

**Parental Perspectives on the Family Justice System in
England and Wales: a review of research**

**Undertaken for the Family Justice Council and funded by the Nuffield
Foundation**

May 2010

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ACKNOWLEDGEMENTS

Thanks are due first of all to the Family Justice Council for having the courage to initiate this review and to the Nuffield Foundation for providing the funding. The task of identifying relevant material was facilitated by all those organisations and individuals, too many to name, who responded to my requests for information, either by suggesting documents to examine, or, which was just as useful, confirming that there was no research on the views of particular groups of parents other than that I had already found.

I am also enormously grateful to those academics who acted as critical readers for particular sections of the text, namely: Dr Karen Broadhurst, Lancaster University; Julie Doughty, Cardiff Law School; Professor Richard Moorhead, Cardiff Law School; Professor Liz Trinder, Exeter University and Dr Katherine Wright, Sheffield University.

Mervyn Murch, now Emeritus Professor at Cardiff Law School, is owed particular thanks for his sterling work in reading and commenting on the whole draft, assisting with the preparation of the summary and writing the foreword. His involvement with this piece of work is particularly appropriate because of the contribution he has made, in the course of a long and distinguished career, to the development of research on the experiences of families caught up in the family justice system, a term which he was responsible for coining. I also owe a personal debt of gratitude to Professor Murch, with whom I worked for many years at Bristol University's Socio-Legal Centre for Family Studies, for starting and fostering my career as a socio-legal researcher.

FOREWORD

Joan Hunt has undertaken the extremely challenging task of reviewing some 51 empirical research studies and 23 official reports, all of which concern parental perspectives on various aspects of the family justice system since the Children Act 1989. I marvel at the diligence and skill she has shown in conveying the essence of these researches and reports which are so varied in subject, scale, timing, focus and location. Nevertheless the key messages which she has distilled bare a depressingly familiar resemblance to those which emerged from a research study which I directed more than 20 years ago in the run up to the Children Act. That earlier project was commissioned by the then Lord Chancellor's Department and Home Office primarily for the benefit of an Inter-departmental Review of Family and Domestic Jurisdiction, known at the time as the Family Courts Review.¹ Unfortunately, this Report was not widely distributed and, like the proceedings of the Family Courts Review itself, may still be gathering dust in the archives of the former Lord Chancellor's Department and the Home Office.

Curiously, Joan Hunt's review, undertaken for the Family Justice Council, coincides with a new Family Justice Review which was announced in the Green Paper *Support for All: The Family and Relationships*, published in January 2010 and due to report to ministers in 2011. Her review of these more recent studies and reports shows how enduring are the structural problems of expense, delay and often insensitive, demeaning procedures associated with a basically unreformed adversarial and divided local family court system, further hampered recently by shortcomings in Cafcass staff resources and administration. While there is much that is positive to report in this review, one gets the impression that it is more in spite of the system than because of it. Indeed, in some respects, the system has become more complex and slow moving with obvious implications for costs. Nor does it seem from what has been gleaned from those researches concerning in-court conciliation that alternative dispute resolution services in general are the panacea that many in government hope for. This review shows that many parents find that such encounters can be almost as stressful as a court appearance and that even when conciliated agreements between estranged parents are reached, they often do not last very long nor do they necessarily lead to improved parental relationships.

It is clear in a number of respects what parents involved in family proceedings do and do not want: as far as the courts are concerned they are asking for decent reception facilities and waiting rooms where they can consult their lawyers and Cafcass officials in private. They want less formality in court proceedings, which should be conducted in a less adversarial yet fair and impartial manner. They assess competence in the courts, in Cafcass officials and in their legal representatives by apparent efficiency and the avoidance of what seems to be expensive and unnecessary delay. Above all they wanted to be treated with courteous respect and with a sensitive understanding of the stresses they and their children may experience during the litigation process – whether that be in private or public family law proceedings.

¹ See Report *The Overlapping Family Jurisdiction of Magistrates' Courts and County Courts*, Socio-Legal Centre for Family Studies, University of Bristol, June 1987.

It would really serve the common good if ways and means can finally be found to give effect to these clear research messages. One can only hope that the Family Justice Council and the forthcoming Family Justice Review take heed, and under the spur of the current economic downturn and restraint in public expenditure, undertake much needed root and branch reform. I commend therefore this research review, which needs to be well digested and widely distributed.

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1 The Study

Background to the study

The study reported here, which was funded by the Nuffield foundation, was prompted by a request from the Family Justice Council for a review of empirical research into the perspectives of parents on the operation of the child-related aspects of the family justice system in England and Wales.

The Family Justice Council was set up in 2004, by the then Department for Constitutional Affairs, following a period of public consultation. It is an inter-disciplinary body consisting of a range of professionals, academics and users, plus ex officio members from government departments and agencies. The Council's primary role is:

To promote an inter-disciplinary approach to the needs of family justice, and through consultation and research, to monitor the effectiveness of the system and advise on reforms necessary for continuous improvement. (<http://www.family-justice-council.org.uk>)

According to Lord Filkin, then Minister for Family Justice at the Department for Constitutional Affairs:

Members will use their wealth of personal and professional experience to look at the family justice system and identify how it can be improved for the benefit of those who come into contact with it. Many children and families come into contact with the family justice system each year. This new Council will play a crucial role in improving the way their cases are handled. (Press Release, 1.7.2004)

In furtherance of these objectives one council member² was given particular responsibility for focusing on the experiences of adult consumers. Following discussions with various stakeholders, she made a series of recommendations to the Council, including that the FJC should commission a literature review of research studies into parents' views to '*bring together what is already known*'³.

The concept of a family justice 'system' is a relatively new one, first coined by Murch and Hooper in their seminal book of that name in 1992⁴. Its parameters are ill-defined. Some institutions and professions (notably the courts, the legal profession, and the Children and Family Courts Advisory and Support Service [Cafcass]) are clearly 'core' and the system is the focus of their work. Others, such as health professions, play an important role in certain cases, but most of their work lies outside the system. The Family Justice Council's definitional net is cast very wide, including:

Family courts, lawyers, Mackenzie Friends, judges, magistrates, Cafcass officers, the Child Support Agency, contact centres, health professionals, expert witnesses, family

² Mary Macleod, Chief Executive of the National Family and Parenting Institute

³ Macleod, M, July 2005: Paper on Parents and Carers as service users, unpublished.

⁴ Murch, M. and Hooper, D. (2000) *The Family Justice System*. Family Law.

mediators, local authority social services or children's departments, police and refuges'.

In terms of the resources available for this study, however, it was not possible to attempt to review research on every part of this system. This report therefore focuses on three key elements in the system: the courts, solicitors, and Cafcass. It was also decided to concentrate on studies undertaken since implementation of the Children Act, 1989.

Data collection and analysis

Since the author's own research had included studies of parental views on court proceedings much of the published literature was already known. This was supplemented by an electronic search of bibliographic data-bases. Information about other work, particularly research which had not been published, was also sought from other academics and from a wide range of voluntary and statutory organisations working in the field. Members of the Family Justice Council also circulated their respective constituencies. References in any documents found in these ways were followed up.

The material generated was very varied, from peer reviewed published studies to inspection reports, and from studies focusing entirely on the target topic to studies in which there was only brief mention of parental views on the subject. A decision was taken to include them all, in order to get the widest possible coverage of the issues, although this proved extremely time-consuming. However, in order that the reader has some foundation on which to evaluate the findings of the studies, particularly when they are contradictory, each substantive section is preceded by an outline of the data sources which provides information about the nature, size and representativeness of the samples used in the studies drawn on. A list of all the studies to which reference is made in the report, and the topics they cover, can be found in Appendix A, and details of the studies are set out in tabular form in Appendix B.

Data is included from 51 research studies, 20 inspection reports, two court surveys and Cafcass's client feedback system HearNow. Notes from each were entered into a computer programme – Nvivo – which is typically used for the analysis of qualitative data but which proved to be extremely useful for sorting the material into topic areas and for identifying themes across the studies.

Structure of the report

Chapters 2-4 look at parents' perspectives on the court. Chapter 2 outlines the studies which include material on this; chapter 3 reports on the experience of being a litigant, and chapter 4 on parents' views about decision-making and outcomes.

Chapters 5-7 examine research on parents' views of Cafcass and its predecessor organisations – the guardian panels in public law cases and the family court welfare service in private law. The studies covered are described in chapter 5; chapter 6 focuses on parents' views on the investigation and reporting process while chapter 7

examines the factors which research suggests is related to parental satisfaction and dissatisfaction.

Chapter 8 looks at in-court conciliation, which involves both the court and Cafcass. Chapters 9 and 10 turn to parents' views about solicitors. Chapter 11 attempts to draw the threads together, addressing the questions 'what do we know already from existing research and what do we need to know?'

2 Perspectives on the court: the data

The next two chapters cover research on parents' views of the court process. This chapter outlines the studies on which they are based. Details of all the studies are set out in Appendix B, table 1.

The core studies

The data is mainly drawn from research studies with samples consisting entirely, or almost entirely, of parents who have been involved in court proceedings (21 in all). Thirteen of these studies are restricted to private law proceedings (Bailey-Harris et al, 1998; Buchanan et al, 2001; Douglas et al, 2006; Families Need Fathers, 2008; Harne, 2004; Mantle, 2001; Morgan, 1996; Painter, 2002; Perry and Rainey, 2006; Radford et al, 1999; Smart et al, 2005; Trinder et al, 2006a; Trinder and Kellett, 2007). Seven are confined to public law cases (Booth and Booth, 2004, 2005; Brophy et al, 2005; Charlton et al, 1998; Freeman and Hunt, 1998; Lindley, 1994; Mason and Selman, 1997; Ryburn, 1994). There is only one study with a sample drawn from both public and private proceedings – the Client Satisfaction Survey conducted for Cafcass (BMRB Social, 2004). However the number of responses from parents who had been involved in public law cases was considered to be too small for separate analysis and the two sets of data were amalgamated in the study report.

Some of the samples used in these studies are more broadly based than others. In private law three (Bailey-Harris et al, 1998; Perry and Rainey, 2006; and Smart et al, 2005) tap the experiences of the generality of parents involved in contact and residence disputes. Others are restricted to parents who have experienced particular parts of the process, such as welfare reports (BMRB Social, 2004; Buchanan et al, 2001) or in-court conciliation (Mantle, 2001; Morgan, 1996; Trinder et al, 2006a; Trinder and Kellett, 2007). Douglas and colleagues (2006) focused on a very specialised group, parents involved in private law proceedings whose children were separately represented under rule 9.5 of the Children Act. Three studies relate only to parents, almost all mothers, who have experienced domestic violence (Harne, 2004; Painter, 2002; Radford et al, 1999).

In public law Freeman and Hunt (1998) and Lindley (1994) report on the views of a range of parents involved in care proceedings. Other studies of care proceedings focus on specific groups: parents with learning difficulties (Booth and Booth, 2004, 2005) and parents from minority ethnic groups (Brophy et al, 2005). The three remaining studies use samples where children had been adopted (Charlton et al, 1998; Mason and Selman, 1997; Ryburn, 1994), with the last two consisting only of parents who had been opposed to the adoption.

Sample sizes range widely, from eight to 345, although it should be noted that the main focus of the two studies with the largest numbers (Mantle, 2001 [345] and BMRB Social, 2004 [330]) are, respectively, in-court conciliation and Cafcass's reporting function and contain little general information about the courts. Of the rest, five have samples of over 100 (Radford et al, [121]; Trinder et al, 2006a [250]);

Trinder and Kellett, 2007 [117]; Smart et al, 2001, [112]. Five range between 51 and 100 (Buchanan et al, 2001, [100]; Charlton et al, 1998 [100]; Morgan, 1996 [71]; Perry and Rainey, 2006, [60] and Bailey-Harris et al, 1998 [59]); three between 26 and 50 (Lindley, 1994 [39]; Freeman and Hunt, 1998 [35]; Booth and Booth, 2004 and 2005 [32]; while five are less than 25 (Douglas et al, 2006 [22]; Mason and Selman, 1997 [21]; Painter, 2002 [14]; Harne, 2004 [10]; Brophy et al, 2005 [12]; Ryburn, 1994 [13]. The larger the sample, of course, generally the more confident one can be that the results reported are likely to reflect the *balance* of views in the target group although smaller studies often capture a wide *range* of opinion.

Other important factors in considering the weight to be given to particular findings is how the sample has been obtained and what proportion of those approached the sample represents (response rate), which affects the degree to which it is possible to generalise from the research findings to the whole of the target population. Several of the studies mentioned use recruited or convenience samples (Booth and Booth, 2004; Brophy et al, 2005; Charlton et al, 1998; Harne, 2004; Lindley, 1994; Mason and Selman, 1997; Ryburn, 1994) which mean response rates cannot be given and no assessment of representativeness made. Two other studies (Douglas et al, 2006 and BMRB Social, 2004), although obtaining their samples via, respectively, the courts and Cafcass, were not able to present information on response rates or representativeness because they lacked data on the whole group.

Some of the studies, however, do provide this information. Trinder achieved 67% in her initial study of in-court conciliation (Trinder et al, 2006a) and 47% in the follow-up (Trinder and Kellett, 2007). Morgan (1996) reports 65%; Bailey-Harris and colleagues (1998) 45%; Mantle (2001) 43%. In contrast Smart et al (2005) and Perry and Rainey (2006) only managed rates of 9% and 17%. Buchanan et al (2001) who contacted parents through the family court welfare service report that their achieved sample constituted 25% of all those eligible and Painter, (2002) who used Cafcass, managed 17%. The only public law study to give a response rate is that by Freeman and Hunt (1998), who report that their interviewed parents (selected partly through court attendance and partly court files) represented 30% of the whole sample.

