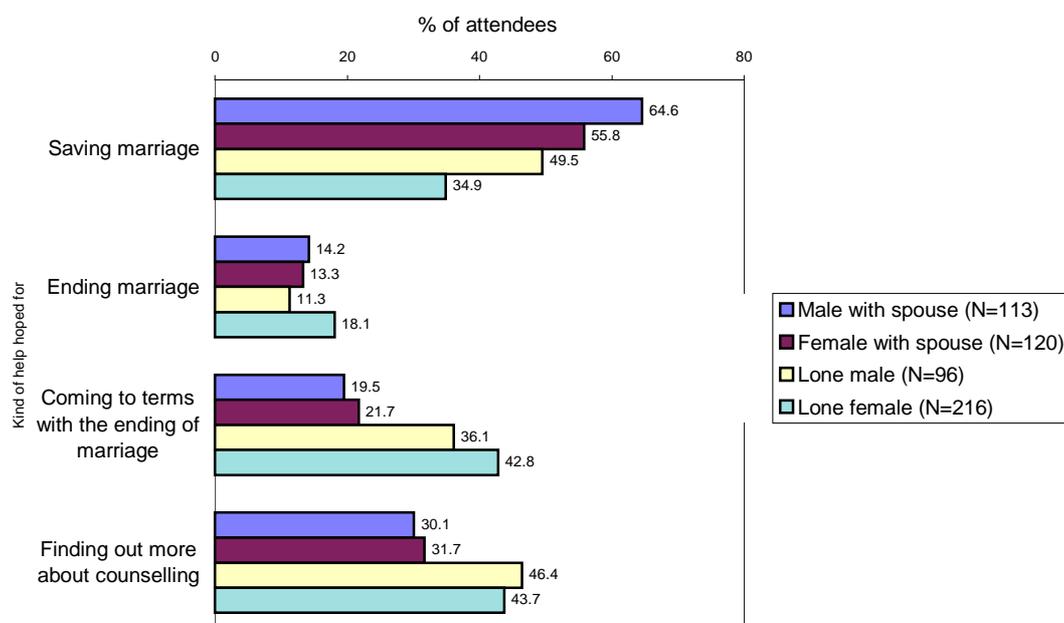


Figure 3.2 Attendees' reasons for going to a meeting with a marriage counsellor by gender and type of attendee

People who attended with a partner were more likely than those who attended alone to want to save the marriage. Others went to the MWMC with a variety of agendas: to solve their problems; to try to gain peace of mind; to get help in making decisions about how to proceed; to get help with talking to children; or to avoid future marriages ending in divorce.

The majority of people were positive about the MWMC, believing that it had helped them to move on and clarify the next steps:

It has really helped me to communicate. I give my marriage [a] fifty-fifty chance of surviving now – instead of no chance before. (F)

It was absolutely one hundred per cent perfect. I made an appointment with a solicitor two days later so we can start legal proceedings. (M)

Taking Up Counselling

Just under half of those who went to a MWMC made an appointment for counselling afterwards. Of those who did go to counselling, 72 per cent indicated that it had helped them to gain a better understanding of their relationship, but only 19 per cent said that it had helped them to save their relationship. The following are typical of the views expressed by attendees:

The marriage counselling session 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 his own. We would not have gone for any counselling without this session [the MWMC]. (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)

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 ... (F)

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)

Measuring Outcomes

Clulow has suggested that 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.²

As Figure 3.3 shows, 19 per cent of those who attended counselling after going to a MWMC indicated that it had helped them to save their marriage. 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 partners and their relationship, and can help to minimise the impact of divorce on children. The multi-purpose approach of relationship counselling makes it difficult to evaluate effectiveness on a single measure such as saving marriages. There was no evidence to suggest that those who went to counselling had a better-quality relationship with their spouse than those who had no counselling contact beyond the MWMC, irrespective of whether they went to counselling alone or with their spouse.

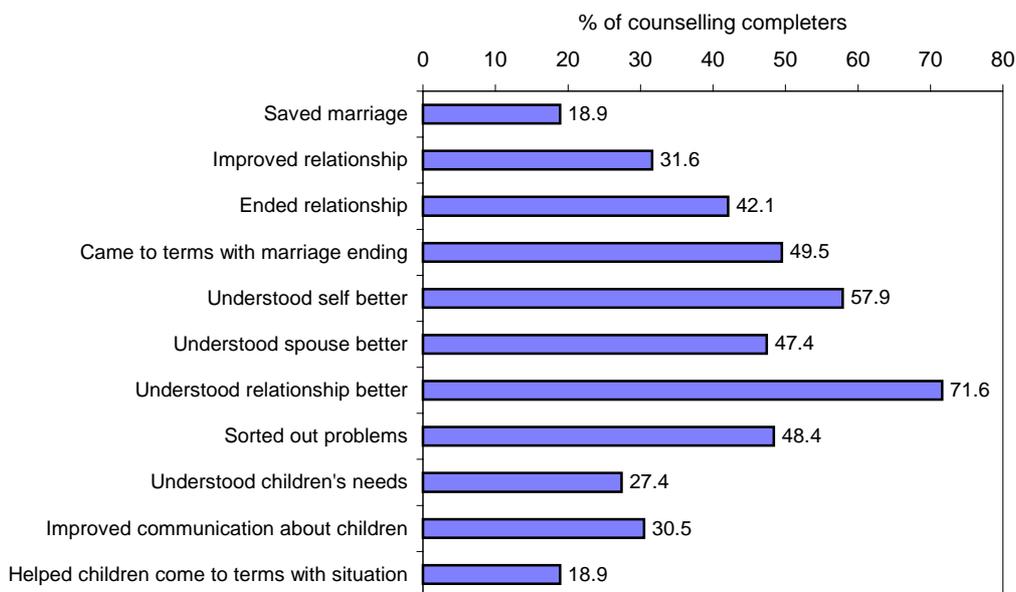


Figure 3.3 Counselling outcomes (N = 95)

The MWMC seemed to be particularly helpful for those who were uncertain about their marriage and attended an information meeting not knowing where to turn, and for those who were certain either that they wanted to save their marriage or that they did not want their marriage to end. Some attendees felt that the one-off intervention of this meeting was enough to help them to work on their marriage without the need for further counselling. Others saw the meeting as a gateway to the counselling process as it dispelled preconceived ideas about counselling and enabled them to view it as a positive intervention in helping to restore their marriage. As a result of the improved communication they had

² 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.

gained through having attended a MWMC, some people were able to work through difficulties with their spouse and, in so doing, were able to slow down the decision-making process and reflect on whether they could in fact save their marriage.

Devising and Delivering the MWMC

Six agencies participated in the delivery of the MWMC: the African-Caribbean Family Mediation Service, the Asian Family Counselling Service, the Jewish Marriage Council, London Marriage Guidance Council, Marriage Care and Relate. They greatly appreciated the opportunity it provided for inter-agency co-operation. Counsellors and their supervisors were extremely positive about the new service. In their view the MWMC offered attendees the opportunity to be heard (telling one's story is an important activity and one which the information meeting discouraged), and to talk about the ending of the marriage. It also provided an alternative, and perhaps more accessible, route into counselling, legitimising the need to contact a counselling agency. For some, it signalled the last chance to try to save the marriage; others were motivated by the safety and privacy of the meeting.

The solution-focused approach enabled constructive work to be done in a relatively short meeting, but was more useful if both partners attended together. There was support from all the agencies for the MWMC to continue as an option for people facing marriage breakdown, but one which should not necessarily be tied to the divorce process.

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 would attend a MWMC under those circumstances.

The Provision of Information and the Prevention of Marriage Breakdown

The particular lady [a counsellor] 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)

The research has highlighted confusions surrounding the terms marriage saving, marriage support and marriage counselling. They are clearly not the same thing. The trend towards broadening the remit of marriage counselling from marriage saving to personal problem solving has served to confuse the issue of why people who define themselves as having a marital problem should go to counselling. 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 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 help to come to terms with the fact that their marriage was over.

Marriage counselling is marketed and used as a means of ending relationships as well as of saving them. Nevertheless, the Lord Chancellor made it clear during parliamentary debate that the function of

³ Dolton, P. and Horan, N., *An Analysis of the Cost of Information Meetings* (2000).

marriage counselling, so far as the FLA is concerned, is specifically related to marriage saving.⁴ 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? Some attendees were still in their marriage many months after attending an information meeting, but described themselves as unhappy.

Improving Relationships

There may be a case for shifting the emphasis of information provision from marriage saving to one that focuses on improving the quality of the relationship between husbands and wives, irrespective of whether they continue to live together. This would seem also to be a more appropriate agenda for the existing marriage support agencies, and it is particularly important with respect to parents who are contemplating divorce. One of the objectives of the FLA is that people who divorce when they have dependent children should continue to be responsible parents. Responsible parenting demands a considerable degree of parental co-operation. The evidence from our evaluation suggests that counselling can assist people through the process of ending a marriage and coming to terms with divorce. Most of those who used it claimed that it had increased their self-understanding and had helped them develop a better understanding of their relationship. There is a case, it seems, for promoting objectives that go beyond marriage saving. Some of these are consistent with another of the principles underlying the FLA, which is to bring marriages to an end with minimum distress.

If the emphasis is to be on saving marriages, however, one might suggest that the 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 spouses who are prepared to attend together. This would mean that those who wanted to engage with personal counselling would be free to do so through the normal channels. It may suggest that different approaches to counselling will be required.

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 had not made up their mind about whether to divorce. Certainly, we would recommend that an attendee at an information meeting who is wanting to save the marriage, or is uncertain about whether it can be saved, should be encouraged to attend a MWMC as quickly as possible before the marital situation deteriorates and/or irreversible decisions are taken.

The Timing of Interventions

We conclude from our evaluation that the fact that attendance at an information meeting in the pilots has led to only a small number of marriages being 'saved' might, in our view, be due to information not coming sufficiently early in the separation process. If the information meeting is seen as the first step in the process of getting a divorce, it seems unlikely that it will do much to affect reconciliation. Unless people can be encouraged to access information about marriage support services earlier, when marriages first get into difficulty, the focus on saving marriages in the information meetings will be relevant to relatively few. There is evidence that the information meeting tended to tip those who were

⁴ Lord Irvine of Lairg, Official Report (H.L.), 27 June 1996 at col. 1061.

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.⁵ If attendees do want to proceed into counselling to save the marriage, however, counselling agencies will need to think about how to avoid the delays which deterred some from going further. Waiting lists were mentioned by many people who wanted counselling but found that the delays meant that their situation deteriorated beyond the point where marital counselling might have helped.

⁵ McCarthy, P., Walker, J. and Hooper, D., 'Saving marriage: a role for divorce law?', *Family Law*, vol. 30 (June 2000), pp. 412–16.

4 Promoting Conciliatory Divorce

In these important respects, namely, the reduction of conflict and improvement of communication, mediation has shown to be most effective ... I believe that mediation has enormous potential in appropriate cases ...¹

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 a minimum the financial costs to the parties and to the public purse. Instead of encouraging a process which is 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 lawyers 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, but there were clearly expectations that the delivery of information would encourage greater numbers of people to use it. In order to assist deliberation 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.

The Development of Family Mediation

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.²

The relative merits of family mediation, typically contrasted with 'traditional' approaches (via 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 on the part of those who have been less convinced of its merits and its ability to transform the current approach to the management of divorce. Unlike lawyers, mediators are not identified with any of the competing interests and, unlike courts, have no power to impose a settlement on participants. Mediation 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 its focus on reducing conflict and improving communication as important factors in reaching settlements.