Sample bias is another important factor in assessing generalisability. The Freeman and Hunt study (1998) is reported to somewhat under-represent families not known to Social Services prior to the events which led to proceedings and those with the most serious social problems. Smart et al (2005) note that their interview sample contained more high conflict cases while their larger survey sample over-represented contact cases, respondents and mothers. In contrast Bailey et al (1998) had more fathers in their sample and more applicants than respondents. The sample in Buchanan et al (2001) is described as 'well-matched' on all the characteristics examined apart from under-representing cases with serious welfare concerns, and there was only a slight preponderance of mothers (52%). Perry and Rainey (2006) interviewed equal numbers of mothers and fathers but had more applicants than respondents and more resident than non-resident parents. Trinder and Kellett (2007) also had almost exactly the same numbers of mothers and fathers but slightly more respondents than applicants. Otherwise they report the sample was highly representative of parents going through in –court conciliation.

One final consideration is the geographical spread of the study samples since those based on a single area may simply reflect local practice. Three of the studies use geographically dispersed samples: the Cafcass Client Satisfaction Survey (BMRB Social, 2004) drew on the whole of Cafcass; Lindley (1994) recruited participants through 25 local authorities and a helpline. Radford and colleagues (1999) obtained their volunteer sample through several organisations working with and for victims of domestic violence. Ryburn (1994) used a national adoption agency.

Most of the other studies used at least three research sites, viz:

Bailey-Harris et al (1998)	four county courts in the south west of England;
Booth and Booth (2004)	six local authorities;
Brophy et al (2005)	three court areas;
Buchanan et al (2001)	three family court welfare teams in different areas of the country; family proceedings, county and high court.
Douglas et al (2006)	four county courts;
Freeman and Hunt (1998)	family proceedings and county courts serving three local authorities;
Perry and Rainey (2006)	five courts;
Smart et al (2005)	three county courts;
Trinder et al, 2006a & Trinder and Kellett, 2007)	seven county courts and the Principal Registry of the Family Division;

Of the remaining studies Painter (2002) obtained her sample through a single Cafcass team; Morgan (1996) and Mantle (2001) through one family court welfare area; Mason and Selman (1997) through one local adoption support project and Charlton (1998) through two. Harne (2004) used two domestic violence support networks.

Additional sources of data

The material from what might be regarded as the core studies is supplemented in two ways. First, from reports from the court service or the inspectorate which included surveys of user views; second, from studies which include parents with experience of the court system as part of larger samples.

Inspection and court service reports

Material is included from three inspection reports, all focusing on Cafcass but containing a little information from parents about the courts. Two of these (MCSI, 2002a; HMICA, 2005) cover only private law; the second one being a thematic report focusing on women who had experienced domestic violence. The third (HMICA, 2008) covers both public and private law although the findings are not differentiated.

This last report is the first of the Cafcass inspections to deal entirely with user views. Described as a pilot study, it surveyed family litigants in all concluded cases over a three month period in the family proceedings and county court in one northern town, obtaining a sample of 116 responses from adults, most of whom one assumes will be

parents, a 26% response rate. The earlier HMICA study (2005) is partly based on focus groups held with 30 women victims of domestic violence who had been in contact with Cafcass, recruited through Women's Aid, and partly through a survey of Cafcass clients in three areas, producing responses from 62 parents, a response rate of 18%. The MCSI report (2002a) relates to a single Cafcass area but one which covers many courts. It surveyed 45 parents (a response rate of 15%) and carried out telephone or face to face interviews with 13 parents involved in prolonged litigation and 24 participating in in-court conciliation in one court.

Reference is also made to the court user survey carried out by the court service (HMCS, 2007). This was a national survey, taking place in every county, crown and magistrates court, which randomly sampled all users, including professionals, as they left court, achieving an overall response rate of 47%. Unfortunately, for the purposes of this paper, although there were 713 family court users, and the findings for public users are reported separately, no information is given about who those 'public' users were, or what proportion they represented of the 713.

Research studies which include information about litigating parents as part of larger samples

Of the 13 studies in this group only three include parents who have experienced public law proceedings. One of these is restricted to parents with learning difficulties (Tarleton et al, 2006), a second (Prosser, 2002) to parents who had been falsely accused of child abuse. The third (Ashley et al, 2006) does not focus on any specific group. This study also includes some private law cases. Of those studies which only include private law cases several focus on parents, usually women, who have experienced domestic violence (Hester and Radford, 1996; Humphreys and Thiara, 2002; Thiara, 2009; Women's National Commission, 2003) while one of these (Thiara, 2009) uses a sample of South Asian women victims. Domestic violence also featured strongly in the cases in the study by Aris and colleagues (2002) who drew their sample from parents using contact centres. Greenfields' sample (2002) consists entirely of parents from traveller families, Corlyon's (2009) consists of non-resident parents, mainly men, and Pickford's (1999) of unmarried fathers applying for parental responsibility orders. Trinder and colleagues (2002) report only on cases where contact was taking place. The study by Davis and colleagues (2000) is the broadest, although the sample is largely drawn from parents who had been referred to, or were exempted from mediation.

Only a few of these studies specify how many parents had experience of court proceedings. Typically the numbers given are very small: seven (Thiara, 2009); eight (Greenfields, 2002); 17 (Corlyon, 2009), the largest being Pickford's (1999) [33]. Ironically, the numbers in some of the remaining broadly-based samples, although not specified, are likely to be somewhat larger. 'Almost all' the 30 parents interviewed in one study for instance, are said to have had children taken into care (Tarleton et al, 2006). Another, with a total sample of 128 *parents*, reports that 62% of *cases* had court-ordered contact (Aris et al, 2002). The largest sample (calculated at 345 respondents) is in the mediation study by Davis and colleagues (2000).

3 Being a litigant

Overall satisfaction with the court process

The 2007 HMCS court user survey, which is the only piece of research to measure overall levels of satisfaction with the court process, found that 81% of public users of the *family* courts (who are, of course, not restricted to parents) were either very, or fairly satisfied, somewhat fewer than the 85% of public users of the *civil* courts. The only other quantitative data comes from a study of parents in residence and contact disputes in which a welfare report had been ordered (Buchanan et al, 2001). This found that a third of parents rated the service they had received from the court as excellent/good, a third as average and the remaining third as poor. It also reports, however, that nine out of 10 parents were dissatisfied with some aspect of their court experience and six out of 10 were entirely negative.

Three other studies of private law cases, while not providing numbers, also indicate low satisfaction rates: Pickford (1999) reports that ‘almost all’ the men who had been through the process of applying for parental responsibility orders were dissatisfied to some extent and some were very dissatisfied indeed. Seven in 10 said they found the process very difficult, only 15% saying it was ‘quite easy’. Trinder and Kellett (2007) refer to ‘relatively few’ parents making positive comments about the courts, while Smart et al (2005) note a ‘high level of dissatisfaction’, although pointing out that views could be placed on a continuum, from those who saw the court’s role in their case as hostile to those who were mainly positive, even if not entirely uncritical.

These latter parents, it is reported, said they would advise other parents in their position to go to court ‘to get it sorted out’, from which it might be assumed that if necessary they would be prepared to return to court themselves. Trinder and Kellett, however, cite only one parent willing to do so, emphasising, in contrast, that even when the contact arrangements were not working, there was little enthusiasm for returning to court.

The court experience

For the parents in Trinder and Kellett’s study (2007) a powerful disincentive to returning to court, perhaps the strongest⁵, was ‘the sheer horror or the emotional and physical impact of being involved in court proceedings’. As one parent put it:

I just feel sorry for anyone else that has to go through it. I didn’t realise how horrendous it was until you come out the other end. It was awful. The strain of it, you know. Trying to look after your children. Trying to get to work. Trying to get to the court cases. Trying to feel as if you’ve got to justify yourself all the time.

The traumatic nature of the whole experience is a strong theme in the research literature on both private and public law proceedings (Booth and Booth, 2004; Brophy

⁵ The others were the cost of proceedings and their perceived ineffectiveness in resolving the problems.

et al, 2005; Buchanan et al, 2001; Charlton, 1998; Freeman and Hunt, 1998; Lindley, 1994; Mason and Selman, 1997; Painter, 2002; Perry and Rainey, 2006; Ryburn, 1994; Tarleton and Ward, 2007; Trinder and Kellett, 2007). One study of private law proceedings, for instance, (Buchanan et al, 2001), notes that

The vast majority (of parents) described a disruptive, nerve-wracking and exhausting process which came to dominate their lives and adversely affected their psychological and physical health.

Standardised tests completed by parents in this study indicated that 84% had above normal levels of stress. (The expected rate in the general population is 20%).

For women who have experienced domestic violence coming to court can be particularly daunting:

The only way I've personally coped is to completely block him out of existence...so to have to come into close proximity to him was unbearable. (Painter, 2002)

Parents subject to public law proceedings have the additional stress of feeling humiliated by having their parenting called into question (Charlton, 1998; Freeman and Hunt, 1998; Lindley, 1994; Mason and Selman, 1997; Prosser, 1992) and may be fearful that this will become public knowledge in their wider families and communities (Freeman and Hunt, 1998); an issue which can be of particular salience for BME parents (Brophy et al, 2005). Freeman and Hunt note that parents with mental illnesses felt particularly aggrieved and unjustly stigmatised and perceived the system to be unfair and unfeeling towards them even though they had not actively or intentionally harmed their children. Booth and Booth (2005) highlight the difficulties experienced by parents with learning difficulties.

Parents typically report being very anxious, fearful and uncertain before attending court (Booth and Booth, 2004; Booth, 2005; Freeman and Hunt, 1998; Tarleton et al, 2006). This is likely to be particularly acute on the first occasion, when everything is unfamiliar:

The first time I went to court it were nerve-wracking. Me stomach were turning over...I thought, oh god, let me get out'. (Booth and Booth, 2004)

However, although the experience may become less stressful over time each subsequent hearing remains something of an ordeal. All the parents in Freeman and Hunt's study:

Remained anxious and insecure about the final outcome. So each time they had to 'psych' themselves up for an experience they knew would be extremely upsetting. Levels of apprehension did not substantially diminish. Each hearing reactivated their distress.

Waiting to go into the courtroom, understandably, is a difficult time for most parents (Booth, 2005; Brophy et al, 2005; Freeman and Hunt, 1998; Lindley, 1994), described as 'frightening', 'nerve-wracking', 'terrible', 'horrible', 'awful' (Freeman and Hunt, 1998). These feelings are exacerbated by any delay in starting the hearing and by the environment in which some have to wait. Lack of privacy is a common

complaint. Parents involved in care proceedings who were not able to wait in a side room report feeling publicly exposed, which they felt was '*degrading*', '*embarrassing*' or made them '*feel like a criminal*' (Freeman and Hunt, 1998). Those involved in private law disputes may feel uncomfortable about the presence of their ex-partner, while those who had experienced domestic violence, even if they thought they were physically safe, could feel intimidated (HMICA, 2005; 2008; Mantle, 2001; Painter, 2002):

It was extremely stressful anyway but made worse by close proximity...ignoring me. After a long marriage this was all the more painful. Delay made this experience worse. Personally I think they should have waited elsewhere. (HMICA, 2008)

He sat in a different row, but made sure I knew he was there, laughing really loud and stuff. (Painter, 2002)

Court hearings themselves are generally described in very negative terms (Booth, 2005; Brophy et al, 2005; Buchanan et al, 2001; Charlton, 1998; Douglas et al, 2006; Freeman and Hunt, 1998; Lindley, 1994; Perry and Rainey, 2006; Tarleton et al, 2006; Tarleton and Ward, 2007). Parents report feeling isolated and unsupported in court, intimidated, alienated and confused by the formality of the setting, the language and the procedures and overwhelmed by the numbers of people in court:

They've got to simplify the actual system itself. One of the reasons why you need a solicitor is because it's so complex. Your ordinary average person on the street like me goes into a completely unusual and alien environment. ... it's a completely different world it really is. It's just too complicated for us Joe Bloggs on the street. (Perry and Rainey, 2006)

Parents feel excluded from what is going on, either because they do not understand what is happening, because they do not understand the language, because they are not encouraged to contribute, or sometimes because, particularly where they are positioned at the back of the court, they cannot actually hear or see (Brophy et al, 2005; Douglas et al, 2006; Freeman and Hunt, 1998; Lindley, 1994).

I might as well not have been there. (Freeman and Hunt, 1998).

Parents are often left at the back, separate from their solicitor, with no-one to explain what is going on. Much of what happens washes over them. (Booth and Booth, 2005).

Women who have experienced domestic violence have to cope with the additional stress of facing their abuser:

My heart was pumping outside my body, no matter how much I thought I was OK, it was so hard being in a small space with him. (Painter, 2002)

The presence of him, it was overwhelming, frightening, they stare at you, you feel his eyes piercing in you, and you just try not to look at him. (Painter, 2002)

Indeed an abused mother in one of the studies (HMICA, 2008) explained that she had not been able to continue coming to court because:

In the court room I was expected to sit next to the man who had been so violent to me. No-one was bothered about how intimidating this was. Altogether very traumatic. In the end, I ceased to attend, but he was able to keep attending. (HMICA 2008)

Contested hearings are likely to be the most stressful of all the hearings parents have to attend, whatever the nature of the proceedings. In private law proceedings Davis and colleagues (2000) report that 69% of litigants found the trial an upsetting experience, with women being more likely to say this than men (74% compared to 66%). Similarly 'most' of the parents who had had a contested final hearing in the study by Buchanan et al, (2001) even those who were satisfied with the outcome, referred to the stress of the occasion - 'horrible', 'intimidating', 'the single most stressful thing I have ever had to go through', 'isolated', 'belittled', 'on the defensive'. Those who gave evidence generally described it in very negative terms: 'intimidating', 'scary', 'frightening', making them feel dehumanised, belittled and treated like a criminal, and came away feeling they had been unable to get their point across:

I can remember it feeling really frightening, that the wall was coming out at me. I didn't like the way there was a dock. If we'd all been sitting round one table. I felt I was in the dock and there was this man sitting facing you that you don't get on with at all. You felt you were on trial' (Buchanan et al, 2001).

Similarly, studies of care proceedings (Freeman and Hunt, 1998; Lindley, 1994) highlight the difficulties parents experience in giving evidence, with even normally articulate parents being overwhelmed and feeling they failed to do themselves justice. As parents in the Freeman and Hunt study put it:

The hearing was too quick....You are only allowed to say it briefly and they don't let you explain.

There was no time to say how you felt before they would go on to something else when you were giving your answers.

Cross-examination was reported in this study to be one of the most disliked parts of the process, attracting a plethora of complaints: lack of comprehension of questions couched in legal language, irrelevant questions; questions coming out of the blue, lack of time to complete answers and feeling humiliated, deceived, personally attacked or above all confused. The authors also note that 'it cannot be assumed that if parents do not understand they will ask for clarification'.

Parents in private law proceedings also report negative experiences of being cross-examined by a professional advocate (Buchanan et al, 2001):

I was interrogated for hours, my reputation was dragged through the sewer. His barrister went on and on, twisted everything to discredit me, said things to make me angry. ..There's no need for gratuitous cruelty – it was like on TV, but this is real life and people get badly hurt.

In public law proceedings, however, a parent is unlikely to find him/herself having to answer questions put directly by their unrepresented ex-partner. In private law proceedings this is quite possible and brings a different kind of stress. Being

questioned by an ex-partner who has abused you is particularly difficult (Buchanan et al, 2001; HMICA, 2005):

I was terrified. I got to the point where they were saying would I like a chair or a glass of water. I was in a terrible state. It was because it was him asking the questions. Old habits die hard. I found standing up to him very difficult. (Buchanan et al, 2001)

Despite the trauma of giving evidence, Freeman and Hunt (1998) found that none of the parents regretted having done so and that of those who had not been given the option many would have liked to have been asked, their comments suggesting that giving evidence might have helped them to feel more part of the process than they clearly did:

It's called the family court but they don't involve the family.

Overall, the authors concluded:

Whether as the result of the formality of the setting and the procedures, the adversarial process or the convoluted language, parents experienced proceedings as intimidating, disabling and depersonalising. What they would like is a more informal setting in which they could take part in a comprehensible discussion of their circumstances and speak directly to those who will be taking the decisions.

All this suggests that although court proceedings are rightly focused on the interests of children, the needs of parents involved in court proceedings require more attention from professionals. Parents do not feel sufficiently 'cared for' (Smart and Neale, 1999) and want 'a more humane system more attentive to the emotional needs of parents in distress' (Smart et al, 1999). They want a less intimidating, more personal and participatory setting; sensitive seating arrangements; more comprehensible language and procedures; judges and magistrates who speak to them directly (Douglas et al, 2006; Freeman and Hunt, 1998; Lindley, 1994; HMICA, 2008). They would also appreciate judicial continuity, the lack of which was a theme in several studies (Buchanan et al, 2001; Douglas et al, 2006; Freeman and Hunt, 1998). Douglas and colleagues report that this was the single most common suggestion for improvement, with a third of parents saying they had been before at least six judges:

Never the same judge – that appalled me....They can't follow on, there's no continuity in the cases.

Court hearings, particularly contested ones, are never going to be a comfortable experience for litigants. However research suggests that they can be made less uncomfortable. Two studies of care proceedings (Freeman and Hunt, 1998; Lindley, 1994) note certain helpful aspects of court practice: seating arrangements which allow parents to sit next to their lawyer; having someone in court to support them; giving evidence from where they are seated, not from the witness box; introductions and explanations by the judge/magistrates. The approach of the individual judge emerges as an important issue for parents in several studies (Buchanan et al, 2001; Lindley, 2004; Freeman and Hunt, 1998; Booth and Booth, 2004; Brophy et al, 2005; Tarleton et al, 2006).

The first judge, she were a lady judge, she were nice, I liked her. She kept looking at me and smiling at me. The second time it were judge A. I don't like him at all. (Booth and Booth, 2004)

Parents commented, both negatively and positively, on the approach of the individual judge. It would appear that individual practice could make some difference to perceptions. (Buchanan et al, 2001)

One of the clear messages ...was that in the context of a process which is fundamentally demeaning and acutely painful, small kindnesses and individual indications of respect and concern can have a significant effect upon parental perception. The highest levels of satisfaction were expressed when the judiciary directly addressed parents, listened patiently and sympathetically to what they had to say, showed an interest in the children and displayed respect, warmth, and explained to parents what was happening in court and why. (Freeman and Hunt, 1998)

Greater attention to this element of 'judgecraft' (Brophy, 2006; Moorhead and Cowan, 2007) could, therefore, help to make the court experience somewhat less distressing for parents. Some parents in public law cases would also appreciate being able to have a supporter with them in court (Booth and Booth, 2004; Freeman and Hunt, 1998)

Information, explanations and understanding

No matter how 'user-friendly' a court strives to be, the process is always going to be unfamiliar and alien to parents coming to court for the first time. Hence the importance of having access to good information. Several studies report parents wishing they had been better prepared for court (BMRB Social, 2004; Brophy et al, 2005; Freeman and Hunt, 1998; Lindley, 1994; Painter, 2002). Freeman and Hunt report that most of the parents in their care proceedings study were practically as well as psychologically unprepared for proceedings and wanted better and more targeted information on such matters as the physical layout of the courtroom, the personnel involved, the process and their own role in it, the reasons for the various hearings and transfer between courts, and the likely duration of the process:

I needed more help. If I had had someone who had explained to me what was going on it would have been easier.

I needed more help and explanation about what was going on and understanding things.

Parents' suggestions included a booklet in uncomplicated language, the opportunity to visit a courtroom in advance, and a video.

One-off information is unlikely to be sufficient: the parents in Brophy's study (2005) said their solicitor had tried very hard to prepare them, but their levels of stress and anxiety made it difficult to retain information and ask meaningful questions, particularly in their early stages of the case.

Two government surveys have examined the issue of the pre-court information available to litigants in family cases. The first (HMCS, 2007) presents quite a positive

picture: 75% of family court public users were at least fairly satisfied with the pre-court information received, more than users of other types of court, even though only 35% said they were 'very satisfied'. Eighty-nine per cent were also fairly (31%) or very (58%) satisfied that there were easily identifiable staff at court to deal with any queries. The second (HMICA, 2008) which focused on one area, was more critical, finding the provision of information inadequate on several counts – poor provision of leaflets, litigants not being signposted to relevant sources of help or to the HMCS web-site. This conclusion, however, appears to be largely based on the inspectors' own judgements, rather than feedback from litigants, although one person is cited as saying:

I would have liked a booklet/leaflet explaining the court procedures before attending court as this was my only experience and it would have been helpful to know what to expect and what my rights were.

Where information was provided 98% of respondents said they had been provided with information in a suitable language or format, and 93% felt that staff used simple, clear language to explain legal terms.

This report also identifies two other areas where the provision of information to litigants is deficient. The first is updating them on the progress of their cases, with 20% saying this had not happened; the second, keeping them informed about what was happening on the day – 25% said they were not kept informed about delays in getting their case on.

Two inspection reports (HMICA, 2005; 2008) stress the need for survivors of domestic violence to be made aware in advance of the facilities available at court to ensure their safety. The first reports a 'common theme' among those interviewed that this was not done and that generally, information was not helpful in preparing them for court; the second that the courts took a fairly reactive approach, relying on the litigant raising safety concerns. Painter (2002) also highlights the need for information to be provided on the support available at court for those who have experienced domestic violence, as well as guidance for those representing themselves.

Safety at court

Simply being involved in court proceedings makes those who have been subject to domestic violence anxious that their abuser may discover their current whereabouts (HMICA, 2005). Indeed some report that this has happened (Humphreys and Thiara, 2002; Radford et al, 1999). Studies have also identified deficiencies in the arrangements made by the court (HMICA 2005; 2008; Mantle, 2001; Painter, 2002). Painter, for example, reports that:

Almost all participants stated that not enough was done to make them feel comfortable at court. They made suggestions as to how to combat this, including the separation of waiting areas, the notification of security personnel, and the extension of the witness service to fully support the Civil Court.

The 2005 HMICA study, which looked specifically at the issue of domestic violence, reports that a quarter of respondents did not feel safe at court. Participants felt

vulnerable because of the possibility of meeting their abuser outside court, having to sit near them in the waiting area, or in the court itself, being alone with them in the court building, and being followed when they leave (see also Painter, 2002). It found that while some courts had ‘excellent’ facilities for users who are intimidated or frightened, some were more basic, and that generally, the provisions were not advertised. Three years later, reporting on an inspection of the courts in one area, it concluded that the provisions were still inadequate (HMICA, 2008). The main thrust of the criticism, as noted above, relates to what inspectors perceived to be the ‘reactive’ approach of the courts, waiting for the litigant to identify safety issues. Of those who had done so 84% agreed (40%) or strongly agreed (44%) that the court had responded appropriately. It is not clear whether the rest were not satisfied or were neutral. However the report cites one litigant who was clearly very dissatisfied:

My case revolves around domestic violence. I did not feel safe entering or leaving the building. I did not feel anyone was bothered about my fear from someone who threatened to take my life. There was no guarantee about being able to sit in a private room – it was pot luck. All in all a huge stress to me. NB: I know security would have been on hand – but knowing I was safe is very different.In these days when protocols make it appear there is a lot of support for victims of DV, I can only say I have not found it – not even in court.” (HMICA, 2008)

Facilities and accessibility

The lack of separate waiting areas, as noted earlier, is an issue for many family court litigants (Freeman and Hunt, 1998; HMICA, 2005; 2008; Mantle, 2001; Painter, 2002). The 2007 court user survey (HMCS, 2007) reports that only 27% of all public users of the family courts were very satisfied that there were safe and separate waiting areas for the parties, with a further 28% being fairly satisfied, a much lower level of satisfaction (55%) than for other types of court. A related issue is the lack of provision for private discussion: the survey reports only 52% of public users were satisfied with this. Similarly the 2008 HMICA inspection of the courts in one area reports user criticism of the ‘total lack of privacy’ and cites one litigant who did have the advantage of a separate interview room but then found the conversation had been overheard:

I had to pass through another little waiting room – which was empty on arrival. Some time later when I left the interview room I found that there was another couple sitting in the waiting area outside. I apologised to the couple for interrupting them and they replied ‘Don’t worry, it was very interesting listening to your conversation’.

In terms of parents’ views about other facilities information is very limited. Freeman and Hunt’s study, relating to experiences in the early 1990’s, report ‘many adverse comments’ about poor facilities - dreary, cold, not very clean, squalid – with suggestions for improvement including comfortable seating, provision for refreshments and smoking areas.

It would help to treat people like human beings and not like they were dirt all the time. (Freeman and Hunt, 1998).

The much more recent HMCS survey (2007) reports that most respondents (88%) were satisfied with the cleanliness of the public areas; although the provision of refreshments was an issue (only 47% saying they were satisfied with this. Poor arrangements for refreshments and toilet facilities were also highlighted in the 2008 HMICA survey, although it is not clear whether these criticisms were based on responses to the survey or the inspectors' own assessment. Around one in four litigants (24%) said there were too few seats in the waiting areas. Both these surveys indicated that the majority of users (87% HMICA, 2008; 75% HMCS, 2007) were satisfied with the provision for disabilities and special needs.

In terms of **accessibility**, the 2008 HMICA survey of the courts in one area notes criticism of opening times:

I found the family court opening hours not convenient for a working person. I had to take time off work to go. A Saturday morning or a late night would greatly assist working people.

Several of the fathers applying for parental responsibility orders in Pickford's study (1999) also highlighted this problem. The HMCS survey (2007) reports that 91% of respondents were fairly (44%) or very (47%) satisfied on this count, and 92% with the ease of finding the building. Three research studies, however, two of parents involved in care proceedings (Lindley, 1994; Freeman and Hunt, 1998), and one of adoption (Charlton et al, 1998) emphasise the practical difficulties parents experience coming to court: not only having to take time off work (and explaining to employers why they need to) but the expense, the unreliability of public transport and making arrangements for children.

Court staff

The only data on parents' views about court staff other than the judiciary comes from the 2007 HMCS and the 2008 HMICA court user surveys, both of which present a positive picture. The first reports that 93% of respondents were fairly (31%) or very (62%) satisfied that they had been treated fairly and sensitively by staff; the second that 97% agreed or strongly agreed that staff were courteous and helpful. Similarly the HMCS survey found that 89% were fairly (31%) or very (58%) satisfied that there were easily identifiable staff around to handle queries and 91% were fairly (32%) or very (57%) satisfied with the ability of staff to deal with those queries while 93% of respondents to the HMICA survey said that staff used simple clear language to explain legal terms.