¹ The Lord Chancellor, Lord Mackay of Clashfern, Official Report (H.L.), 30 November 1995 at col. 704.

² Lord Archer of Sandwell, Official Report (H.L.), 25 January 1996 at cols 1200, 1201.

Mediation as an Option

During debates on the Family Law Bill, the primary focus was not on dispute resolution as such, but on the role of mediation in helping spouses to communicate better, to reduce conflict and to make arrangements for the future. This effectively equates with a process of assisted decision-making. 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 couples 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. 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 wish. It was felt that mediation should be chosen only when it is the most appropriate course and not because it might be the cheaper route. Its incorporation into statute was repeatedly marked with caution. Few people were keen to see a presumption in favour of mediation encapsulated in the FLA. While the notion of promoting conciliatory divorce was not questioned, the extent to which mediation should be promoted as the preferred process met with continued concern. So, while a degree of emphasis was to be given to mediation, and it was to be considered more appropriate than taking court proceedings, it was to remain a voluntary process, a matter of choice and appropriateness. It is this perspective which guided the provision of information about mediation in the pilots.

Mediation in Divorce

I may consider mediation at a later date if there were issues that couldn't be settled amicably between ourselves. (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)

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 evaluation shows that the majority of attendees (84%) felt they had learned more about mediation from the information provided, although in some models it was not discussed in the meeting at all. Group presentations gave the most emphasis to mediation, and the additional information provided via the video did have an impact. Individual meetings were less effective in terms of impact. Nevertheless, an attendee's knowing more about a service does not mean that they will necessarily use it, although imparting information is an important first stage.

The Decision Not To Use Mediation

Attendees who did not go to mediation gave a variety of reasons for their decision:

- it was unnecessary since there were no issues in dispute
- it was too soon to make arrangements for the future
- solicitors and mediators were seen as either-or options
- issues had been settled already

- partners were unwilling to attend
- there was a lack of trust of, or fear of intimidation by, the partner
- mediation services were not accessible
- it was perceived as being too expensive
- there was continuing uncertainty about what mediation is and does

Even if there are issues to resolve, mediation requires both parties to be willing to try it. The research into publicly-funded mediation has highlighted this difficulty:

... 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.³

Choosing To Mediate

Those who went to mediation offered these reasons:

- they wished to negotiate settlements but were unable to do so by themselves
- they saw the mediator as someone who could defuse and manage emotionally-charged situations
- they saw it as fair

Those who went to mediation did not always find it was successful, particularly if both parties were not working towards the same goals. Many factors need to be in place before mediation works successfully.

Lessons To Be Learned

Attendees provided us with very practical reasons as to why they had not used or might not use mediation. 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, thus jettisoning the 'level playing field' approach of the pilots. Since the majority of people will, we suspect, consult a solicitor at some stage, the views of solicitors about mediation are also influential.

When we contacted attendees between one and two years after their having attended an information meeting, some 10 per cent had been to mediation, and agreements had been reached in 37 per cent of these cases. For most of these people, mediation was additional to using a solicitor.

³ 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. 7.

The Role of Lawyers in Divorce

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)

If you're ill you go to the doctor's. If you want to divorce you go to the solicitor's. (M)

To a large extent, solicitors and divorce go hand in hand. By the time we conducted our follow-up interviews, five to seven months after people had attended an information meeting, 59 per cent had been to see a solicitor. Some two years on, 73 per cent had consulted a solicitor. For the majority of people who pursue a divorce there appears to be some inevitability about using a solicitor during the process. Neither information meetings nor mediators replace lawyers as a source of legal advice.

Seeing a Solicitor as a 'Logical Next Step'

Solicitors are regarded as a legitimate and authoritative source of information and advice. Some information meeting attendees believed that they would have to consult a solicitor because their partner had done so; others needed to get answers to questions to which information presenters did not provide answers, as the following comments demonstrate:

Frankly, if there's any disagreement about finances you won't get far without a solicitor. (M)

Well, my husband applied for a divorce, so that forced me into seeing a solicitor. (F)

The information meeting was not able to clarify my questions about the house ... The presenter suggested I should use the free half hour [with a solicitor]. I did. (F)

Information meetings were but one episode in a chain of events on the road to divorce, which is primarily viewed as a legal process. The information meeting sometimes revealed the complexity of this process, increasing the likelihood that attendees would see consulting a solicitor as the logical next step. Our evaluation demonstrates clearly that consulting a solicitor does not necessarily indicate that a divorce is going to be contentious, nor that people will not strive to be conciliatory. For many, protecting individual rights is an important consideration, and solicitors are perceived to be the professionals who do that.

Avoiding Solicitors

Not everyone wanted to use solicitors, however. Some people were concerned that solicitors might increase acrimony, might push them into taking decisions before they were ready, might take too long, or might be expensive:

The meeting influenced me not to [go to a solicitor]. I think it made 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)

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, its obviously best not to get nasty. (F)

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 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)

Using Solicitors Differently

Of those who did use a solicitor, the majority were satisfied with the role their solicitor had played, although we heard some accounts of serious dissatisfaction. The information meeting had made attendees aware of what solicitors do, enabling them to use them more prudently and to retain control rather than handing it to their solicitor. Many attendees commented that their solicitor had built upon the foundations laid down during the information meeting, and so the two services appeared to complement each other. Although the information meeting may have prompted people to consult a solicitor, there is evidence that some people used solicitors differently, though many people still regard obtaining legal advice as an essential element in the way they manage their divorce. In the present climate, solicitors are likely to continue to exert a major influence on the divorce process.

Choosing a Route through the Divorce Process

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.⁴

Most attendees were able to appreciate the potential benefits of managing their divorce in a conciliatory manner. Simply telling them about mediation, however, is unlikely to divert them towards a service which is much newer and less well-understood than solicitors. Shortly after attending an information meeting 60 per cent of attendees were willing to try mediation if it seemed appropriate. Couples still living together were more attracted to mediation than those who were already living apart. However much people are attracted to the idea of mediation, choices are shaped and restructured by a variety of extraneous factors.

Treading a Path through Divorce

From our interviews with attendees we have identified the three paths that attendees were most likely to take through divorce. These paths may run counter to each other or parallel, and on occasion a person may decide to change paths. The choice is made on the basis of the information a person has about each route, combined with their own personal preferences and a very particular set of circumstances which may serve to limit or 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 a third party and 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.

⁴ 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.

Influencing Choices

The research demonstrates the wide variety of emotions, aspirations and uncertainties which come into play as people make choices about what to do. We would argue that a number of significant factors influence choices. These include:

- knowledge of options
- understanding of processes
- ability to communicate with a spouse
- the influences and attitudes of others
- costs and accessibility

Weighing Up the Options

The following two contrasting extracts from our interviews demonstrate how the decision to use one service rather than another might be made:

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 in 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 likely 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. (F)

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, 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 conversation 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)

No one route through the divorce process has a monopoly on conciliatoriness. Some divorces could never have been conciliatory, whatever routes the parties took. Other attendees were determined to keep the divorce as civil and equitable as possible irrespective of whether they used solicitors or mediators or negotiated directly without any professional intervention. Mediation was perceived as one way of achieving a conciliatory divorce, but not the only one. Solicitors and mediators both have

the potential to offer a conciliatory approach, as does a DIY divorce. It is the approach taken rather than the service chosen which is important.

Understanding Choices

Even when two people are given exactly the same information about the options available to them, they may well make very different choices regarding which route to take. Our research indicates that mediation is more 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
- 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 couple are not in disagreement over finances or arrangements for children
- parties feel able to communicate and negotiate directly with each other
- parties are unable or unwilling to communicate or negotiate directly with each other in any way, even if a third party is present

- 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 or 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 children which require a high level of legal knowledge in order for resolution to be reached

Challenges for the Future

The research suggests that there are a number of challenges for the future in respect of promoting a more conciliatory approach to divorce:

1. In order for people to consider mediation as an option they need to know about it and to understand what it does and does not do.
2. There needs to be greater clarity about the interrelationship between mediators and solicitors and about how both professions can be accessed and used effectively.
3. In the pilots many people seemed to be looking for a hybrid service, a cross between lawyers and mediators. They would welcome a service which could offer high-quality legal advice, suggest what is a fair settlement for both parties and facilitate communication and negotiation, without promoting acrimony.

5 Promoting Continuing Relationships between Parents and Children

... the very term 'parenting' is a relatively recent invention, helping to constitute what it now describes.¹

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 vast majority of parents care deeply about the impact of the breakdown of family life 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. Maintaining good continuing relationships between themselves 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 critical 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.

The Needs of Children

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.²

Research over many years has shown that children can be adversely affected by the separation or divorce of their parents.³ Adverse outcomes are approximately twice as likely for children whose parents separate as for children whose parents remain together. It appears that many factors affect how well or poorly children cope with and adapt to parental separation, including the level of conflict between the parents, the children's relationship with the non-resident parent, and how much information is provided to children about what is happening and why.

¹ Giddens, A., *Modernity and Self-identity: Self and Society in the Late Modern Age*, Polity Press (1991), p.33.

² Stepfamily Association, Children and Young People Project, National Stepfamily Association (1999).

³ Rodgers, B. and Pryor, J., *Divorce and Separation: The Outcomes for Children*, Joseph Rowntree Foundation (1998).

Addressing the Needs of Children and their Parents

The Family Law Act and the procedures designed to be introduced with it address the needs of parents and children in five main ways. First, the Act aims to reduce conflict between parents by providing for no-fault divorce and facilitating the use of mediation, both of which may reduce the chances of conflict between parents being exacerbated during the divorce process. Secondly, the information provided through the information meetings and information pack was designed to help parents focus on the needs of their children and to provide them with information about the new problems and challenges that divorce and separation can bring for both parents and children. Third, information was provided for children by the inclusion of two leaflets for children in the information pack, with the intention that parents would consider passing these on to their children. Fourth, Section 11 of the Act aims at safeguarding children's welfare in uncontentious divorce through a process similar to the current 'statement of arrangements'. The procedures under Section 11 could be used as a further tool for providing advice, support and assistance for parents and children.⁴ Fifth, the importance of maintaining contact with both parents is affirmed, but the wishes of the child and any potential risk from such arrangements should be taken into account.

Most parents make arrangements for their children through solicitors, through mediators, or by themselves with no professional intervention. It is important that information is available to parents through all the various agencies they may approach, and it is equally important that information about what is best for children is backed up with further support services if these are needed. Of course, not all parents who spilt up are married, and the FLA inevitably excludes them. Moreover, not all marriages that break down are first marriages. Our research points to the complexities of family relationships within stepfamilies and identifies this as an area in which parents require more information than was available in the pilots.

Giving Information to Parents

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.⁵

The information meetings aimed to educate parents about how their children may be feeling and how to recognise symptoms of distress, and thereby indirectly meet the child's emotional needs. The belief was that if parents were better informed, this would lead them to behave in ways which would minimise upset and disruption for children. The meetings also aimed to provide parents with information about the wider issues which would need to be considered, such as appropriate contact and residence arrangements. Unlike the rest of the information provided, the information provided to parents about children was not just 'pure' information about options and the services available. Rather, it was much more directive in telling parents what they ought to do. It was explicit in trying to change parents' behaviour in order to promote the best interests of children. There are 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.

⁴ 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).

⁵ *Supporting Families: A Consultation Document*, Home Office (1998), p. 31.

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.

About three quarters of attendees at information meetings had children aged 17 and under. Nearly half of the parents were still living with their spouse, and half were separated. For the most part, children whose parents had separated were living with their children.

Reactions to the Information

It seems that the information about children struck a chord with most parents. Over 80 per cent said that the information about how children feel had been useful, and 65 per cent had found the information about making arrangements for children useful. Parents felt the information given to be reassuring in that it confirmed and reinforced what they were doing already. It sometimes served to remind parents to consider the needs of their children. In a few cases it encouraged parents to change their behaviour or their arrangements for children. The following views are typical of those received during interviews:

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)

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. (father of child aged 16 and twins aged 19)

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)

Other parents felt that they did not need the information since their particular arrangements were working well. Occasionally a parent felt the information to be patronising. Although the FLA qualifies the presumption of a continuing relationship between parents and children and is explicit in describing the principles a court must follow in exercising its power under the Children Act, some parents felt that the messages given in the information meetings and in the leaflets indicated that contact is always a good thing. Where violence was an issue, the messages seemed inappropriate, and more attention needs to be paid to this observation. Some concerns were expressed that the information presumes all children are healthy and without difficulties. Parents of children with special needs found the information less helpful. The complexities of life in stepfamilies were also perceived as being a gap in the information.

Information may be of limited relevance and use for parents actively engaged in battles over contact or residence. Parents in these circumstances found information encouraging them to be co-operative difficult to put into practice. Nevertheless, at the time of our follow-up interviews some 5–7 months after they had attended an information meeting, 63 per cent of attendees said they could talk to their partner about what was going on, and the younger the child, the more likely it was that channels of communication between the parents were still open.

The Challenge of Post-divorce Parenting

It is clear 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 maintaining 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 parents who were separated described the quality of their communication about children as poor, and 19 per cent described it as non-existent. The following remarks illustrate the continued 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)

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)

The communication is poor, due to the bitterness caused by the CSA. (father with shared residence for children aged 11 and 13)

Although the information meeting had helped some parents to improve communication, in many cases such improvement was short-lived. More than one in four (26%) separated parents indicated that they were not satisfied with the arrangements for their children. Not surprisingly, perhaps, dissatisfaction was highest among non-resident parents, and parents with split-residence arrangements. Resident parents who were dissatisfied seemed as likely as non-resident parents to want children to have more contact with the other parent. The presence of a new partner may create tensions over contact. Other issues such as accommodation, child support and the behaviour of the other parent led to dissatisfaction with arrangements a year or more after attendance at the information meeting. The extensive accounts of separated parents serve to remind us that establishing co-operative parenting when families break up is a difficult task. The information provided to parents needs to reflect the fact that the transitions families experience often throw up new problems and challenges. It is also important that information is given to both parents. 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. There is clearly a need to enhance understanding of the issues parents will face in seeking to fulfil their parental obligations.

Giving Information to Children

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.⁶

Although the Family Law Act does not require information to be provided for children themselves, two leaflets written especially for children were included in the information pack. Overall, 16 per cent of parents showed the children's leaflets to their children. These parents felt that their children had

⁶ The United Nations Convention on the Rights of the Child, Part I, Article 13(1).

gained support and reassurance from reading the leaflets, and that the leaflets had stimulated discussion, raised questions and enabled feelings to be shared.

The majority of parents chose not to give the leaflets to their children. Parents gave a number of reasons for not doing so:

- their children were too young
- it was the wrong time
- other transitions were taking place which took priority
- discussions had taken place with the children
- they feared the leaflets might cause upset

It appears to be very difficult for parents to open up discussions with their children. Finding the appropriate time to give information appears to be a key issue, and one with which parents continually struggle. There was no evidence that parents were wanting to ignore their children's needs for information, but plenty of evidence that talking to children about parental separation and its consequences is just too difficult for many of them, particularly when they are still trying to manage their own problems. Remarks such as the following provide a vivid picture of how parents felt:

Generally this kind of subject makes you feel very very guilty. Probably this is the one area I've not done very well [in] 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)

It [the information] 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 acknowledged the fact that children need support and ought to be kept informed, but found it difficult to bridge the gap between knowing what to do and actually doing it. Some parents had been prompted to talk to their children as a result of having attended the information meeting, and the leaflets for children helped many of them to broach the subject. It is clear that parents act as the gatekeepers to information for their children, and they may need more help in assessing when and how to share that information.

Children's Views about the Leaflets

We were keen to obtain direct feedback about the leaflets from children and young people themselves. We worked with children in focus groups and in schools. The children were critical of the original leaflets, and more positive about the revised leaflets prepared towards the end of the pilots. These leaflets have been revised yet again as a result. Discussions with children reveal the following:

- children usually want their parents to talk to them about the situation, but most parents do not
- raising the subject with parents is difficult for children

- friends and other family members may be important sources of support to children
- children want to know why their parents are splitting up
- children want to know about practical arrangements for the short- and longer-term future

The work with children has resulted in the original leaflets being substantially changed. They are brighter, more varied in content, and more age-range-specific. The provision of information to children is a human rights issue, and the provision of information to children whose parents are separating or divorcing is becoming an increasingly important policy matter.

Developing and Using a Parenting Plan

We already had arrangements made 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)

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)

A parenting plan 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. The plan is an A4 booklet in which parents can enter arrangements for their children under nine broad headings including living arrangements, schooling, health, special days and staying in contact with the wider family.

Very few parents (13%) actually completed the plan, but a larger group found it useful in a variety of ways. Parents used it as an agenda for discussions with their partner, children and others, and as a reminder of the issues that they needed to settle. Like the leaflets, the parenting plan reassured some parents that they were doing the right thing. Parents of young children were the most likely to use the plan, whereas parents with children over 11 were the least likely to use it. Of those parents who completed the plan around 50 per cent involved someone else in its completion, often the other parent, 25 per cent discussed the plan with someone else but filled it in alone, and 25 per cent filled it in alone without discussing it with anyone else. Parents used the plan both to record current arrangements and to plan ahead for what they would like to see happen in the future. When both parents completed the plan together, it could ensure that they were agreed about all the issues, or it could reveal areas in which they disagreed:

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)

[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)

Some parents were inclined to view the plan as an informal contract, whereas others did not complete it in case it should be seen as fixing arrangements once and for all. Nineteen of the 77 parents who completed a plan said that their children had been involved in some way. Some actually contributed by writing in the plan, and others had their views taken into account when a parent completed it. Inevitably, children who got involved in completing the plan were usually older.

Influencing Factors

Completing and using the plan as a guide to the future requires parents to be co-operative. Even using it alone requires a parent to have a moderate level of literacy and the ability to plan ahead. Parents who were in conflict, or whose situations made joint parenting difficult, were less able to make use of the plan. People who had an uncooperative partner may have considered the plan to be inappropriate. Some parents were concerned that the plan could be used against them. It may be that parents would feel more confident about the plan if they were encouraged to use it by solicitors and other professionals.

Both parents and professionals found the plan helpful and commented on its clarity and the ease with which it could be used. A number of parents felt that it would be more helpful if copies of the plan were provided for both parents. This seems to be a sensible suggestion, although the evidence from the pilots indicates that the parenting plan is still most likely to be used as a helpful guide and checklist. The divorce process has traditionally placed emphasis on residence and contact arrangements. The parenting plan prompts parents to think about many more aspects of their child's life.

6 Ensuring Access to Justice

The Lord Chancellor's Department serves a diverse society. That is a 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

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 (with the exception of Section 60) is already enacted.

Concerns about the need to respect diverse needs and to promote access to justice were reflected in the information meeting pilots. We became aware of the specific needs resulting from ill health, disability and old age, and from a person being a member of the Armed Forces or married to one. We were also concerned to develop understandings of the importance of gender in the field of law reform.

Respecting Cultural Diversity

... 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. (F)

Giving the concept of ethnicity a tangible meaning, and one that can be useful in English family law, requires a consideration of characteristics such as geographical origin or descent, language, literature, religion and size of the group.² It is clear that from the legal perspective the most important characteristic of ethnic minority groups is the adherence of many to certain 'customs, traditions, religious beliefs and value systems which are greatly at variance from those of the majority community'.³ Recognition and acceptance of different ethnic minority customs and value systems lies at the heart of a just and equitable legal process. 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 recognised the fundamental importance of family forms and structures, traditions and rituals, and religious beliefs as core markers of ethnicity. Additionally, we recognised the importance of language as a tangible marker of ethnicity within the legal framework of the FLA and acknowledged the importance of rituals and taboos. 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.

¹ Lord Chancellor's Department, *Equality and Diversity Action Plan* (2000), p. 2.

² Banton, M., 'The actor's model of ethnic relations', in J. Hutchinson and A.D. Smith (eds), *Ethnicity*, Oxford University Press (1996), p. 103.

³ Gans, H., 'Symbolic ethnicity', in J. Hutchinson and A.D. Smith (eds), *Ethnicity*, Oxford University Press (1996), p. 10.

Divorce in Ethnic Communities

Relationship breakdown and divorce are likely to be regarded as events of enormous proportion in many ethnic communities living in England and Wales. The acts of attending an information meeting and initiating the divorce process must be regarded as carrying immense significance for the whole family. Also, consultation with ethnic minorities has highlighted conflicts-of-law 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.

Attendance at an Information Meeting

During the pilots, 5.5 per cent of attendees were from ethnic minority groups, and 40 per cent of these were male. The distribution of ethnic groups is similar to that of the general population. There was a considerable ethnic spread, with representation from a range of different ethnic backgrounds. The most common ethnic groups consisted of people who defined 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.

The Major Issues

To learn more about the needs of ethnic minorities we held a number of focus groups in two pilot areas. We have identified the major issues in respect of information meetings as:

1. The appropriateness of the venue (consideration being given to 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 style of language) contained in the video, the CD-ROM and the individual and group presentations.
6. The extent to which the parenting plan and the offer of a meeting with a marriage counsellor are both culturally appropriate and useful.

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 elements such as 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 ethnic 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.

Domestic Violence and Information Meetings

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.⁴

It is important that information meetings are conducted in such a way that those attending them feel safe, enjoy privacy and are respected.⁵

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 FLA. 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. In other words, attendance must not pose a threat in terms of physical safety, either to the attendee or the presenter. 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 when they attended an information meeting. There was also little recognition in the pilots that the attendee might be the perpetrator rather than the abused partner.

The Relevance of Information about Domestic Violence

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:

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 [of attending an information meeting] has really made a difference although I've not yet made the decision [to divorce]. (F)

There can be several reasons for information about domestic violence being described as relevant, and an attendee's attributing relevance to it does not necessarily imply that they see violence as an issue in their marriage. 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. Overall, only a few attendees indicated that they were actually afraid for their safety in relation to

⁴ 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.

⁵ Mrs Barbara Roche MP (Hornsey and Wood Green), Official Report (H.C.), 17 June 1996 at col. 624.

attending a meeting, and only a small minority stated that attendance had actually caused problems for them.