Conclusions

Parents' views about (non-judicial) court staff provide one of the few positive elements in the research on their experience of being a litigant, which otherwise presents a gloomy picture. Coming to court is never going to be an easy experience and of course a good proportion of litigants are not there out of choice. Moreover in children's cases the court's primary responsibility is to the children. Nonetheless the overwhelming message from the research is that greater attention needs to be paid to

the needs of the parents caught up in these proceedings to make the process less traumatic and alienating. Suggestions from parents include more flexible court hours; better preparation and support; waiting areas which afford greater privacy, comfort and safety; more sensitive seating arrangements in court; more comprehensible language and procedures; and greater participation in hearings. It also seems clear that the approach of the particular judge/magistrate can make a difference to parents' experience, which suggests that greater attention needs to be paid to this element in the judicial role. Judicial continuity is much appreciated.

4 Perspectives on decision-making and outcomes

Decision-making

Confidence in decision-making

The only study to ask family court litigants directly about their confidence in the decision-making process is the 2006 HMCS court user survey, which covered both the civil and family courts. Although this reported quite positive findings (68% of public users said they had confidence in the hearing process) family court litigants made up only 4% of the sample and the results for this group are not presented separately. Strangely, neither the subsequent survey (HMCS 2007), which does report the family data separately, nor a separate HMICA survey which looks specifically at the family courts (HMICA, 2008), cover this crucial issue at all.

Hence the answer to this question has to be a composite, compiled from research which has data on what might be regarded as key dimensions of confidence. These can be divided into three main, though somewhat overlapping, themes: the extent to which parents felt a) their views were heard and taken into account; b) the process was impartial, and c) the issues were adequately understood and decisions were soundly based.

Whether parents feel their views are heard and taken into account.

Parents either felt that they had not been understood or they did not know if they had been understood. (Brophy et al., 2005, BME parents in care proceedings)

There was a general feeling of not being listened to during the court process.....Only a handful of interviewees said that they had been allowed to voice their feelings to a satisfactory degree and that they had been listened to by the court. (Smart et al, 2005; S8 residence or contact proceedings)

Parents felt whatever they had to say would make no difference because no one was listening (Mason and Selman, 1997; contested adoption proceedings).

As the quotes above illustrate, research on both public and private law proceedings presents a generally negative, and surprisingly similar picture on this, with material from the studies with the most substantial coverage (Brophy et al, 2005; Buchanan et al, 2001; Freeman and Hunt, 1998; Lindley, 1994; Perry and Rainey, 2006; Smart et al, 2005) being echoed in those with only the occasional reference (Booth and Booth, 2004; Mason and Selman, 1997; Tarleton et al, 2006; Trinder et al, 2002). Davis and colleagues (2000) who provide the only quantitative data, and then only in relation to the minority of cases which litigants said had been decided by the court rather than reached through negotiation, report that 44% felt able to say all they wanted to at the 'trial'; with a further 19% responding 'partly' and 39% saying they had been able to say none or very little of what they had wanted to. There were more women than men in this latter group (42% compared to 34%) although the proportions who had felt able to say everything they wanted to were about the same (43% men; 45% women).

Unless they are representing themselves, parents may take little direct part in court hearings. They may not be given the opportunity to say anything to the judge or magistrates (Booth and Booth, 2004; Brophy et al, 2005; Douglas et al, 2006; Freeman and Hunt, 1998):

I couldn't say nowt meself in court. (Booth and Booth, 2004)

I wasn't even asked one question; I think I might as well have been a dummy in the court. (Freeman and Hunt, 1998)

Why should they just discuss it with these so called experts or social workers or solicitors? Because it's about you, it's your life, it's supposed to be a free country so you should be allowed to go in and voice your opinion. I mean I know there's protocol in courts and you're not allowed to say anything to the judge but I wish I had now. (Douglas et al, 2006)

Few parents give evidence and some appear not to be aware that they could have done so (Freeman and Hunt, 1998). As noted earlier, even when they do they may not be able to convey what they want to say (Buchanan et al, 2001; Freeman and Hunt, 1998; Lindley, 1994; Prosser, 1992). Thiara (2009) highlights the dual difficulties experienced by South Asian women who have experienced domestic violence:

Even where finding of fact hearings took place, unless women were supported by domestic violence services, they were often daunted by court and intimidated when giving evidence, especially through interpreters, which further served to disadvantage them.

What parents do say may also be perceived as making little difference, with some describing the outcome as 'a foregone conclusion' and contested final hearings as 'irrelevant' (Buchanan et al, 2001). Some perceive the court to be over-reliant on the welfare report (Corlyon, 2009; MCSI, 2002a; Perry and Rainey, 2006).

In addition to these common themes, parents in one of the studies on care proceedings - which tend to have more extensive professional input than private disputes between parents - felt that what they had to say was outweighed by professional evidence, which gave the court a distorted picture of their lives, emphasising their faults (Freeman and Hunt, 1998). While some of the parents in this study had their own expert witness at least half were unaware that this was even a possibility. Many felt that evidence from close friends or relatives would have been more appropriate, although where this was presented to the court parents thought it was given insufficient weight and was ineffective in changing the outcome. Even though parents in this study welcomed the opportunity (introduced under the Children Act 1989) to submit their own statements, there was a widespread perception that these counted for little compared to reports from professionals. Moreover parents were not always able to challenge professional evidence effectively: only half said they had received statements and reports in time to consider them properly. Some felt so disempowered they had not felt able to challenge disputed points and had not even mentioned the issue to their solicitor. Most of these themes are echoed in Lindley's study of care proceedings (1994), in particular late service of documents and the inability to challenge. Parents with learning difficulties may feel particularly disadvantaged:

They read out that I were violent and me mother were violent. That weren't true. I was annoyed. But I didn't say nowt. I just kept quiet'. (Booth and Booth, 2004)

Social workers have all the power. As a parent you are there, alone and not listened to. (Tarleton et al, 2006)

Impartiality

While parents in public law proceedings may feel, as we have described above, that their views were not adequately heard in the proceedings, from which it can perhaps be inferred that they did not feel the process was fair, there is only a little evidence to indicate that they also feel the court is biased against them. Booth and Booth (2004) cite a single example:

To me the judge isn't doing his job right, he's just letting the social workers take the kids away from mums.

They also note that parents 'granted a legitimacy' to the court proceedings that contrasted strongly with their views on the actions of Social Services which led to court action:

So far as the parents were concerned, they were undone by what went on before the court hearings, not what went on in them. The strong sense of injustice so many of them nursed focused on their conviction that they had been 'fitted up' and misrepresented by the evidence put before the court'. (Booth and Booth, 2005)

Prosser's study of parents who had been falsely accused of child abuse (Prosser, 1992) reports complaints that it was too easy for Social Services to get interim orders from the courts but goes on to state that parents nonetheless saw the court as the place where they had obtained justice. Freeman and Hunt (1998) report only a few parents being critical of the court's impartiality and emphasise that these were outnumbered by those who felt they had been treated fairly and justly, including some where the outcome had not gone their way.

Parents from minority ethnic groups may feel less convinced of the court's impartiality: most of those interviewed in Lindley's study were not happy with the way the issues had been dealt with, feeling that negative assumptions had been made about cultural differences. However only two of the 12 BME parents in the study by Brophy and colleagues (2005) said they had experienced racist behaviour.

Accusations of bias, in contrast, are a common theme in research on private law proceedings. Four substantial studies (Buchanan et al, 2001; Davis et al, 2000; Perry and Rainey, 2006; and Smart et al, 2005) all refer to this and there are further references in several other studies (Greenfields, 2002; Harne, 2004; MSCJ, 2002a; Pickford, 1999; Trinder et al, 2002). Indeed Perry and Rainey, who write of 'strong perceptions of bias', report that only 40% of parents felt the court had dealt fairly with each side, while Buchanan et al, (2001) found that only just over a third of parents whose case had gone to trial felt they had had a fair hearing. The findings of Davis and colleagues (2000) are more positive: 67% considered that the judge had been impartial, with 6% saying the judge had favoured them and 27% the other party. Just

under two-thirds (65%) thought that the judge had acted in the children's best interests with only 18% completely rejecting this.

Typically, parents in private law disputes who complain of unfairness express this in gendered terms rather than saying that the court was biased against them as individuals. Mothers and fathers are equally likely to complain of bias against them, although the focus of their dissatisfaction is different. Critical fathers maintain there is an assumption that mothers will get residence of the children and that attitudes to shared care and contact arrangements are based on outmoded notions of mothers naturally being primary carers (Buchanan et al, 2001; Corlyon, 2009; Perry and Rainey, 2006; Pickford, 1999; Smart et al, 2005). Allegations of abuse are too readily believed (Perry and Rainey, 2006; Smart et al, 2005); fathers are denied contact for no good reason (Perry and Rainey, 2006; Smart et al, 2005); and the amounts of contact awarded are insufficient (Corlyon, 2009).

Biased to the mother, aren't they? They believe everything she tells them. She was telling a pack of lies. (Perry and Rainey, 2006)

Judges like to kick fathers in the teeth. (MSCI, 2002a).

There's not much recognition in the court system...of shared parenting....They seek to take residence with the mother as the key issue. (Buchanan et al, 2001).

The court system as it stands is giving me in their view good quality time with my daughter. And there would have to be very, very strong reasons to increase that time ... First of all I had to apply to have contact with my daughter. Then on application I had to justify the amount of time that I wanted with my daughter. The person that actually has control over my daughter didn't have to prove anything to a court to attain that control. But for me to want to spend time with my daughter I had to try and justify to somebody ... that it was beneficial to my own child to spend time with her dad. (Corlyon, 2009)

Critical mothers, for their part, argue that the courts are too keen to promote contact; that fathers' past behaviour is seen as irrelevant; mothers' concerns are regarded with suspicion; allegations of violence and abuse are disbelieved or marginalised and they are pressured into agreeing contact arrangements that are unwise and unworkable (Buchanan et al, 2001; Harne, 2004; Humphreys and Thiara, 2003; Perry and Rainey, 2006, Smart et al, 2005). Harne, for example, reports that

Judges in particular were seen as 'bending over backwards' to believe fathers, even in the face of substantial evidence of their violence and abuse. In one case, where the father had abducted the child on several occasions, and had been violent towards contact centre workers, the mother described how the judge allowed him to manipulate the court processes in his favour:

'He would challenge every professional he didn't like and the judge allowed him to do this...He had five different court welfare officers, because each welfare report said there should be no contact. (Father) threatened the last officer and said he would ruin her career and lose her her job – this was in the welfare report. But the judge bent over backwards to give him a chance and was really reluctant to stop contact'. (Harne, 2004)

Other than this dominant theme of gender partiality, a small study of residence and contact litigation involving members of travelling communities (Greenfields, 2002) found that six out of the eight parents interviewed said they had experienced a lack of understanding about or prejudice towards, their lifestyle. Some fathers from minority ethnic groups in the studies by Buchanan et al (2001) and Smart et al (2005) also believed that the courts held stereotypical views about domestic violence in their communities.

Whether parents feel the issues were adequately understood and decisions were soundly based.

Where parents feel that their views have not been heard, or that the court is biased in some way, they are unlikely to feel that the court has sufficient understanding of the issues to make sound decisions. There is also data relating directly to this.

Davis and colleagues (2000) report that 64% of litigants thought that the judge had understood their case fairly (24%) or very well (40%) with 14% opting for not very well and 21% not at all well. Women were said to be more dissatisfied than men, with only 61% saying the judge had understood their case very or fairly well (compared to 68% of men) and 25% saying s/he had not understood it at all well (compared to 19%). Buchanan et al (2001) found that even where the case had gone to a contested final hearing less than half the parents felt the court knew enough about their family to make a decision (and perhaps surprisingly, their views on this were not related to their satisfaction with the outcome). Smart et al (2005) do not give figures but note some parental criticism that the judge had not known the details of their case but had relied too heavily on the recommendations of the welfare report. One of the concerns parents have about having a number of different judges dealing with their case is that each will only get a superficial view of the case or take a different view of the issues (Buchanan et al, 2001; Corlyon, 2009; Douglas et al, 2006; Freeman and Hunt, 1998).

It's a massive problem when it's going in front of different judges and they don't know what you're talking about. (Douglas et al, 2006)

Parental concerns about lack of knowledge/understanding of cultural issues are reported in both Brophy's interviews with minority ethnic parents (Brophy et al, 2005) and Greenfields' with parents from travelling communities (Greenfields, 2002) although it should be noted that the latter reports that, even so, almost all parents were satisfied with the eventual outcome.

Concerns about the *quality of the evidence* available to the court emerge in most studies of public law proceedings (Booth, 1994; 1995; Booth and Booth, 2004, 2005; Charlton et al, 1998; Freeman and Hunt, 1998; Mason and Selman, 1997; Prosser, 1992; Ryburn, 1994). Criticisms range from relatively minor factual inaccuracies, such as names and dates in reports, through words or behaviour being misinterpreted or taken out of context, to allegations of selectivity, exaggeration and or even fabrication.

If they get something on you they enlarge it so much and they miss so much out. (Freeman and Hunt, 1998)

Only two of the parents in Freeman and Hunt's study, for instance, considered that the oral evidence presented by social workers was fair. Similarly, according to Ryburn, all the families in his study of contested adoption:

Believed that evidence had been presented about them in court which was very selective, biased, and in some instances untruthful.