Delivering Information about Domestic Violence

Observation of information meetings revealed difficulties surrounding mandatory inclusion of information about domestic violence in the script. Our observation of meetings showed:

- both attendees and presenters were apt to show embarrassment when the issue of domestic violence was raised
- domestic violence often received a cursory explanation, particularly where the attendee indicated that it was not a present concern
- in cases where the attendee was identified as the violent partner the script was inappropriate

We have identified the advantages and disadvantages of both one-to-one meetings and group presentations for victims of domestic violence. The perceived advantages of group presentations include anonymity, the safety of numbers, the potential for mutual support and possible lessening of the intensity likely in individual meetings. The disadvantages include fear of identification by other attendees at a group meeting. Other disadvantages are the cultural difficulty some women have 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 that for 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 for safety, honesty and comfort, as well as enhancing opportunities for disclosure and the flexibility to respond to need. There is a greater likelihood that attendees will expect interaction with, and possibly advice from, the presenter. This may be considered a disadvantage if a structured meeting is envisaged.

The nature of the information meeting is critical, and for many abused women the ability to take the first step in the divorce process may be gained only after years of suffering. Women we interviewed in women's refuges spoke of the courage required to take this first step and how 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, it may be deeply distressing 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. The marriage-saving agenda may have less relevance in such a context, and messages about the impact of divorce on children may serve to drive an abused spouse back to a marriage in which abuse will continue.

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 for both the victims and the perpetrators of abuse may be required. One of the advantages of a CD-ROM lies in the ability of the attendee to spend more time on the information about domestic violence without having to disclose that it is a problem. We noted that some people were anxious about the information pack because it was too big and bulky to take home. The information did not address abuse from the

abuser's perspective, but assumed that victims are female and that only victims will receive the information. This needs to be remedied when the information is revised.

The research points to the need for appointments and attendance to be conducted safely. This has implications for booking systems, venues, sensitivity and confidentiality. The personal characteristics of the presenter are of the utmost importance. 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 will have difficulty attending a meeting.

The Importance of Flexibility

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. 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.

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. It should be noted that other jurisdictions holding compulsory information meetings as part of the divorce process do not provide exemptions from attendance on the grounds 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. Information confers power and non-attendance at an information meeting should not further compound the vulnerability and social exclusion of those so afflicted. Topic-specific rather than uniform information needs to be provided so that those who wish to receive more in-depth information about domestic violence might do so. It is our view that information about domestic violence should be given verbally in whatever model of information provision is chosen in the future. Flexibility is key.

Providing Information to People in Prison

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. (male prisoner serving a life sentence)

The White Paper envisaged the exemption of certain categories of person from attendance at an information meeting, and cited 'the elderly, the disabled or those in prison'. The current prison population stands at just under 65,000, of whom 95 per cent are male. The national prison survey 1991⁶ indicated that around one in five prisoners were married when they started their sentence and that the marital status of 28 per cent of those who were married changed during the sentence.

Twenty-five prison establishments in five pilot areas were included for the purposes of providing information meetings to prisoners, although only 20 prisoners attended an information meeting (15 men and 5 women). We sought other means of eliciting the views of prisoners and prison staff. A total of 36 prisoners, including nine women, were involved in focus groups. The same number of staff were

⁶ 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).

involved, including prison officers, probation officers and chaplains. The Model A individual meeting and Model E CD-ROM were offered to prisoners, while the group presentation was demonstrated in focus groups.

Establishing Information Meetings in Prison

The pilots indicated that establishing information meetings in prisons takes time. Issues relating to security have to be considered and appropriate arrangements made. If information meetings are implemented, directions or guidelines will need to be provided by the Prison Department. Although some prison officers expressed concerns about how the meetings might be organised to fit with prison regimes, the majority were positive about the provision. Presenters and attendees expressed concerns about the appropriateness of the scripts, and wanted the meeting to be more appropriate to the specific circumstances. The pack was considered to be inappropriate because it demands a high level of literacy. Since the prison population has a low level of literacy, provision of written information on its own would not be appropriate.

The MWMC was not offered to prisoners in the pilots but prisoners and prison staff felt that information meetings and the MWMC should be available to prisoners. It was felt that information meetings should be provided by an agency independent of the prison service. A face-to-face meeting with a presenter was considered more appropriate than a CD-ROM, since prisoners will need to ask questions, and group meetings could not offer privacy and confidentiality.

Some staff suggested that the best model for prisoners might involve a combination of an individual meeting, a CD-ROM and a specially-devised video. They also drew attention to the needs of unmarried prisoners experiencing relationship breakdown. Many of them have children. There was universal agreement on the part of all those taking part in the prison study that information meetings in prisons should be available to everyone, irrespective of marital status. Our research has found no reason to consider prisoners as an exempt category under the FLA, but sufficient time would be needed to get a suitable information service for prisoners set up across the various types of establishments.

Addressing Specific Needs and Circumstances

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. (F)

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 going on in England and Wales, the Ministry of Defence 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 1999.⁷ Some members of Forces' families attended the information meeting pilots in England and Wales.

⁷ 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) (Restricted – Management).

Senior Citizens

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. Separation from a spouse may be especially difficult for older people, not least because they may have been married a very long time. The information meeting as constructed in the pilots was not particularly relevant to such people, and attendees were inclined to think it was targeted at younger people.

Ill Health and Disability

Not surprisingly, health concerns were prominent among older people. They were also the key issue for some younger attendees. Yet they 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. 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. We have detected 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. 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 Ministry of Defence (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).

Several of the information meeting pilots were conducted in areas in England and Wales in which Navy, Army and RAF bases are located. In total, 22 serving military personnel (all male) attended an information meeting in the information meeting pilots. 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 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 some of the agencies, particularly marriage counselling and mediation services, were inaccessible because of their circumstances.

Our study has led to a number of conclusions. Service life places exceptional stresses on marital relationships. Separation and divorce may give rise to additional problems for service personnel and their families over and above those encountered in civilian life, and servicemen and their families are

often reluctant to seek help from within the Services. Forces' families need information when marriages are breaking down, and an effective and speedy response. Also, there is a need for the provision of information which is both sensitive and relevant to their special circumstances.

Providing Specific Information

Our various studies 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 to be implemented there would not be a case for blanket exemptions. Nevertheless:

- information needs to be specific to particular cultural groups
- safety and security need to be ensured for people in fear of domestic violence
- prisoners need information which can assist them when relationships fail, irrespective of marital status
- there needs to be recognition, in the provision of information, of the special circumstances caused by old age, ill health, disability and being a member of the Armed Forces, and also of the difficulties faced by people with no children or with adult children

If the information materials are to be revised, some leaflets would need to be modified and others developed. 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 more 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 position, however, arrangements will need to be made for the provision of information in appropriate formats.

Gender, Divorce and Information Meetings

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)

I feel very much the man is taken to the cleaners and hasn't got a leg to stand on. (M)

The research supports the now commonly held view that it is important to see the institution of marriage and the social experience of divorce as gendered phenomena. These gender differences, in turn, have a number of implications for the development of policy. Women generally tended to adopt a more proactive stance than men in the divorce process. Men, by contrast, tended to seek to save marriages which their partners, for a host of complex reasons, felt the need to leave. Men appeared more reluctant, relative to women, to participate in a range of ancillary services such as counselling. Getting men to attend can thus itself be seen as a problem in this context. There exists a concern about the extent to which the party who does not attend the meeting may be less well-informed about the divorce process.

It is essential that a sensitivity to gender difference is integrated into the training of information presenters. A consideration of gender reinforces the importance of providing information to individuals rather than simply to married couples.

7 Looking to the Future

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.¹

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 that there were tensions in the way in which the information meeting had been conceived and constructed in the pilots and pointed to factors which would need to be considered prior to implementation. Our research has led us to conclude that none of the models tested should be implemented, but that a new model could be developed, on the basis of the substantial learning from the pilot evaluation. In the final section of our report we review the findings of our evaluation and consider the policy options for the provision of information. We summarise these here.

Identifying Sites for Information Meetings

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.²

If Part II of the FLA is to be implemented, predictions need to be made about the level of national coverage required. The mapping and modelling element in the research programme developed a system which can estimate the most appropriate number and distribution of information meeting sites (i.e. towns and cities) so that the distances people would have to travel would be minimised. In our Summary of Research in Progress published in June 2000³, we presented the 647 candidate sites and the 250-site model selected by the Lord Chancellor's Department. The 250 sites selected would provide 95 per cent of potential attendees with access to an information meeting no more than 10 miles from their home (Figure 7.1). More than 12 per cent of the people attending an information meeting in the pilots travelled to sites more than 12 miles from their home, and over a third attended meetings over 6 miles away.

The wide-ranging datasets that have been used have been linked within a geographic information system which has been tailored specifically to this research and its need for specialised analysis software. These facilities allow similar accessibility analyses to be applied to other sets of sites (e.g. the sites at which counselling services and mediation services are provided). All these comparative analyses suggest that the method which has been devised to select information meeting sites succeeds in identifying networks of sites which are more accessible than similar numbers of sites where analogous services are currently provided. These datasets and software also provide the basis for investigating other implementation options should the Lord Chancellor's Department revise its requirements in the future.

¹ Lord Archer of Sandwell, Official Report (H.L.), 30 November 1995 at col. 785.

² The Service First User's Charter, *Service First: The New Charter Programme* (July 1998), <http://www.servicefirst.gov.uk/introduce/sfuersch.htm>

³ Lord Chancellor's Department, *Information Meetings and Associated Provisions within the Family Law Act 1996*, June 1999.

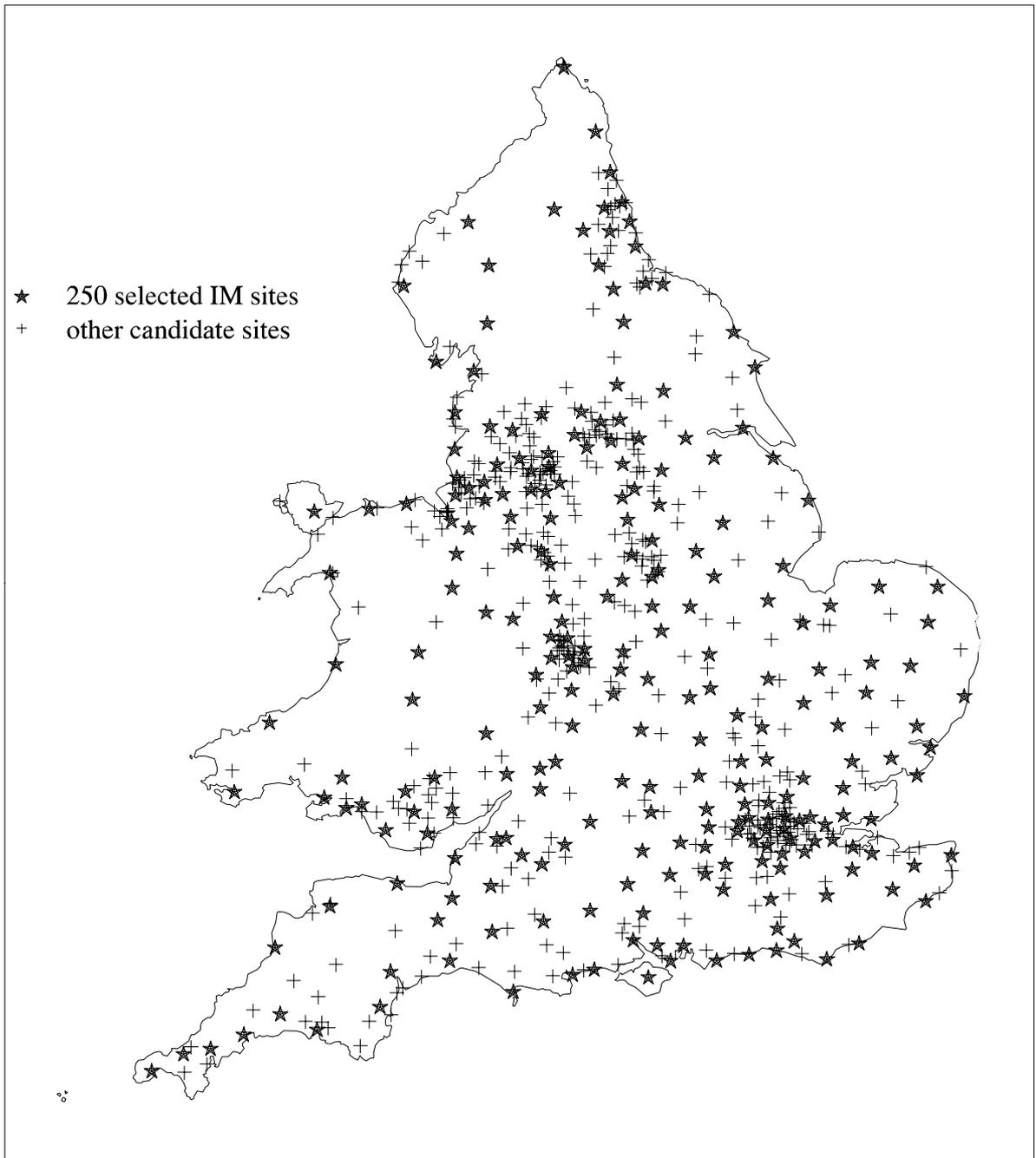


Figure 7.1 Location of 250 sites

The Views of Professionals

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.⁴

During the lifetime of the pilots 1,195 people completed a research questionnaire after having attended local consultation briefings about the information meeting pilots. Of these, 586 were from the legal profession, 222 from the divorce-associated professions and 387 from non-divorce professions. The research indicates 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. Lawyers were generally negative about information meetings but other divorce-associated professionals tended to be positive. 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 following comments are typical of those made by lawyers who were unconvinced by what information meetings appeared to offer:

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 meetings 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.

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.

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. The parenting plan was not available at the time most consultation briefings took place in the pilot areas, but those professionals who did see it were positive about it, although many cautioned against using it mechanically. Professionals preferred individual face-to-face meetings to any of the other options that were piloted. They were critical of the style of the CD-ROM, describing it as patronising, condescending or too impersonal.

The changes envisaged by the FLA will impact on a range of professionals who work within or on the margins of the divorce business. In many ways, the Act seeks to bring together all those working with families at risk of breaking up in a more co-operative environment which allows for the efficient referral to and use of a range of complementary services. Not all the professionals feel positive about Part II, however, and solicitors have been particularly sceptical about the mandatory provision of information meetings. Our research shows that while 48 per cent of divorce-associated professionals are in favour of mandatory information meetings, only 25 per cent of solicitors are similarly inclined. An additional 15 per cent of solicitors, however, would support a mandatory meeting aimed at couples with dependent children, as against an additional 30 per cent of the divorce-associated professionals who supported mandatory attendance for parents with dependent children.

⁴ 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.

Answering Questions

Although lawyers have expressed concern about information presenters straying into giving legal advice, 47 per cent of lawyers and 58 per cent of other professionals think that it is possible to draw a clear line between legal information and legal advice. Nevertheless, there is concern about the extent to which information presenters should answer personal questions, and about the possibility that the presenter might get involved in inappropriate diagnosis of problems.

Reflections on Mandatory Meetings

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)

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)

Throughout our evaluation of the pilots we have drawn attention to the disadvantages of providing information to only one party when many of the options being described require the participation of both parties. This raises the questions of whether both parties should be mandated to attend (although not necessarily together), and of what effort should be made to ensure that, at the very least, information should be provided routinely to the other party (who is not wishing to make a statement of marital breakdown) via written material, video or CD-ROM.

Attendees who were asked their opinion about whether information should be mandatory were more positive than lawyers in their response, but less enthusiastic than divorce-related professionals. Looking back on their experience of information meetings, 42 per cent of attendees felt that information meetings should be mandatory for all who apply for divorce, and 12 per cent thought they should be mandatory only for people with dependent children. Almost half do not favour the information meeting being a compulsory requirement. Those who were in favour of compulsion tended to recognise that people might resent having to attend, but that making the meeting mandatory was nevertheless worthwhile in order to ensure that all those who might benefit would attend. Those who were opposed to mandatory meetings tended to think that it would be a waste of resources if people were hostile to the idea.

Views as to whether attendance should be compulsory were influenced by what attendees felt about divorce at the time they went to an information meeting. Those who wanted a divorce were less likely to support a mandatory meeting than those who did not and those who were uncertain about their marriage. Most people who are not sure whether the marriage is over and the majority of those who want to save it appear to welcome the opportunity to explore the options.

Voluntary Information Meetings

There was overwhelming support for the continuation of meetings at which attendance would be voluntary, particularly as most attendees did not think that the information packs could take the place of a meeting. The team evaluating Section 29 appointments with a mediator has found that people required to attend an intake mediation appointment were less inclined to engage with mediation than

those who attended mediation voluntarily,⁵ but mediation requires rather more of people, including that they meet and negotiate with their spouse, than does an information meeting. It may be that if the information meeting is more flexible and responsive to attendees' needs, even the most reluctant of attendees might get something out of it.

Spouses Attending an Information Meeting Together

Attendees who did not want a divorce or were uncertain about the future were more likely to support mandatory meetings. These same attendees were more likely to have been accompanied by their spouse when they went to an information meeting. Only 6 per cent of attendees who went with their spouse were already involved in divorce proceedings, and only a third were living a part. People who went to an information meeting together with their spouse were more likely than those who went alone to go on to counselling afterwards, and to use mediation.

When we talked to spouses who had attended an information meeting together, we discovered that the majority had gone with a shared agenda, and they were still operating as a unit with ongoing dialogue about the best way to deal with their marital difficulties.

Reviewing Outcomes

A conciliatory approach to divorce seems more likely to develop when spouses have a shared agenda at the time they attend an information meeting together. Attending together does not necessarily overcome pre-existing disagreements, however, and spouses with differing agendas felt that attending in this way had not been beneficial.

Attending the information meeting together results in both parties having access to the same information at the same time, and it may well be easier for them to agree to do something that requires joint participation such as marriage counselling or mediation. Most of those who had attended the information meeting with their spouse had found it helpful and were positive about the experience. The following remarks were typical:

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)

A few would have preferred separate meetings, particularly those who were at a different stage from their spouse in the process of marriage breakdown. We suggest that attending with a spouse could be routinely offered as an option, but that attendees should be free to choose whether they would prefer to attend alone. If spouses do go together, each needs to be given the information materials to take away.

Making Information Available to Both Spouses

Some attendees initiated attendance at an information meeting because they wanted a divorce, while others went because their spouse was wanting or pursuing a divorce. Although only the former category of attendees would be mandated to attend in an implemented system, it is likely that some in

⁵ Davis, G., *Researching Publicly Funded Mediation*, Third Interim Report to the Legal Aid Board (1999).

the latter group will go voluntarily. More women than men initiate divorce, and more women than men went to information meetings. The men who attended were more likely to be respondents in the divorce. Nevertheless, the information needs of petitioners and respondents appear to be broadly similar. Male respondents seemed apt to express feelings of bitterness and resentment about the ending of the marriage, however, while female respondents were more likely to express sadness. Allegations of fault often fuelled negative feelings.

Implications for the Future

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. The indications are that attendance at an information meeting led 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 information is to be accessed on a voluntary basis in future, the experience from the pilots would suggest that relatively few people would take up the offer unless attention is drawn to it at every possible opportunity.

Evidence from Other Jurisdictions

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.⁶

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. 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. Some countries in Europe have requirements for the couple to attempt reconciliation before they can proceed to divorce. There is no evidence that these mechanisms are effective,

⁶ Walker, J. and Hornick, J.P. (eds), *Communication in Marriage and Divorce: A Consultation on Family Law*, BT Forum (1996), p. 69.

however, and in most jurisdictions attempts at encouraging reconciliation are accorded little real effort or prominence.

Although 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 have considered the most pertinent of them 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

Australia has long 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. Group information sessions were established in Australia in the early 1990s. Attendance at a group information meeting is required for all those making an application to the Family Court for ancillary matters (predominantly disputes over children and property), or attendance may be ordered later, usually at the first Directions Hearing. 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 the filing of an application.

Attendees are encouraged to reach their own settlements and the Family Court provides services to facilitate and support them. The information meeting is conducted by a member of the court administrative staff (until recently, group meetings have been led by a court counsellor and court registrar). A significant amount of time is spent on talking about emotional processes relating to separation and divorce, and on the needs of children. The use of parenting plans is encouraged in the new Family Law Reform Act 1995. 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. At the end of the session, a Family Court Book and other publications are given to each attendee. A flexible approach to the delivery of information is adopted such that if people find it difficult to attend court officers provide information over the telephone, and leaflets are mailed out. Information is also available on the Family Court website and on audio tapes. The Australian system offers information in a range of languages to both married and unmarried parents. Over time, the move has been made to a simpler presentation focused more on the best interests of children. Plans are currently under way to use a multi-media approach in information meetings, including the use of video and computer graphics. While the information sessions are deemed to be successful, 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.⁷

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

⁷ 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, The Family Court of Australia (1989).

married and cohabiting, can apply for help through the Family Court and gain access to free counselling and mediation services. 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. 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. Early research 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.⁸ 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 approach which avoids bureaucratic procedures. Free access to counselling and mediation have put an emphasis on early intervention.

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). 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. The Canadian Government is committed to developing a range of interventions including parenting education programmes and mediation, both at government level and involving non-government organisations.

Parenting after separation in Alberta

Parenting education programmes are proliferating across Canada. Some 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. The objectives of the programme are very similar to those of information meetings except that the focus is on parenting and children.⁹ 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.

⁸ 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).

⁹ 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).

The PASS programme was evaluated during 1999¹⁰ and 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. 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 will be a particularly important topic in information meetings when new child support measures are introduced in England and Wales during 2001.

When we consider the extent to which PASS meets its other objectives, however, we can observe some more key parallels with our own evaluation of information meetings. 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 ... 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.¹¹

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.

¹⁰ *ibid.*

¹¹ *ibid.*, p. 69.

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.¹² Attendance is voluntary, but parents wishing to use mediation which is publicly funded must take the programme as the first step in the process. 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 initial evaluation¹³ 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. The researchers also recommended the expansion of the programme to two sessions.

The new programme involves the provision of two three-hour seminars, the first one being similar to that originally piloted and evaluated. The second three-hour session has two options: one deals with co-operative parenting (low-conflict cases), and the other with parallel parenting (high-conflict cases). At the end of the first session parents complete a short questionnaire to guide the decision as to which of the two groups to attend for the second session. The high-conflict option is recommended for people for whom violence has been present in the marital 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 skills building for the purposes of working more constructively with the other parent.

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'.¹⁴

Other programmes in Canada

The perceived success of the parent education 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

¹² 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).

¹³ *ibid.*

¹⁴ Private communication with Dr Brad McKenzie, May 2000.