Moreover, as mentioned earlier, parents do not necessarily feel in a position to challenge what they regard as unsound evidence.

In private law cases criticism of the evidence for, and the treatment of, allegations of domestic abuse is a strong theme. While judges are criticised both for being too ready to believe the allegations of alleged victims or conversely to be taken in by the denials of alleged abusers (Harne, 2002; Perry and Rainey, 2006; Smart et al, 2005) most reported criticisms come from mothers who felt they were not believed, or the violence and its impact on them and their children was minimised (Aris et al, 2002; Harne, 2002; Hester and Radford, 1996; Humphreys and Thiara, 2003; Painter, 2002; Radford, 2006; Smart et al, 2005; Thiara, 2009). Although Painter (2002) reports that judges were more likely to be seen to take the issue seriously where there was some independent evidence, Hester and Radford (1996) cite cases where there had been non-molestation orders and criminal convictions for assault which were not adequately considered. Courts are also seen to place such a high premium on contact that the welfare and safety of children, as well as mothers, are put at risk (Aris et al, 2002; Hester and Radford, 1996; Humphreys and Thiara, 2003; Painter, 2002; Radford et al, 1999; Thiara, 2009; Women's National Commission, 2003) and where children do not wish to have contact their views are ignored (Hester and Radford, 1996; Perry and Rainey, 2006; Radford et al, 1999; Women's National Commission, 2003). A consultation with women who had experienced domestic violence, for example, (Women's National Commission, 2003) reports that contact was a particularly difficult issue and that the distress child contact causes was illustrated by the sheer volume of concerns expressed, viz:

- Courts need to understand perpetrators' pattern of behaviour;
- Judges still give priority to contact, even if the child has seen their father attacking the mother and is terrified of him. The feelings of children under 10 carry no weight at all;
- Links are not made between the violence to the children and the risk of violence on the children;
- Even men serving jail sentences for domestic violence were still able to have contact with children, with the courts forcing women to take children to the prison to comply with the order or be faced with imprisonment themselves;

Settlement

It is relatively unusual for a family case to end in a fully contested hearing (Buchanan et al, 2001; Freeman and Hunt, 1998; Hunt and Macleod, 2008; Smart et al, 2005). Several researchers have commented, particularly in private law, on the prevailing settlement-seeking focus of the court which, as Perry and Rainey put it, (2006) means that '*when parents get to court they discover a judge more focussed on getting them to find a solution themselves than on adjudicating for them*'. Some parents are reported to be not only disconcerted by, but dissatisfied with this approach. Smart et al (2005)

note that the fact that judges would not ‘impose’ the ‘correct’ or ‘just’ solution led to some parents defining the court as an ‘enemy’. Fathers, in particular:

Became angry when the courts seemed to imply that parents themselves should be able to find a solution. It was as if they did not go to court to be told to try harder themselves; rather they went to court to have the right solution imposed upon the recalcitrant spouse” (Smart et al, 2005).

Bailey-Harris et al (1998) report:

‘ Considerable evidence of the dissatisfaction of parents with the outcome of ‘no order’ when they consider that they have invoked the court’s jurisdiction precisely for the exercise of its authority in a matter which they find difficult to resolve themselves. The use of the ‘no order’ approach by the court to reinforce its promotion of parental autonomy is often at odds with parental expectations of the process. It is at least arguable that parents would feel more in control if granted the opportunity to present their case, in full, to an authority figure and then have him or her decide. (Bailey-Harris et al, 1998)

Buchanan et al, (2001), however, suggest that not all parents would share this view. More than three-quarters of the parents interviewed in the second stage of their study (approximately 18 months after the end of the proceedings), said that parents should be strongly encouraged to reach agreement. Moreover, three-quarters of those who reached agreement before a final hearing were either completely satisfied with the process (50%) or ambivalent (25%), with only a small proportion completely dissatisfied, while those whose dispute was only settled after a contested hearing were typically (80%) highly dissatisfied. The apparent discrepancy between the findings of this study and those of Smart and Bailey-Harris may be due to the fact that Buchanan and colleagues posed a specific question to their interviewees about settlement-seeking, whereas dissatisfaction emerged as a theme in parental criticism in the other studies. It is also conceivable that differences in the samples are the explanation, since Buchanan’s sample was of a high conflict group, whereas the other two consisted of the generality of litigating parents.

Whether the majority of parents endorse the court’s approach or not there is clearly some dissatisfaction both with the settlement process and the outcomes reached by that process. Davis and colleagues (2000) report that 62% of those who had experienced negotiation at court (as 66% of litigants did) found it an upsetting experience, the proportions being higher for women than men (67% compared to 57%) and higher still for those who expressed fear of violence (73%).

Perry and Rainey (2006) note that some parents talked of the pressure they felt they had been put under to agree, sometimes to arrangements which they did not feel were appropriate, or which fell far short of what they had wanted. Less than half of those who had agreed to the outcome were happy with it. Radford’s study of mothers who had experienced domestic violence (Radford et al, 1999) reports that almost half of the mothers who had initially agreed contact arrangements felt they had been pressurised by solicitors into doing so. Buchanan et al (2001) differentiate between parents who reached agreement at the door of the court and those who reached agreement at an earlier stage, finding the former to be more ambivalent or negative and more likely to report feeling under pressure to agree and to regret the decision

they had made. Smart et al (2005) note that where cases were withdrawn, while over three-quarters of resident parents felt this was the right outcome, the only non-resident parents in this position who were interviewed (two) had withdrawn because they felt they were not going to get a positive outcome and were bitter about a legal system which they felt had let them down.

There is only a little data about the views of parents involved in public law proceedings about these issues. Lindley (1994) reports that of the few parents who said they had agreed to the final orders some had done so on advice or under pressure, or because it seemed the only option, and expressed concern that they had not had the opportunity to challenge the allegations of the local authority. Booth and Booth (2004) quote one mother resisting pressure to agree to adoption while a study focusing on birth parents whose children had been adopted (Charlton et al, 1998) reports a 'common feeling of having been pressed into giving consent, often on the advice of solicitors and social workers'.

Efficiency

A common theme running through most of the studies is parental concern over the duration of court proceedings (Ashley et al, 2006; Bailey-Harris et al, 1998; Buchanan et al, 2001; Douglas et al, 2006; Families Need Fathers, 2007; Freeman and Hunt, 1998; HMCS, 2007; Lindley, 1994; Perry and Rainey, 2006; Pickford, 1999; Smart et al, 2005). Over half of the parents in a study of private law proceedings (Buchanan et al, 2001) thought their case had gone on too long (with 14% identifying delay as being the least helpful aspect of the process). The proportion was even higher (17 of 25; 68%) in a sample of parents in care proceedings (Freeman and Hunt, 1998). Although the 2007 HMCS court user survey reports a higher satisfaction rate (57% of respondents were fairly (28%) or very (29%) satisfied with the length of time their proceedings had taken) this is much lower than that noted for other civil proceedings (69%).

Lengthy proceedings prolong and amplify the distress parents already feel at being involved with the courts and facing a degree of uncertainty in their family lives (Buchanan et al, 2001; Freeman and Hunt, 1998; Lindley, 1998; Perry and Rainey, 2006).

Parents were keen to point out that protracted litigation had been stressful both for them and their children. For some it was described as a 'nightmare' that had ruined their lives. (Perry and Rainey, 2006)

It's hanging over you like a black cloud all the time. I was crossing off the calendar every week. I couldn't plan, book a holiday, decide anything. Everything was in limbo; that date was like a big brick wall. (Buchanan et al, 2001)

Some parents may be especially vulnerable - Freeman and Hunt note that those with mental health problems reported that delays in the court process undermined their recovery:

It made me go haywire. I was a pressure cooker. You come home, think about it, wake up thinking about it. It was too much for me.

In addition to the emotional distress, delay may be perceived to affect the outcome. Parents in care proceedings report that delay disrupts their relationship with the child and thus makes reunification more difficult while the period is used to build a case against them rather than to work with the family (Lindley, 1994). Several non-resident parents in the survey by Families Need Fathers (2008) described the system as slow, which allowed for children to become alienated. Similarly fathers applying for parental responsibility orders in Pickford's study (1999) felt their relationship with the children and their chances of getting the order were prejudiced by delay. They also criticised the courts for failing to take more effective action against mothers who caused delay by failing to respond to legal papers or turn up to hearings.

Apart from the big issue of delay, Freeman and Hunt (1998) note other perceived inefficiencies in the court system: hearings which stopped and started; the numbers of hearings, long and unpredictable waiting times at court; and time spent waiting around while a judge read the papers or a new judge familiarised him/herself with the case. The 2007 HMCS court user survey, however, reports that 77% of respondents were fairly (33%) or very (44%) satisfied that the hearing went ahead on the date it was supposed to.

Perspectives on outcome

Research on public law proceedings rarely has much to say about parents' views on the outcome of the proceedings. Since most parents do not accept the legitimacy of the local authority's action in bringing proceedings (Freeman and Hunt, 1998; Booth and Booth, 2004) and many proceedings end with the child going into substitute care or even being adopted, their discontent with the outcome is perhaps too obvious to state or may be too painful a question to ask. Booth (2005) merely notes that most parents 'resigned themselves to the verdict of the court and accepted the outcome fatalistically'. At the other end of the spectrum, Prosser's sample, made up almost entirely of parents 'cleared' of allegations of child abuse, may be assumed to be positive, although the only comment in the report is that parents saw the court as the place where 'justice was done' (Prosser, 1992).

Of the studies which do deal with the issue directly Lindley (2004) reports that even among the minority of parents (36%) who consented to the final order some were not happy with this. Freeman and Hunt's sample were less dissatisfied – in 40% of the cases the outcome was 'broadly satisfactory' to the interviewee. However, although this sample is likely to be more representative than the other study, it is acknowledged to under-represent some of the most problematic cases.

The coverage in research on private law proceedings is more extensive (BMRB Social, 2004; Buchanan et al, 2001; Davis et al, 2000; Greenfields, 2002; Perry and Rainey, 2006; Smart et al, 2005). Four of these studies report quantitative data from reasonably large samples, although the questions posed vary somewhat. The client satisfaction survey conducted for Cafcass (BMRB Social, 2004), which largely consisted of private law litigants, is the most positive, reporting that 59% of parents thought the court had 'made the right decision'. Davis and colleagues (2000) report that 57% were very (35%) or fairly (22%) happy with the outcome, with a third being fairly (10%) or very (23%) unhappy. In contrast, only 40% of those in Smart's study

(2005) said they believed the outcome was ‘the right one for them and their children’. Buchanan et al (2001) also report only 40% of parents being ‘entirely positive about the outcome’, although they mitigate this by saying that only 22% were completely negative.

Both these latter studies report that satisfaction levels were higher among resident than non-resident parents. Almost half of the resident mother respondents in Buchanan’s study (48%) were entirely positive, compared to only a third (33%) of non-resident father applicants, although the difference was not found to be statistically significant. The differences are larger in Smart’s study, (although it is not stated whether they are statistically significant): while 55% of the resident parents responding to a postal questionnaire believed the outcome was the right one only 21% of non-resident parents did so. Of the cases which ended in an order 46% of resident parents thought the outcome was right for them and 51% right for the child; whereas only 30% of non-resident parents thought this. Most starkly, while 46% of resident parents were satisfied, or very satisfied with the order almost the same proportion of non-resident parents (49%) were very dissatisfied.

The dissatisfied non-resident parents in this study were said to be mainly displeased either with a residence order being made to the other parent or with the amount of contact they obtained and complained about contact being awarded according to an ‘old-fashioned’ formula of alternate weekends plus half the holidays, whereas they wanted more involvement in their children’s lives (see also Corlyon, 2009). Those who ended up with no contact or only indirect contact were the most dissatisfied and bitter about a legal system they considered had let them down. Satisfied non-resident parents indicated that one of the positive aspects of having an order was that contact was guaranteed and the other parent could not dictate arrangements or change them on a whim.

Satisfied resident parents, for their part, valued the order for providing structure and routine. Those who were dissatisfied were critical of courts leaving children unprotected from potentially harmful contact. Buchanan and colleagues (2001) similarly note that of the mothers who indicated a fear of violence only 34% said they were wholly positive about the outcome, compared to 60% of mothers who had no such fears.

Buchanan et al (2001) analysed their data to see if any other factors related to the circumstances of the litigants were associated with higher or lower levels of satisfaction with the outcome⁶. None proved statistically significant and in general differences were slight. However they do highlight the finding that parents from minority ethnic groups were the least likely to say they were entirely positive about the outcome (15%, compared to 42% of white parents).

⁶ The factors examined were: ethnicity; previous marital status; whether there had been previous court proceedings; whether the parent lived in a rural or urban area; was on legal aid; was claiming income support; whether the mother was in fear of the father at the start of the proceedings; whether the parent had abnormal stress levels; whether the child was displaying emotional and behavioural difficulties.

The association between satisfaction with outcome and satisfaction with the court experience

To what extent is litigant satisfaction with their court experience linked to their satisfaction with outcome? A review of recent research on the factors associated with litigant satisfaction with courts and tribunals (including, but not limited to family courts) (Moorhead et al, 2008) concludes that although litigants with positive outcomes were more likely to be satisfied with their experience, outcomes in themselves do not guarantee satisfaction. Rather, the weight of the evidence suggested that it is judgments about the fairness of the process which are most important in influencing the level of satisfaction.