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.¹⁵

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.¹⁶ The majority of programmes are mandatory and most last between two and four hours. Some of the mandatory programmes charge a fee. 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.¹⁷

Our observation of some of these programmes and those operating in Canada 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 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. Resentment at the compulsory nature of the meetings has been relatively low.

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.

¹⁵ *ibid.*

¹⁶ 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.

¹⁷ Geasler, M.J. and Blaisure, K.R., 'A review of divorce education materials', *Family Relations*, vol. 47, no. 2, pp. 67–175 (1998).

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. 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. Research in Norway¹⁸ 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.

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,¹⁹ many of which have adopted an administrative/welfarist approach to the dissolution of marriage.

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.
2. Mandatory information provision in other jurisdictions requires attendance at group meetings. Information is not provided on a one-to-one basis.
3. The mandatory programmes in North America and in some European countries are targeted at parents of dependent children. 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.

¹⁸ Ekeland, T.J. and Myklebust, V., 'Foreldremekling: Brukarperspektivet', Forskningsrapport nr. 23, Moreforskning Volda (1997).

¹⁹ 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).

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 or on dispute resolution).
8. Parenting plans are regarded by most parents as a good idea, but there are barriers to using them, and making them a legal requirement may be a dubious route to take.

Supporting the Principles of the Family Law Act

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).²⁰

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. This rather Janus-like approach to information provision was unhelpful. Equally, looking in only one direction (as in Models C and F) was equally unhelpful if it was not the direction in which the attendee was facing.

The messages being radiated were complex, reflecting a mix of legal rational regulation with a somewhat moralistic and, in respect of children, overtly persuasive framework. The legislative intent 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. It is not straightforward to bring the objectives underpinning the Act together within a single 'first step' or point of entry. As we have witnessed in 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. Their different states of ignorance (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) had far-reaching implications for the timing and content of the information meeting, and for the impacts which the provision of information could be expected to achieve. One of the key challenges for the future is to ensure that appropriate information is available to people at the optimum time during 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

This is one of the most difficult principles to uphold within divorce legislation. Most people think long and hard before taking the critical first step to end their marriage. For most, the information

²⁰ Finch, J., 'The state and the family', lecture to inaugurate the Institute of International Social Sciences, University of Edinburgh, 30 October 1996.

about marriage support will not come early enough to give them a real chance of saving their marriage. Perhaps, in an implemented system, between 5 and 10 per cent of attendees will turn back from the brink of divorce. 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 this kind of information needs to be more carefully targeted at those for whom the door to reconciliation is a viable option when they attend an information meeting.

The MWMC was well-received in the pilots and provides a blueprint for implementation. It was particularly helpful 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. If the primary focus of the MWMC 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.

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 nothing to alleviate this problem. But 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.

Promoting Conciliatory Divorce

Encouraging mediation

During the information meeting pilots, the numbers using mediation were considerably lower than policymakers had anticipated. There is no doubt that the information meetings were largely effective in increasing people's knowledge about mediation 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. If the video is a useful medium for describing what mediation is and does, consideration should be given to making it more widely available. 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. The most fundamental challenge is how to encourage both spouses to use mediation. 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.

The role of lawyers

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. It is important to remember 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.

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. This does not mean that these people are necessarily hell-bent on pursuing an acrimonious divorce, nor that being conciliatory will not be regarded 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.

Changing the culture of divorce is a long process, but it is more likely 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 services, but mediators do not have a monopoly on conciliatory divorce processes. Furthermore, 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. 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.²¹ Whether or not the Government should assert that mediation is the preferred mode for the resolution of matrimonial disputes²² 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.

Promoting Continuity in Relationships between Parents and Children

Much of the urgency behind the proposals for divorce reform was generated by the widespread concern about the impact of divorce on children. The needs, wishes, feelings 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. The majority of information meeting attendees had dependent children and most 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. 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.

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

²¹ See Fricker, N., 'Mediation – the way forward', *Family Law*, vol. 29 (December 1999), pp. 826–30.

²² *ibid.*

damage that can be caused by parents in conflict, particularly as regards arrangements for their children, may encourage a longer-term culture shift in the way spouses approach the divorce process.

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 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. Given that many information presenters and attendees in the pilots found the subject of domestic violence difficult to handle, it seems that how this issue will be addressed through the provision of information in the future needs to be considered carefully.

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. 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. 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.

Information for children

The information meeting pilots provided an opportunity to test the provision of information about separation and divorce to children themselves. 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 breakup. 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. 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 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.

Lessons from the Pilots

Looking at 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 Family Law Act. 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 more subtle terms. 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. 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 situation.

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. 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.

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. We became increasingly aware that saving marriages is an objective distinct from securing civilised divorce. 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 of information provision which is designed with an element of flexibility, and which allows for some personal tailoring in 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 predetermined 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. If the meeting is to provide 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. 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.

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 go 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 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, while too much information about the divorce process might be unhelpful and offputting (and might bounce them into the divorce process too soon).

The only 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.

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 and the particular circumstances of the attendee; standardised presentations are better suited to group sessions, which are the norm in other jurisdictions.

Looking to the Future

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.²³

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. 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. They provide a robust base from which to consider future options.

²³ The Lord Chancellor Lord Irvine of Lairg, address delivered to the UK Family Law Conference, 25 June 1999, p. 1.

A New Kind of Mandatory Information Meeting

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. Piloting need not be a lengthy nor a complex process. The emphasis would be on making the meeting work rather than on attempting to measure longer-term impacts. 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. 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.

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. Our proposal 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. 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. 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 notion of the relevance of information to them given the judgements they face, and that this in turn depends on their perception of where they are in their relationships.

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 was 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 relating to 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. 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. 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. We urge that more careful thought be given to the information–advice continuum, and to the empowering of presenters to answer questions, wherever possible and within the time constraints, which do not require legal advice to be given in response.

The proposed model is shown diagrammatically in Figure 7.2. 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 in Figure 7.2 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 the information pack

Once the exploratory dialogue has been conducted, the presenter and attendee will select one of three routes through the meeting, as follows:

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, including information leaflets, video and CD-ROM. A policy decision will need to be taken with respect to the currency of a certificate of attendance.

Selection and Training of Presenters To Deliver the Meeting

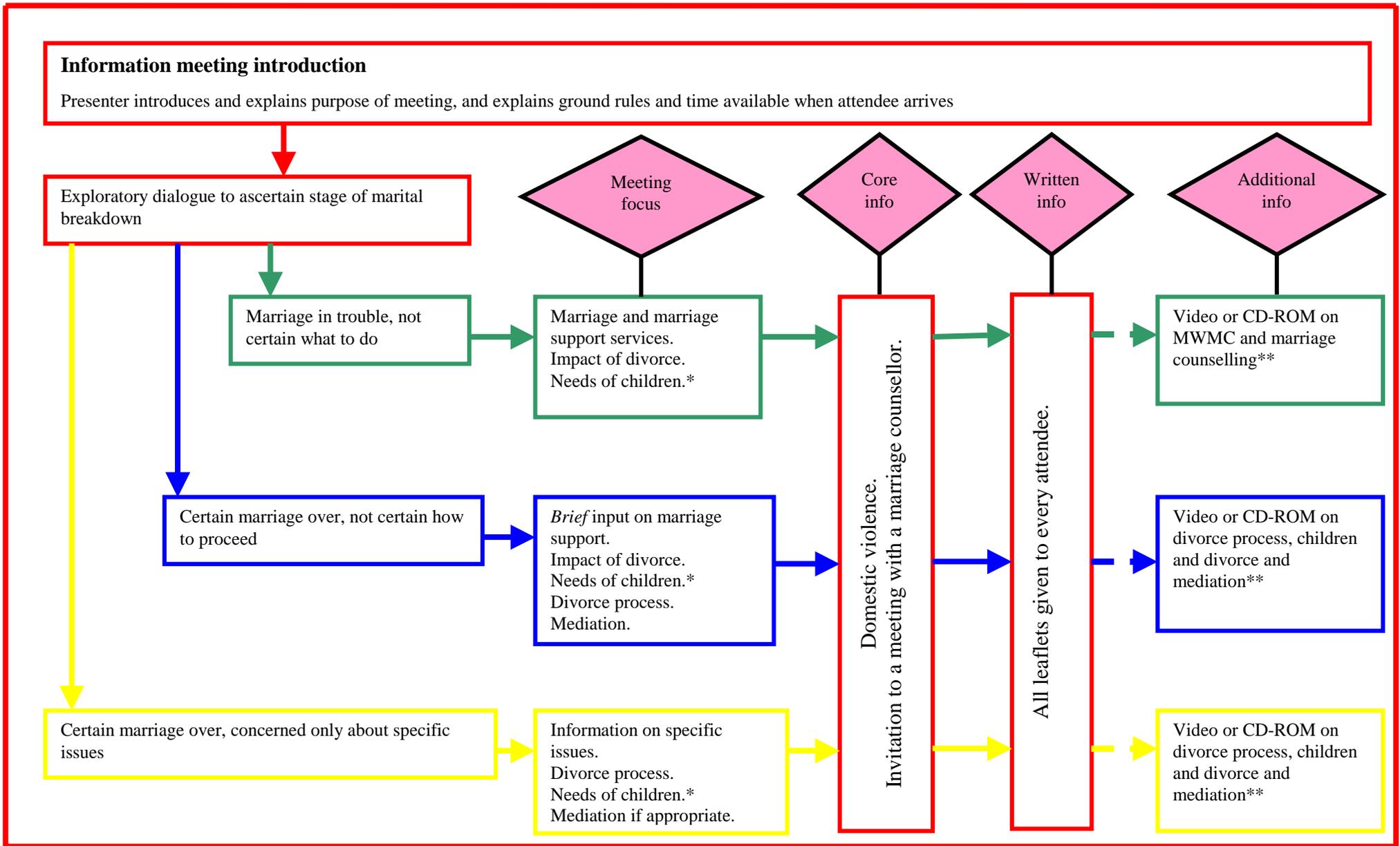
If information meetings are implemented on a national basis, the competence of the information presenters will play a determining part in their success. Although we are advocating a more interactive and sensitive information meeting we believe that it will be possible to recruit and train sufficient information presenters with the appropriate skills and competencies, although appropriate remuneration will need to be considered.

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 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.

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.

Assuring Quality Nation-wide

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



* Information on children only if there are dependent children. ** Video and CD-ROM not yet developed as supplementary information.

Figure 7.2 Proposed model of information meeting

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*.

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; and good management.

Information Meeting Venues

Having considered the views of attendees and presenters alongside our research observations of a wide variety of venues, we would contend 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 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. The information meeting pilots involved a range of providers, usually in some kind of partnership or consortium arrangement. 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.

A case could be made for the provision of information meetings to be part of the responsibilities of the new Child and Family Court Advisory and Support Service (CAFCASS). We would suspect 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. It may be thought that linking the first port of call to an organisation so closely related to the court might firmly reinforce in the public consciousness a connection of the meeting with divorce. The result may be that, having once attended an information meeting, people may be more likely to feel as if 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.

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. 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.²⁴ 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 to illustrate the range of possibilities. There clearly will 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

²⁴ *The National Interdisciplinary Forum Report*, Lord Chancellor's Department (March 2000).

be very specifically focused on promoting the best interests of children. This option might be achieved by Ministers taking a broad approach to the issue of exemptions from attendance under Section 8, subject to any questions about *vires*. 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.

If Part II is not going to be implemented in its current form, however, the possibility of information provision 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 this is the option chosen in many other jurisdictions, with seemingly little public resistance and with positive outcomes. 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.

(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. Effectively, this would be an information-registration process. 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 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 for attendance 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 concerns 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. 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. Figure 7.3 shows how a party might choose various pathways through the 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 act as trigger for the other spouse to be 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. 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.

(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. People may become more knowledgeable but they are unlikely to change their behaviour, or be influenced to use services such as mediation.

(4) Voluntary information meetings

It would be possible to continue the provision of information meetings on much the same voluntary basis as 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 the experience of the pilots.

Final Thoughts

Our research demonstrates beyond doubt that separating and divorcing families need more and 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.

At the end of the research conducted here in Newcastle in the Conciliation Project Unit,²⁵ there was a strong recommendation for mediation ('conciliation', as it was then called) to be part of a co-

²⁵ Conciliation Project Unit, *Report to the Lord Chancellor on the Costs and Effectiveness of Conciliation in England and Wales*, Lord Chancellor's Department (1989).

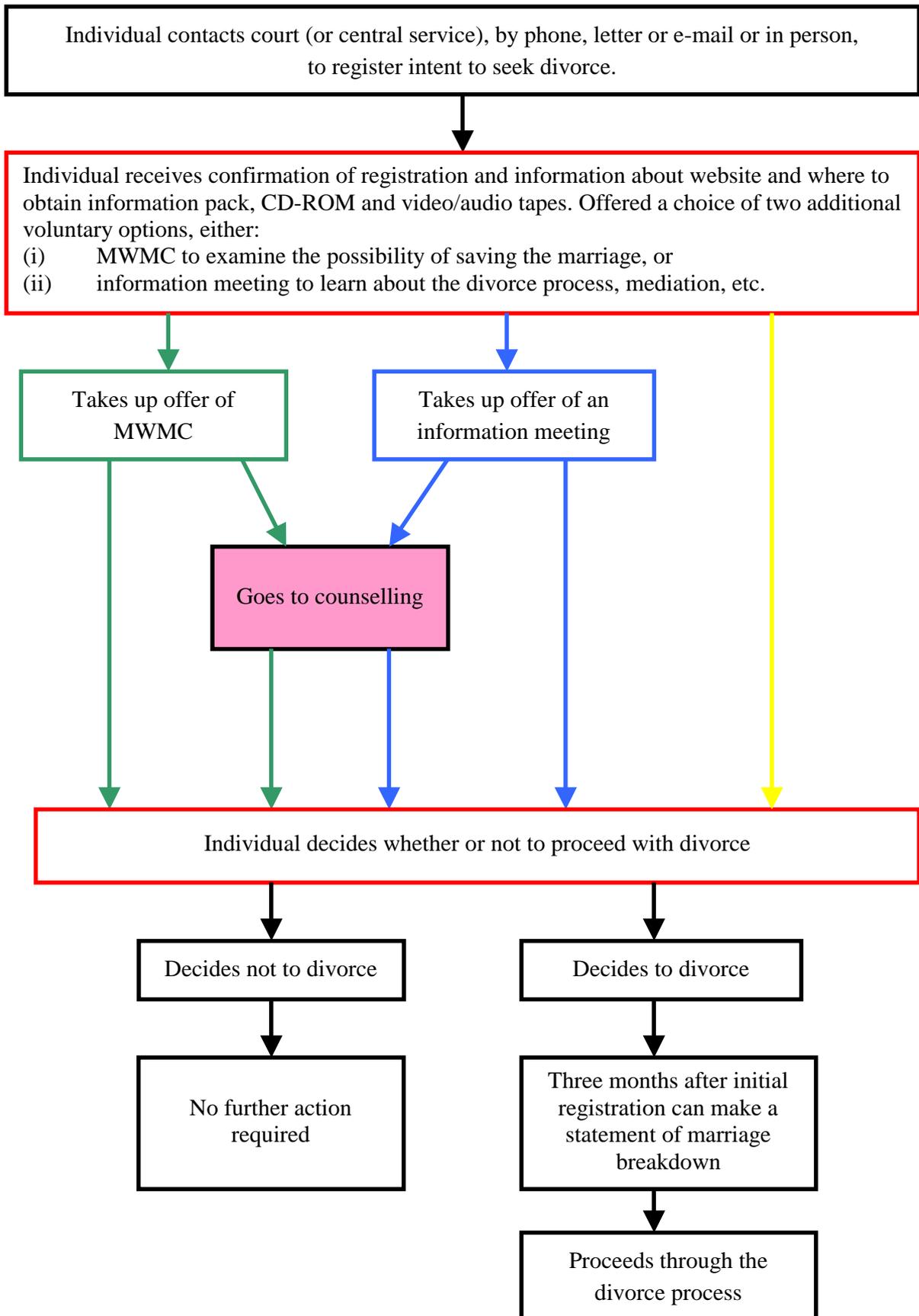


Figure 7.3 Supporting the general principles of the Family Law Act without a mandatory meeting

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 existence²⁰ 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 on the verge of breakdown are just as real, as this study 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 attempt reconciliation. Others 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.

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 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; and information recipients should feel able to take steps to work on saving the marriage, to proceed with divorce feeling confident about what the process might involve and the options they might consider, or to resolve specific issues and reflect on the best way forward.

²⁰ The Family Law Consortium, <http://www.tflc.co.uk/main.html>

Annexe

Data Collection Processes

Information Meetings

There were four primary data sources: information presenters and facilitators, those attending information meetings, staff in pilot sites, and professionals in pilot areas.

Information presenters

Data were obtained from information presenters at five different times: before training (via a questionnaire); immediately following training (via a questionnaire); three to four months into practice (via a questionnaire); at the end of each pilot (via focus groups and questionnaires); and at the end of each information meeting (via a questionnaire, and via discussion following the research observations) (Figure A1).

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 Model E and F CD-ROM meetings because attendees were left alone to work through the programme at their own pace and we believed that the presence of a researcher would be highly intrusive. Moreover, the facilitators, in contrast with the presenters, had a very limited role to play.

Those applying to or attending information meetings

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 great deal about those who did and did not attend an information meeting subsequently. Further data were collected on a number of occasions from those who attended an information meeting (Figure A2). 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. 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. Some five to seven months after an initial telephone interview, a further contact was made for a second telephone interview; selected subsamples for further in-depth interviewing were drawn in April and May 1999 from those who had participated in both telephone interviews. These interviews focused on saving marriage, promoting conciliatory divorce, and promoting continuity in parenting, and 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 a 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.