The relationship between satisfaction with the outcome of the court proceedings and overall satisfaction is highlighted in several of the studies included in this report (Buchanan et al, 2001; Freeman and Hunt, 1998; HMCS, 2007; Smart et al, 2005):

The best predictor of satisfaction with the overall process was how parents felt about the outcome of the court proceedings. (Buchanan et al, 2001)

It should be noted that the satisfaction with the visit or outcome on the day is the factor most strongly associated with overall satisfaction (HMCS, 2007).

Nonetheless there is a little evidence that perceptions are not entirely determined by outcome, although few studies have explored this directly. Freeman and Hunt (1998) report that in a third of the 15 cases with outcomes unfavourable to the interviewee the parents nevertheless felt they had been treated fairly. Conversely they also note (though no numbers are given) examples of cases where positive outcomes were insufficient to overcome negative perceptions. Smart et al (2005) note some parents being positive about the court process even when they had 'lost' and others being critical of the process even though the outcome was favourable. Buchanan et al (2001) analysed their cases according to how the final decision was reached: after a contested court hearing, at the door of the court; and earlier in the proceedings. In each group they note a less than perfect match between parents' views of the outcome and their views of the process, the most notable contrast being that while 11 parents whose case went to a contested hearing were entirely positive about the outcome, only four were completely positive about the process. Perceptions of *fairness* in these cases related to satisfaction with outcome but views about the *thoroughness* of the process did not.

Typically, where there is a discrepancy, it seems parents are more likely to be satisfied with the outcome but critical of the process than vice-versa. Forty per cent of the parents in the Buchanan study (2001) were 'entirely positive' about the outcome and 22% were 'entirely negative'. However only 10% had no criticism of the court process and 60% were 'entirely negative'. Almost all the parents in Greenfields' small study (2002) were satisfied with the outcome of their case but most were not satisfied with the courts' understanding of cultural issues.

Post proceedings

Since interviews with parents are typically conducted in cases which have concluded, there is some data on events post proceedings. However, most of this relates to private law cases.

Private law cases

Three themes emerge from interviews with parents who had been involved in private law proceedings: changes in the arrangements ordered/agreed in the court proceedings; the persistence of contact problems; and the limited capacity of the court to improve the parental relationship (Buchanan et al, 2001; Perry and Rainey, 2006; Smart et al, 2005; Trinder, 2002; Trinder and Kellett, 2007).

Changes in the arrangements

The proportion of arrangements which still reflect the order/agreement made in the court proceedings vary considerably across the studies. This may reflect differences in the composition of the samples, including the mix of residence and contact cases, and the period of time which had elapsed since the proceedings ended.

Davis and colleagues (2000) found that 74% of the arrangements arrived at in court had endured, with most of the rest breaking down rather than being renegotiated; while Smart et al (2005) report that in two in three cases the arrangements had persisted. In contrast, Perry and Rainey's study of contact cases (2006) reports that only one in three still had the same arrangements, with changes usually not being agreed between the parents and typically involving a reduction (22%) or cessation (22%) of contact. Buchanan et al (2001) found that while residence arrangements were usually stable, contact arrangements were not: only 41% still had the same arrangements at follow-up and while some changes had resulted in increased contact, in 31% contact had reduced or ceased.

Information about the durability of arrangements is also available from studies focusing on in-court conciliation (which is dealt with in detail in a subsequent chapter). The proportion of arrangements still in place at follow-up range from 66% (Morgan, 1996) to 39% (Trinder et al, 2006a).

Several studies report one parent blaming the other for not complying with the court order/agreement (Buchanan et al, 2001; Corlyon, 2009; Mantle, 2001; MSCSI, 2002a; Trinder, 2002; Trinder and Kellett, 2007; Smart et al, 2005), which can leave them feeling that the whole process is pointless. Complaints are reported from both resident (Smart et al, 2005; Trinder, 2002, Trinder and Kellett, 2007) and non-resident parents (Corlyon, 2009; MCSI, 2002a; Smart et al, 2005; Trinder and Kellett, 2007).

The only quantitative data, however, is in the study by Smart et al (2005) who report that of the 22 non-resident parents in their study six (27%) said that their ex-partner had breached the order by denying, obstructing, or discouraging contact: moving away without giving an address; making last minute changes to the arrangements; failing to turn up at the contact centre; or moving away without giving an address. A rather higher proportion of resident parents (12 of 25; 48%) complained that the non-

resident parent had not complied with the arrangements, of whom nine had not taken up the contact they were allowed, either reducing it or stopping it altogether.

The persistence of contact problems

As noted earlier, the court process can help some parents in providing a framework for contact (Smart et al, 2005; Trinder and Kellett, 2007). Two follow-up studies also indicate that in a proportion of cases contact problems diminish (Buchanan et al, 2001; Trinder and Kellett, 2007). Trinder and Kellett report that two years after proceedings had started 43% of parents said that contact problems (issues such as threats to stop contact; concerns over commitment and reliability; and disputes over money) had improved and that fear of violence had dropped significantly.

Nonetheless both studies report the persistence of problems in a substantial proportion of cases. Buchanan notes that at second interview, around 18 months after proceedings had ended, concerns about the care the child was receiving from their other parent were still a common theme. Eight of the 32 mothers who had had concerns about domestic violence still reported fear of violence, of whom two reported intimidation and one an assault. Similarly Trinder found that concerns about children being unsettled or reluctant to make transitions were unchanged since the first interview and were still being expressed by about 65% of the sample. A third of parents still had concerns that the other parent would be too harsh or might harm the children, and about 70% felt the other parent was not sufficiently attentive to the children or did not provide sufficient discipline.

Impact on parental relationships

The research also reveals that for many, perhaps most, parents, the court proceedings do not help them to work together as parents and may even make things worse (Buchanan et al, 2001; Corlyon, 2009; Trinder et al, 2002, Trinder and Kellett, 2007; Smart et al, 2005).

Buchanan et al (2001) present the most positive picture, reporting that 44% of all those interviewed considered that their relationship with the other parent had either improved (42%) or 'remained OK' (2%), with 34% saying it had either remained poor (19%) or worsened (15%), and 22% saying they now had no relationship. Of those who considered they still had a relationship, just under a half reported that levels of conflict remained just as bad or had deteriorated.

Smart et al's findings (2005) are bleaker: the data from their quantitative survey indicated that only 32% of the resident parents and a mere 15% of non-resident parents thought the court process had improved their situation, while 26% of the former and 45% of the latter thought it had made things worse. Of their smaller interview sample six in 10 had started out with high levels of conflict which had not abated. Only three in 10 had started with relatively high levels of conflict but matters had improved to some extent. (The remainder had had low levels of conflict throughout). The authors conclude that: 'we need to be mature enough to recognise that for every family problem there may not be a (publicly funded) solution'.

Trinder and Kellett (2007) are gloomiest of all: ‘none of the parents reported that the court process had helped them work together as parents’. Even parents who felt they had ‘moved on’ attributed this to factors outside of the court process: time, new partners, children ageing and personal development (see above) rather than to the court process itself. This reinforces the findings of an earlier study by Trinder:

What emerges strongly from our data is the limited capacity of the legal system to repair or facilitate human relationships. Families using the courts were facing significant challenges and the capacity of the courts to help families deal with the challenges that they faced was extremely limited. (Trinder et al, 2002)

Quite why the findings of these studies should be so different is not clear. Conceivably, since all the parents in Buchanan’s study had been subject to a welfare report, their more positive views might reflect greater input from the court welfare officer. It could just as easily, however, be a result of sample differences.

Public law cases

Whatever the outcome of the proceedings, according to Freeman and Hunt (1998) parents who have gone through care proceedings are left in a state of emotional turmoil, experiencing a maelstrom of feelings including anger, resentment, sadness, confusion, insecurity, shame and guilt. Parents whose children had been returned reported feeling that their family life had been disrupted and themselves usurped and deskilled in their parenting. Feeling under constant scrutiny made them nervous and unnatural in their everyday dealings with their children. Parents who had lost their children were struggling to come to terms with their grief and cope with the repercussions on their families and the reactions of the wider community. Neither group seemed to be getting much help from social services and it may not have been acceptable, even if offered. The researchers highlight the need to find a source of help for these families.

Conclusions

The research on parental views of the decision-making process in family court proceedings presents a rather depressing picture. Although not all parents are negative, many do not feel their views are heard or taken into account or that the judge/s understood their case. Some parents in public law proceedings are critical of the quality of evidence but feel unable to challenge professionals. There are concerns among BME parents and parents from travelling communities about the lack of understanding of cultural issues, and criticism from mothers who have experienced domestic violence about the handling of this issue. In private law proceedings accusations of bias are common, with both mothers and fathers alleging the court process systematically favours the other side. Perceptions of prejudice are also expressed by parents from travelling communities, while some BME fathers believe that the courts hold stereotypical views about domestic violence in their communities. All this does not suggest there is widespread confidence in decision-making processes although, surprisingly, the limited data available on parents in public law proceedings suggests that many did feel the court was impartial, even when the outcome had not gone their way.

Most cases, of course, do not end in a judicial determination after a full contested hearing. Settlement is the norm. The evidence is mixed as to whether most parents endorse the settlement-seeking approach. What they do not want, however, is to be pressurised into making agreements with which they are not happy at the time and/or may later regret. This message poses a real challenge for practice, and if acted on would probably result in more cases going to a full hearing, requiring the commitment of more resources if the whole system is not to grind to a halt. Parents are already dissatisfied with how long proceedings take, which prolongs the distress they are experiencing and may have a major effect on the outcome. Moreover, as was evident from the last chapter, contested hearings are also the most traumatic aspect of the court experience for parents. Alternatively, the system needs to incorporate better ways of helping parents to address their differences.

In terms of parents' views about the outcome of their case, there is little data on the views of parents in public law proceedings, although it is likely that many are dissatisfied. The slightly more extensive material on private law cases is surprisingly positive, with between a third and three-fifths completely satisfied with the outcome and less than a quarter completely dissatisfied. These global figures, however, conceal differences between groups, with resident mothers being more satisfied than non-resident fathers; mothers who were fearful of their ex-partners being less satisfied than those where domestic violence was not an issue; and some evidence that parents from minority ethnic groups are less satisfied than white parents. Clearly the courts need to take account of these findings to ensure that these groups are not being discriminated against. However it is important to emphasise that parental satisfaction with outcome is not a sensible way to evaluate the court process, which is about achieving the best possible outcomes for children.

Parents who are satisfied with the outcome of the court proceedings, not unnaturally, are more likely to be satisfied with their court experience. Nonetheless the association is by no means perfect: parents can be pleased about the outcome but critical of the process or positive about the process even though they were unhappy about the outcome. This suggests that increasing parental satisfaction with the courts is not a forlorn hope; at least some improvement might be achieved by addressing their concerns about the process.

There is very little data on the experiences of parents in public law cases after proceedings have ended. What there is, however, highlights their need for more support. Follow-up research on private law cases produces a very varied picture of the durability of arrangements made in the proceedings, from a quarter to three-quarters. Although not all changes are due to non-compliance with the arrangements several studies do report this. While both resident and non-resident parents complain about the other parent not sticking to the arrangements the only quantitative data indicates that resident parents are more likely to report this than non-resident.

There are some positive findings about the reduction of contact problems post-proceedings for a proportion of parents. Nonetheless in many families problems persist. Moreover, in many cases the court proceedings did not enhance parents' ability to work together and may even have had a negative impact. These findings indicate not only that a good proportion of families may be in need of help post-

proceedings but that more needs to be done in the course of the proceedings to address relationship issues.

5 Perspectives on Cafcass: the data

The Children and Family Court Advisory and Support Service (Cafcass) was created in 2001 and as yet there is only a limited amount of research which covers users' views. This analysis therefore includes pre-Cafcass research on two of the services which were absorbed into the new organisation, viz: the family court welfare service, which provided a service to the courts in private law cases and the guardian service, which acted in public law. No research has been found on parents' experiences of the child-related work of the Official Solicitor, the third constituent of the new service. Data is also included from post-2001 inspection reports, many of which include material on user views, and from the first year of Cafcass's new feedback system, My Cafcass: HearNow. Details of all the studies can be found in Appendix B, table 2.

The focus of the studies

Research focusing specifically on Cafcass or its predecessor organisations

Of the few pieces of research in this group only study, the Cafcass-commissioned client satisfaction survey (BMRB Social, 2004) attempted to encompass the whole range of service users. Unfortunately, the number of responding parents who had been involved in public law proceedings was so small that their views were not differentiated in the report. The Cafcass on-line feedback system is accessible to adults (not specifically parents) involved in either public or private law proceedings. Of the responses reported in the analysis of the first year of data (Guy and Cockayne, 2009) only 11.3% (49) were from those involved in public law cases and in general the material is not presented separately.

A study of the views of parents who had had welfare reports prepared by the pre-Cafcass family court welfare service (Buchanan et al, 2001), by definition, involved only private law cases although they looked at a broad spectrum of users. Three other studies also cover only private law cases but focus on sub-groups within that population: black and minority ethnic parents (Prevatt-Goldstein, 2008; Watson, 1995) and parents whose children were separately represented (Douglas et al, 2006).

Research with a broader focus

This imbalance between the amount of material on private and public law remains even when studies which have a broader focus than Cafcass are included. There is only one post-2001 study which includes the views of parents involved in care proceedings and that relates to a specific sub-group of parents, those with learning difficulties (Booth and Booth, 2004). Pre-Cafcass there are three pieces of research: two relating to the broad group of parents (Freeman and Hunt, 1998; Lindley, 1994) and one to a sub-group, parents falsely accused of child abuse (Prosser, 1992). None of these studies, however, contain a substantial amount of data on children's guardians or, as they were then known, guardians ad litem.

In private law 14 studies were found. The most extensive data on Cafcass is in Perry and Rainey's study (2006) of contact disputes. There are also a few references in the study by Smart and colleagues (2005) who similarly interviewed a range of parents involved in court proceedings and Davis et al (2000) who used a broad sample of disputing, but not necessarily litigating parents. The views of non-resident fathers are the focus of three reports (Ashley et al, 2006; Corlyon, 2009; Families Need Fathers, 2008). The remaining studies also look at particular sub-groups, viz: parents who have experienced domestic violence (Hester and Radford, 1996; Hester et al, 1994; Painter, 2002; Radford et al, 1999; Thiara, 2009); lesbian mothers (Smith, 2007); and traveller families (Greenfields, 2002).

Inspection reports

The views of parents in public law cases are also strikingly absent from the inspection reports. While only a few are confined to private law cases (HMIP, 1997; HMICA, 2005; 2007; MCSI, 2002a, 2002b, 2003d, 2004c) the others do not differentiate in presenting the findings (HMICA, 2006c; MCSI, 2002c; 2003a-c; 2004a-b; Ofsted, 2008a-c; 2009a-b). (Although later Ofsted inspections are described as including a user survey the reports make no mention of the findings, a surprising omission).

Sample size and representativeness

Sample sizes in the inspection reports range from 33 to 224, with five being less than 50 (MCSI 2002c, 2003a, 2003b, 2003c, 2004a) and four 100 or more (MCSI 2004c; Ofsted 2008b; Ofsted 2008c). However no indication is given of how representative the respondents are of the total group of parents and where response rates are given they are typically quite low, all but two being less than 25%.

The largest sample is being accumulated by the Cafcass feedback system, which generated 433 usable responses in its first year of operation (Guy and Cockayne, 2009). The Cafcass Client Satisfaction Survey (BMRB Social, 2004) also obtained a large sample (330). Sample sizes in the remaining research studies focusing on Cafcass are much smaller: 100 (Buchanan et al, 2001); 52 (Watson, 1995); 34 (Prevatt-Goldstein, 2008); and 22 (Douglas et al, 2006).

Of the studies which do not have Cafcass as their main focus, only three specify the numbers who have been involved with the service, or its predecessors (Families Need Fathers, 2008 [56]; Douglas et al, 2006, [22]); Painter, 2002, [14]. Some of the others, however, either give the numbers of parents who have been to court, or their sample consists exclusively of such parents, so while it is not possible to *calculate* the size of the group with Cafcass involvement it is possible to get an idea of this.

Thus, since in public law cases the child will always be separately represented it is reasonable to assume that all the parents participating in the studies of such cases will have had some involvement with either a children's guardian (from Cafcass) or a guardian ad litem (from the guardian panels). These samples are all quite small: 39 (Lindley, 1994); 35 (Freeman and Hunt, 1998); 32 (Booth and Booth, 2004). In private law there are some larger samples: 121 (Radford et al, 1999); 61 (Smart et al, 2005); 60 (Perry and Rainey, 2006) but a welfare report will only have been ordered

in a proportion of these. In other studies even the total samples are very small: eight (Greenfields, 2002); seven (Thiara, 2009); five (Smith, 2007).

Most of the studies do not give any indication what proportion of the available sampling pool their respondents represent, nor how representative they are of that pool. There are only a few exceptions to this. Of the post-2001 studies Painter (2002) gives a 16% response rate and Prevatt-Goldstein (2008) reports 30% in the only one of the three areas taking part in the study where it was possible to calculate this. None of these give any indication of representativeness. Of the earlier studies Freeman and Hunt's study of care proceedings (1998) reports that the interviewed parents constituted 30% of the whole sample, and somewhat under-represented families not known to Social Services prior to the events which led to proceedings and those with the most serious social problems. Buchanan and colleagues (2001) report that their interviewed sample of parents in private law cases where there had been a welfare report amounted to 25% of the potential interviewees and was well matched on all the characteristics examined but under-represented families where there were serious child protection concerns. Watson (1995) reports a response rate of 28% but gives no indication of representativeness.

The Cafcass feedback system is aiming at a database which will be representative of their client profile. The first year's data is acknowledged to have weaknesses in that a) the system is only available to clients who have access to the internet and b) the numbers responding vary significantly across the service areas (Guy and Cockayne, 2009). The sample is, nonetheless, reported to closely match the demographic and case detail profile of Cafcass service users overall. The detailed data presented, which compares the sample with the overall client group, unfortunately does not differentiate between the adult sample and the sample of children and young people although it seems likely that women are somewhat over-represented (56.4% compared to 42.7% men) as are applicants (58% compared to 28% respondents, with status being unspecified in the remainder).

6 Cafcass: Parents' views on the investigation and reporting process

Parental interaction with the service

Information and understanding

There appear to be only two pieces of research conducted since the creation of Cafcass, both focusing on private law cases, which look at this issue. Douglas et al (2006) report the views of a very particular sub-group of parents, those whose children were separately represented under rule 9.5 of the Children Act, 1989. They found that while almost all parents understood that the child and family reporter was there to write a report for court, there was more confusion about the role of the guardian ad litem, with only 13 out of the 22 (59%) having 'some' understanding, with the rest having either limited or mixed understanding. Many were confused about the respective roles of the guardian and the child's solicitor.

The other study (BMRB Social, 2004), which covered a broad spectrum of Cafcass clients, reports largely positive results: 76% recalled being given a Cafcass information leaflet, of whom 78% said that the leaflet had been helpful and 93% said that it had been easy to understand. However 28% said that they were not given enough information about how Cafcass was going to be involved and about what would happen. Of these: 33% wanted a better explanation about why Cafcass had been brought in; 24% wanted to know about the steps involved in the proceedings; 16% what Cafcass could do for them and 7% would have liked to have been more prepared for the types of questions they would be asked.

This study also reports that 60% of respondents thought that the information Cafcass had given them about the court process had been sufficient. However 35% would have liked additional information, not only about Cafcass-related issues such as how the report would be used but more generally about procedures, how long it would all take and what support was available for the children.

Data from the Cafcass feedback system (Guy and Cockayne, 2009) indicates that most adults express an understanding of Cafcass's role, with 76% saying that they knew what a Cafcass practitioner does and 77% selecting the correct description of the role ('listens to everyone and makes his/her own mind up about what's best'). However 10% considered they had little or no understanding of the role and 13% selected an incorrect description of the role ('agrees with whatever anyone else says').

Two pre-Cafcass studies have a little data about the general issue of information and understanding in the predecessor organisations. Lindley (1994) reporting on parents involved in care proceedings, reports that most parents understood the role of the guardian ad litem (now children's guardian) and most felt they had had sufficient information from the guardians themselves. Buchanan et al (2001) reporting on parents in contact and residence proceedings where a welfare report had been prepared, found that four in five parents were satisfied with how the court welfare officer had explained their role. Most parents also said they had had a good

understanding of the role before they were contacted by the welfare officer and most had received written information in advance. The study, however, highlighted that a large proportion of the whole group of parents were unclear about who the court welfare officer had seen and whether Social Services and criminal records checks had been carried out.

Some of the inspections also include user views about the information received. A pre-Cafcass inspection of the court welfare service (HMIP, 1997) found that 68% of parents recalled being given written information about the purpose of the report and 90% that the court welfare officer had explained the process to them. The baseline inspections of Cafcass carried out by MCSI in 2002-4 do not indicate what proportion received information but of those who did between 64% and 84% said the information explained the Cafcass service and between 67% and 85% that it was easy to understand (MCSI 2002a; 2002b; 2002c; 2003a; 2003b; 2003c; 2003d; 2004a; 2004b; 2004c; 2004d). An inspection of Cafcass Cymru (HMICA, 2006a) reports 60% finding the information easy to understand. Only one Ofsted report (2008c) has information about this, reporting that 'almost all service users' found the information easy to understand, although a focus group held beforehand indicated that users were not clear about the role of Cafcass in the court process.

Some inspections raise concerns about parents who do not appear to have received information about the complaints procedure. A pre-Cafcass inspection (HMIP, 1997) found that only 41% recalled being given information about this. The baseline inspections of Cafcass (MCSI 2002a; 2002b; 2002c; 2003a; 2003b; 2003c; 2003d; 2004a; 2004b; 2004c; 2004d) found that in most areas a substantial proportion (between 12% and 58%) said they did not know how to complain and an early inspection of Cafcass Cymru (HMICA, 2006a) reports 54%. Ofsted reports have not usually reported on this although one (2008a) notes that a 'significant minority' of service users in one English service area did not know how to make a complaint.

A thematic inspection focusing on domestic violence (HMICA, 2005) highlights unmet information needs among this particular group of users. Half the users responding to the survey part of the study said that Cafcass had not told them about help available from other services and a third that the information received from Cafcass had not explained the services the organisation provided in domestic violence cases. This issue also emerged in focus groups, which reported a lack of understanding about how the family justice system worked in general and the particular functions of Cafcass within it. Users wanted explanation about what practitioners did and why they did it, and wanted to understand each part of the process. They identified a need for an information pack that explained the whole process of family proceedings, including Cafcass, which should also provide information about services for children as well as for those who had experienced and those who had perpetrated domestic violence. The report concluded that in order for survivors to participate fully in the process there needed to be better attention to safety issues through all the information provided and an explanation about each stage of Cafcass involvement, setting out where there are opportunities to express concerns about domestic violence, so that users could make an informed choice about whether or not to participate in processes such as joint meetings or conciliation.

One issue which has received surprisingly little attention in consumer surveys is that of language. Two pre-Cafcass studies of the court welfare service (Buchanan et al, 2001; Watson, 1995) found that none of the parents whose first language was not English had information provided in their own language, with Buchanan additionally stating that three of the 19 parents in this position had been unable to understand the material. Unfortunately an inspection specifically addressing the issue of promoting racial equality (HMICA, 2006b), which might have been expected to cover this issue, received such a poor response to its user survey that no results were reported.

The agency premises

There is scant information on this and all the post-2001 data comes from inspection reports. One report (Ofsted, 2008c) which specifically focused on user views, notes that 'most' service users were happy with the office accommodation where they were seen by Family Court Advisors, with offices being considered excellent. None of the other Ofsted reports touch on these matters and the earlier MSCI baseline reports merely include the odd critical comment: about premises which were not user or child-friendly or even 'slightly oppressive', needing to be made more 'homely' for vulnerable families and locations which were too difficult and costly to get to. The pre-Act study by Buchanan and colleagues (2001) also includes similar criticisms of Family Court Welfare Service premises:

It was horrendous. It was badly equipped for children and adults. It was forbidding and poorly decorated and frightening for children.

It was visibly the offices of the probation service, quasi-criminal. It was an awful office. You felt you had failed as a parent.

Safety issues for parents who had experienced domestic violence are highlighted in pre-Cafcass research on the family court welfare service (Hester et al, 1994). A decade later, an inspection report focusing on domestic violence (HMICA, 2005) indicated continuing concerns about the lack of planning for their safety, for example in terms of room layout, in the new service. One in six of those interviewed did not feel safe at Cafcass and many gave examples of being followed home, with one area having a standard practice (subsequently changed) of sending letters to both parties giving the times and dates of each interview.

Practitioner accessibility

Although there is only limited information on this the various sources are all consistent in finding that at least half of parents are satisfied that when they needed to contact the practitioner they were able to do so, the proportions varying from 62% in the Cafcass client satisfaction survey (BMRB Social, 2004); between 51% and 76% in the MCSI baseline inspection reports (MCSI, 2003); and 53% in an inspection of Cafcass Cymru (HMICA, 2006a). Indeed some parents identified this as one of the most helpful aspects of their experience:

What helped the most was being able to talk to them when I needed to. I felt at times that they did more than the solicitors. (MCSI, 2003d).

Cafcass feedback (Guy and Cockayne, 2009) indicates that 65% of adults considered that contacting their Cafcass worker was ‘pretty easy’ (38%) or ‘about normal’ in terms of difficulty’ (27%). Analysis also indicated that this was one of the key drivers of overall satisfaction.

However all the sources report a substantial minority of parents experiencing difficulty in getting in touch with the practitioner (ranging from 15% to 30% in the MCSI baseline inspections; 18% in the Cafcass feedback report [Guy and Cockayne, 2009]; 27% in the HMICA inspection of Cafcass Cymru [2006a] a third in a recent Ofsted inspection [2008c]; 36% in the survey by BMRB Social (2004); and 42% in the pre-Cafcass research by Buchanan et al [2001]). While the nature of the difficulties is not usually identified, where it is the failure to respond to phone calls is the typical complaint, an issue also raised by some of the parents in a recent study of non-resident parents (Corlyon, 2009).

Practitioner competence

The only quantitative data on parents’ overall perceptions of practitioner competence comes from inspection reports. Baseline inspections record that between 36% and 65% of parents in the areas covered considered that practitioners ‘knew what they were doing’, with between 14% and 40% dissenting (MCSI, 2002c; 2003e). Five of the seven area inspections report a higher proportion of parents considering practitioners were competent than otherwise, as do all the four subsequent inspections which provide numerical data (HMICA, 2006a, 2007; Ofsted 2008a, b). The later reports also tend to show higher satisfaction levels (between 54% and 64%) although a substantial minority remain critical (between 22% and 40%).