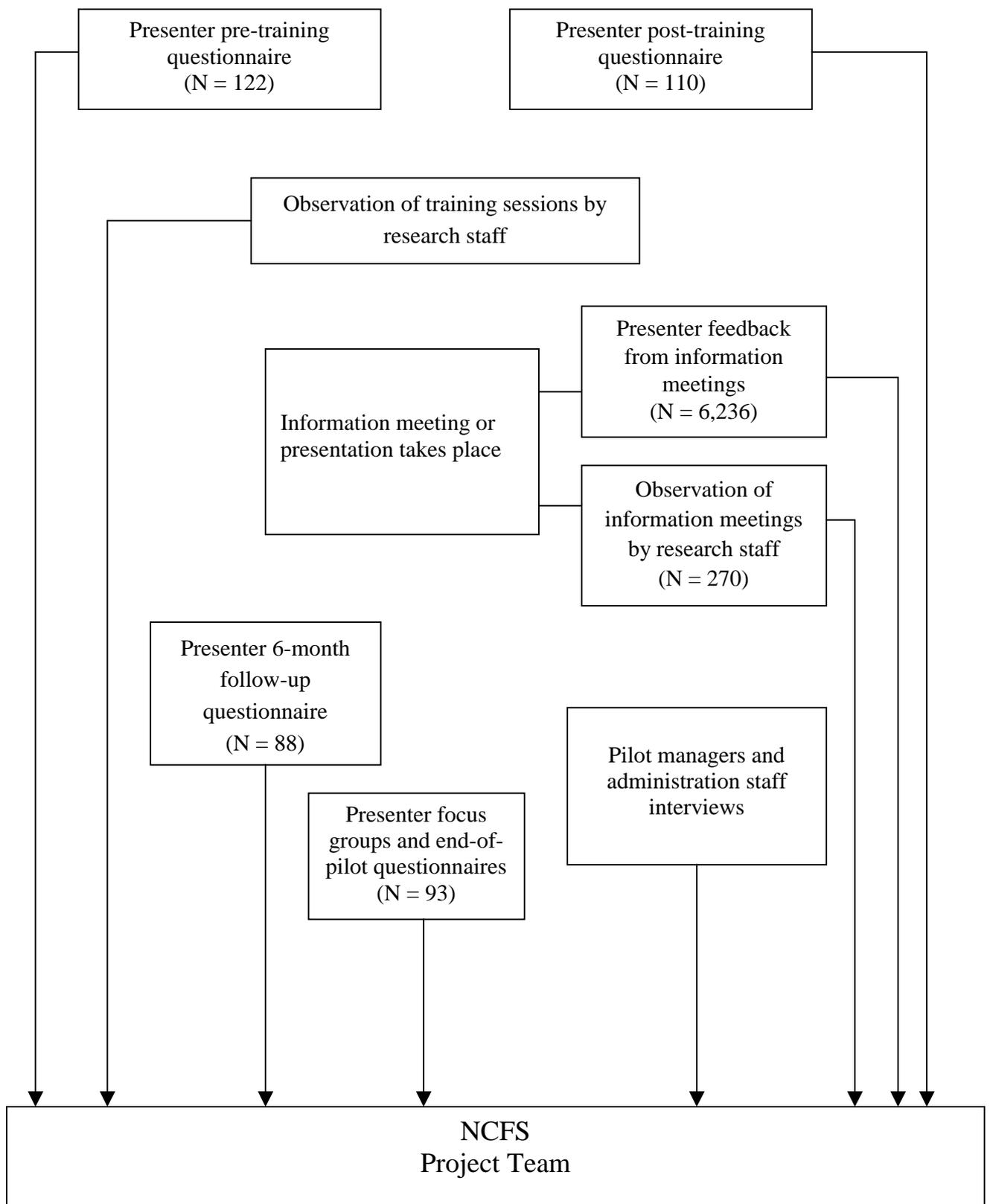


Figure A1 Data from information meeting presenters and CD-ROM facilitators

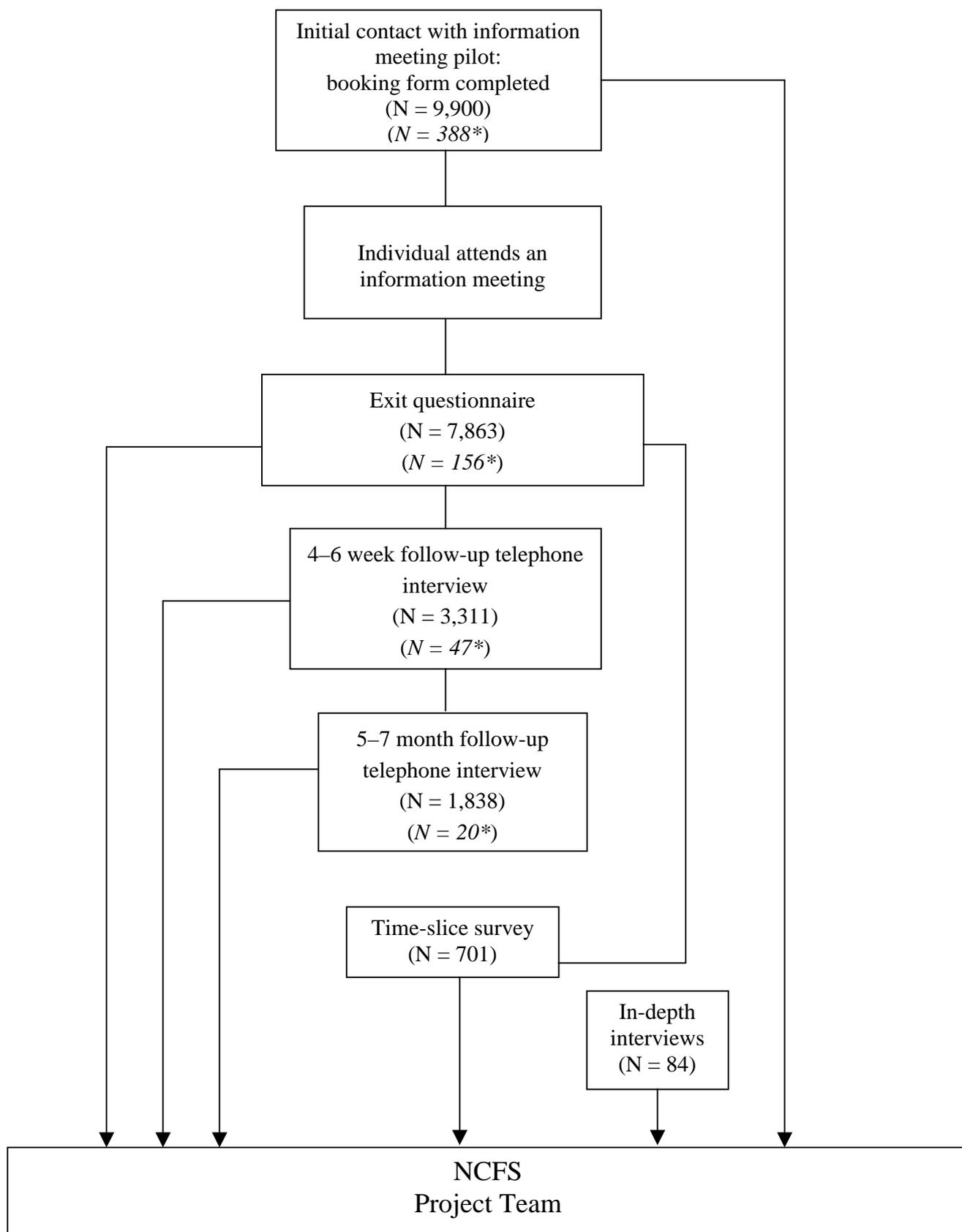


Figure A2 Data from applicants and attendees in respect of all models of information delivery (figures in italics relate to unmarried attendees)

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 early in the life of the pilot via consultation meetings organised by pilot managers, and 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.

Meeting with a Marriage Counsellor

Marriage counsellors

Data were obtained from counsellors via the following means: pre-training feedback; post-training feedback; exit questionnaire completed after each MWMC; follow-up questionnaire, 6 months into practice; and focus groups conducted at the end of the pilot period (Figure A3).

Attendees at a MWMC

A booking clerk recorded personal data about each person who made an application to attend a MWMC. Those who attended the MWMC were asked to complete a brief exit questionnaire and to give their consent to follow-up interviews. Between 4 and 6 weeks after attending a MWMC, attendees who had consented to participate in the research were contacted by phone for an initial telephone interview. A subsample of those who had given a telephone interview were selected in April 1999 for further in-depth interviews, and 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 (Figure A4).

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

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

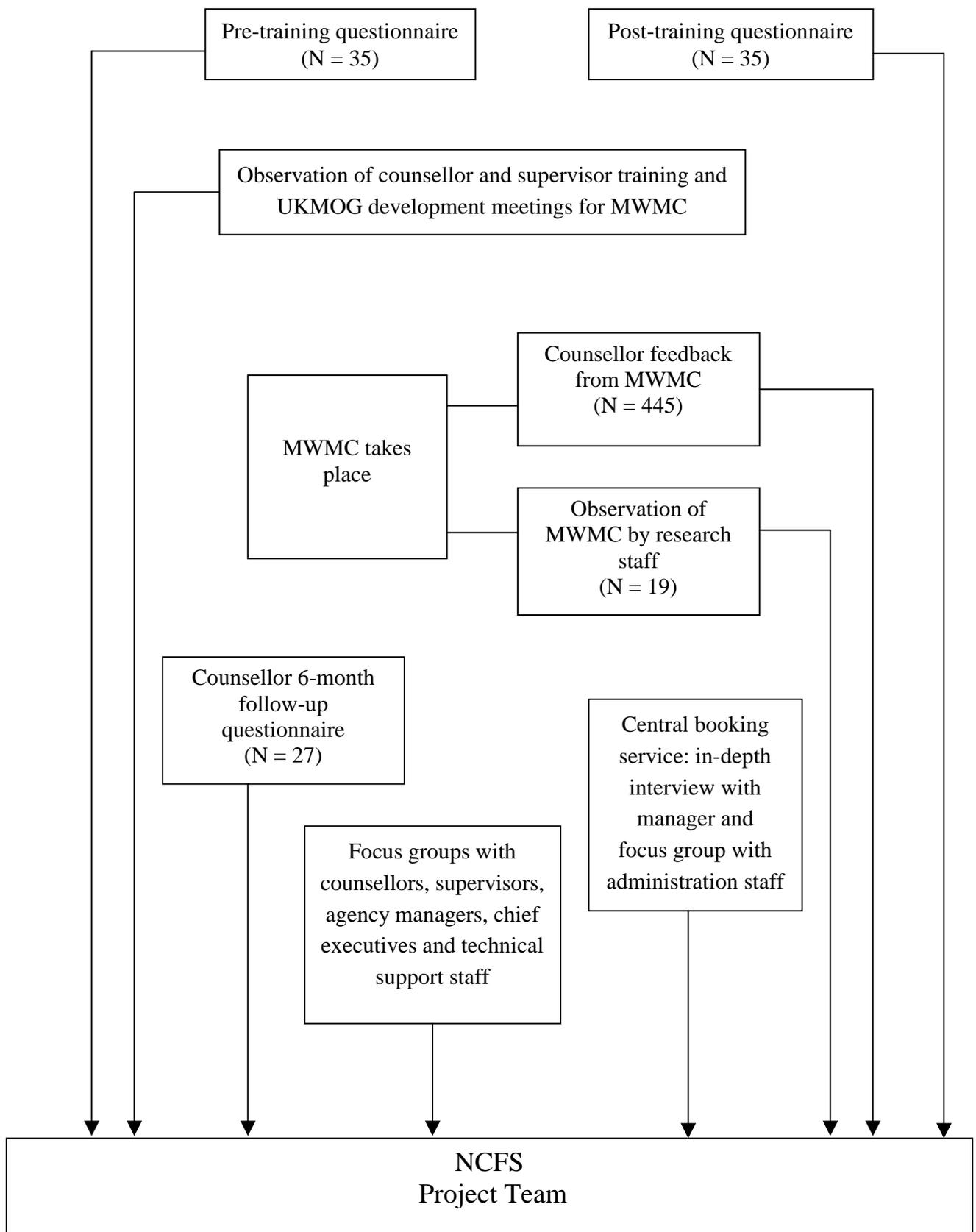


Figure A3 Data from counsellors and supervisors in respect of the meeting with a marriage counsellor

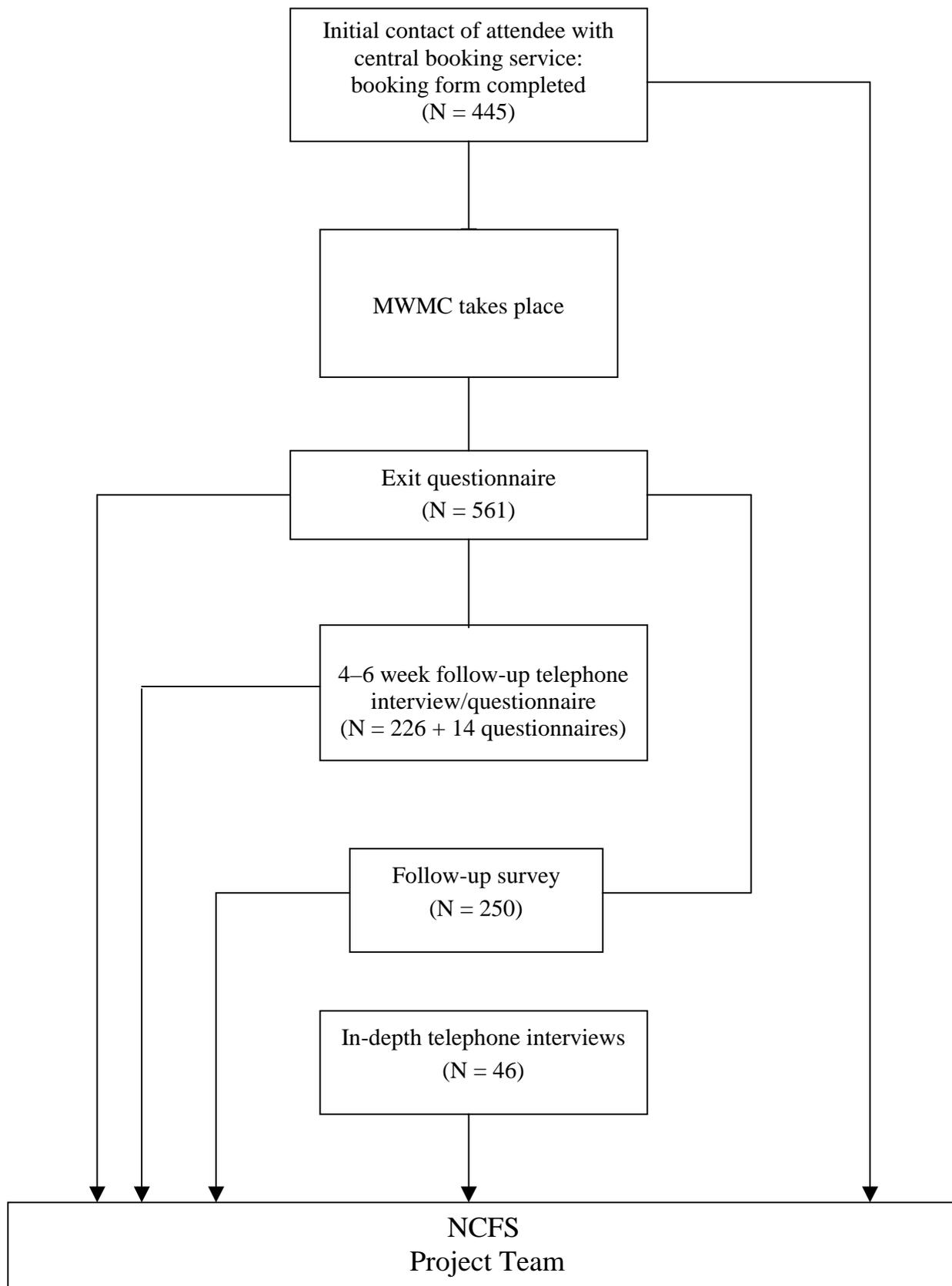


Figure A4 Data from those who attended a meeting with a marriage counsellor