Some of the inspection reports include comments from parents. Positive parents describe the practitioner/s they had been involved with as ‘*fantastic*’; ‘*excellent*’; ‘*brilliant*’; ‘*first class*’; ‘*very capable*’; ‘*effective*’; ‘*knowledgeable*’; ‘*well-informed*’; and ‘*professional*’. For example:

They were both excellent. I felt that they were able to fully understand life in its broad sense.

I have nothing but respect and there are no faults whatsoever with CAFCASS. The practitioner was brilliant and such a nice person.

(She) was extremely professional...I have nothing but the highest praise for her.

Negative parents tend to elaborate their response by pointing to areas of perceived ineptitude. Those mentioned include lack of preparation for interviews; disorganisation; poor communication skills; lack of understanding of the issues; out of date views; being taken in by the other parent; poor training; jumping to conclusions; indecision and giving bad advice. For example:

Some of the basics were missed like being on time, being prepared, making you feel welcome, knowing the children’s names.

I felt that the staff are not properly trained as they were of no use in my case, even offering bad advice, which proved more destructive than constructive.

Very disappointed - jumping to conclusions, which they cannot verify.

The practitioner's manner and interpersonal skills

The CAF/CASS person was very friendly, very easy to understand, listened to us and our needs. We will miss seeing her. (MCSI, 2004b)

Nothing they said or did helped me or my child. The person I spoke to was antagonistic and argumentative and completely biased. I hope myself or my children never have to come into contact with these people again. (MCSI, 2002a)

There are many references, in research and particularly inspection reports, to parents' views, both positive and negative, on their interaction with Cafcass practitioners (BMRB Social, 2004; Booth and Booth, 2004; Douglas et al, 2006; HMICA, 2005; MCSI, 2002b; 2003a, b, c, d; 2004b, c; Perry and Rainey, 2006; Ofsted, 2008a, b; 2009b) or their pre-Cafcass equivalents (Buchanan et al, 2001; Freeman and Hunt, 1998). In terms of the practitioner's manner, positive parents speak variously of officers being courteous, respectful, friendly, approachable, caring, kind, sympathetic, sensitive, supportive, understanding and treating them as individuals. Negative parents, for their part, refer to officers being unwelcoming, cold, unfriendly, impersonal, unsupportive, uncaring, or even abrupt, antagonistic, rude and bullying; and treating them as just another case.

Similarly, positive parents speak highly of the officer's communication skills: the ability to put an anxious parent at their ease; being easy to talk to and a good listener; having the capacity and willingness to explain things and make themselves understood. Parents with more negative perceptions describe the opposite scenario, with some referring to feeling '*interrogated*', or '*like a criminal*'. These parents also experienced their Cafcass officer as judgemental, not neutral, or even duplicitous, while positive parents described them as fair, impartial, non-judgemental and honest.

There is very little data to indicate the balance between positive and negative experiences, though what there is suggests that the former are likely to be more common. The Cafcass feedback system asks respondents whether they felt able to talk to their Cafcass worker about 'difficult things'. Fifty-nine per cent of adults said they could talk to the worker about everything and 22% about some things with only 12% saying they could not talk to them about anything difficult (and 7% saying they did not know). It is also reported that 58% said they would tell a friend that Cafcass workers can be trusted although 20% would not feel able to say that and 23% were uncertain (Guy and Cockayne, 2009).

The only other post-Cafcass information comes from an Ofsted report (2009b) which found that the majority of service users responding to their survey felt they were treated with respect. A pre-Cafcass study on parents subject to care proceedings (Freeman and Hunt, 1998) also reports that most of the parents interviewed made positive comments about the guardian's approach – '*honest*', '*helpful*', '*caring*,' '*supportive*' and '*a good listener*'. A study of parents involved with the pre-Cafcass court welfare service (Buchanan et al, 2001) found that one third were critical of the attitude and professionalism of the practitioner.

Being listened to and understood

Feeling listened to and understood are important factors in parental satisfaction with the service (BMRB Social, 2004; Prevatt-Goldstein, 2008). Most of the data on this, however, comes from inspections, which report a wide spectrum of views. A pre-Cafcass inspection of the family court welfare service (HMIP, 1997) reported that a very high proportion of parents (79%) felt they had been listened to. In five of the seven baseline inspections of Cafcass in which numerical data is given more than half the parents felt they had been listened to, but the proportions ranged from 43% to 78%, and the percentage disagreeing from 8% to 45% (MCSI, 2002c; 2003e). Only two Ofsted inspection reports (2008a and b) provide quantitative data: in one area 71% of parents felt listened to, while 27% did not; in the other only 52% were satisfied, with 37% feeling they had not been listened to. An inspectorate report on families subject to family assistance orders (HMICA, 2007), found that 60% felt they had been listened to with 30% saying they had not, while an inspection of Cafcass Cymru (HMICA, 2006a) found that 58% felt they had been listened to, with 32% saying they had not.

Being listened to, however, does not necessarily mean being understood. Indeed, one of the baseline inspection reports makes this point explicitly:

Whilst parents felt that they were listened to and treated with respect, they did not feel that they had been understood nor empathised with. (MCSI, 2002b).

None of the baseline inspections provide quantitative data, and only two of the later Ofsted reports. These again produce a varied picture, with between 44% to 62% feeling they had been understood, 35% to 43% feeling they had not (Ofsted, 2008a, b). The report on parents subject to family assistance orders (HMICA, 2007) found that only 54% were satisfied on this point, while 32% were not.

In terms of research, although the Cafcass client satisfaction survey (BMRB Social, 2004) does not specifically report whether parents felt listened to or understood, it did find that 62% felt the officer took account of their views - which presumably means that at least that many felt they had been listened to – while 35% did not. A pre-Cafcass study of parents subject to a welfare report in private law proceedings (Buchanan et al, 2001), however, reports a much lower proportion of parents feeling that the court welfare officer had understood their feelings and views, with only 47% being confident about this, 15% having some reservations and 38% saying they had not been understood. One particular criticism voiced by some parents in this study was the perceived reluctance of the officer to take account of past events:

I asked her if she had read our statements. She said ‘yes, but I’m not a historian’. So our statements were irrelevant. What’s the point? Our past is relevant to now.
(Mother)

She didn’t want to know about the past. So she missed the whole picture. (Father)

Prevatt-Goldstein, in her study of black and minority ethnic parents involved in private law disputes (2008; 2009) uses the concept of ‘respectful engagement’, which encompasses listening, understanding and empathising. While 21 service users said they had experienced some element of this from at least one practitioner, 15 had also

experienced its absence and six felt that they had been negatively stereotyped. Two said that their need for (impartial) interpreters had been ignored while others felt that the cultural information they provided had been ignored. Watson's pre-Cafcass survey of BME parents involved in private law proceedings (1995) reports 'a significant proportion' complaining they were not listened to: '*they did not listen*'; '*they did not hear*'; '*they did not understand*'.

Only two other pieces of research make any specific mention of listening and understanding. A study of parents with learning difficulties subject to care proceedings (Booth and Booth, 2004) cites one parent praising the guardian for '*listening to me*', while a study of separate representation (Douglas et al, 2006) refers both to critical parents – who felt they had not been listened to or understood – and positive ones – who felt supported, understood and listened to.

The investigation process

The pre-Cafcass study by Buchanan et al (2001) found that 54% of parents had 'major' criticisms about the enquiry process in private law proceedings. No other study gives an overall figure for satisfaction with the investigation process.

Thoroughness

Buchanan's study (2001) found that the most common criticism parents had of the welfare enquiry in the pre Cafcass Family Court Welfare Service was that the officer had had insufficient time to spend with parents and children, with half being dissatisfied and only 36% satisfied. Half the parents said they felt the officer did not get to know their family well enough to write the welfare report. Several would have liked other people (such as new partners, members of the extended family, friends, neighbours, employers and other professionals) to be interviewed, to build up a picture of the child and the family. Some would have liked the child observed and for this to happen over a period of time. A frequent criticism was that children were not interviewed in their own home - three-quarters of those interviewed considered that a home visit should be done in every case. Indeed 39% considered that such visits should be made unannounced.

Only a very few parents in this study criticised the officer for being too thorough, for example by seeking information from medical professionals or schools or by discussing events which had occurred many years ago. However two pre-Cafcass studies of parents subject to care proceedings (Freeman and Hunt, 1998; Lindley, 1994) do report parental criticism of overly intrusive investigations.

Concerns about lack of thoroughness also emerge in post-2001 studies of private law cases. Smart and colleagues (2005) report that the enquiries were experienced as '*too brief and superficial – parents did not believe the officer could really know what was going on in a family based on one or two short meetings*'. Perry and Rainey (2006), Prevatt-Goldstein (2008) and Corlyon (2009) also highlight this issue, the latter reporting that the majority of non-resident parents and a number of resident parents felt that Cafcass was not in a position to make a professional recommendation to the courts after only brief contact with each parent over a relatively long period of time:

There is no way that you can get a good handle on a circumstantial situation, based on an hour-long interview. And then to write a report three months, four months, five months after that, making recommendations about care ...he (Cafcass officer) didn't know enough about our circumstances to justify the recommendations he was making. (Corlyon, 2009)

The client satisfaction survey done for Cafcass (BMRB Social, 2004) found that only 55% of clients thought that Cafcass was sufficiently thorough and spent enough time getting to know their situation (41% were dissatisfied about this). Nine per cent felt that insufficient time was spent assessing the case. Forty per cent would have liked more contact with the officer themselves, with only 3% feeling that there had been too much contact. Nearly half (47%) thought that Cafcass should have interviewed more people as part of their investigation, typically citing family members, although some thought that the investigation should have been extended to cover the views of professionals such as teachers, doctors or social workers.

The dissatisfaction of some parents with the amount of time spent on their case also emerges from inspection reports (MSCI, 2002a; b; 2003a; b; 2004b; Ofsted 2008a; b; c; 2009a), usually in the form of occasional quotes from individual parents:

Due to too much workload I felt my case wasn't given enough personal attention. ...I felt that it was not the practitioner's fault but he was dashing between many cases and having deadlines to meet with reports. ...I felt very little personal attention and no support or real follow up. Just move on to the next case. The system won't allow for anything else. (MCSI 2003a).

The report on one area (Ofsted, 2008a), however, notes that parents expressed the lowest level of satisfaction with the time spent with their child (56% being satisfied and 37% dissatisfied) while in another (Ofsted, 2008b) the proportion of parents satisfied on this point was even lower (36%) with the same proportion being dissatisfied.

The reports also contain occasional references to practitioners who were not considered to have been sufficiently thorough. These include criticisms that certain people were not contacted/interviewed; information was not followed up and checked; documents were not read; the child was not observed at home or at a contact visit; and the history was not looked at (MCSI 2002a; 2003a; b; c; d; 2004b; c).

So many factors, personalities and situations were ignored; in particular, a new partner, complained about by the children, was not interviewed. (MCSI 2003a)

The Cafcass person didn't check out all supporting information. This was said to be due to lack of funds. A GP check would have been vital to my case. (MCSI, 2004b)

Cafcass should check with people who really know the family like schools and health visitors, not just rely on one quick meeting. (MCSI, 2004c)

Contact with the child

As noted earlier, a number of sources report parental concern about the amount of contact Cafcass officers have with the family. Some of these specifically refer to contact with the child. Buchanan's pre-Cafcass study of private law cases (2001)

reports that 46% of parents felt their child had not been seen often enough, compared to 6% saying they had been seen too much, with only a small number considering that the children should not have been seen at all (because they were too young to be involved in the adult dispute, of which they were said to be unaware). These parents felt they had been forced to agree to the child being interviewed. (In the very few cases where children had not been seen, the decision was said to have been a mutual one). Another pre-Cafcass study, however, (Radford et al, 1999) highlighted the concerns of mothers who had experienced domestic violence that a sizeable number of children (one in five) had not been seen, even though over a third of these were over five years old at the time. Sixty per cent of children were said to have been seen for 30 minutes or less.

The issue also emerges in a few inspections. One thematic report focusing on domestic violence (HMICA, 2005) notes that mothers were disappointed with the way the children were dealt with, including the briefness of the meetings. Two Ofsted reports (2008a, b) found that just over a third of parents were dissatisfied, while a third (2008c) describes parents as 'more satisfied than not'.

Parents' views are also mixed about other aspects of the practitioner's contact with the child. Overall, according to the Cafcass client satisfaction survey (BMRB Social, 2004), parents viewed the contact positively, with satisfaction levels of between 59% and 71% being recorded on the different dimensions asked about. A small study of domestic violence cases (Painter, 2002) found that all the 14 parents interviewed were 'largely positive'. Lower satisfaction levels are reported in other studies, however, with only 10 of the 34 parents interviewed in a study of BME families (Prevatt-Goldstein, 2008) being wholly positive, and only six of the 17 interviewed in a study of children who had been separately represented in private law disputes (Douglas et al, 2006). Buchanan's pre Cafcass study (2001) found that only half had no reservations and a third thought welfare officers needed more training in working with children.

Positive parents commended officers for their interaction with the children - putting them at their ease and enabling them to talk (BMRB Social, 2004; Buchanan et al, 2001; Douglas et al, 2006; MCSI, 2002c, 2003e, 2004c; Painter, 2002; Prevatt-Goldstein, 2008). As one parent in the pre-Cafcass study by Buchanan (2001) said:

She was fantastic. She was so careful with the children – how she spoke to them, what she said.

Seventy-one per cent of the parents responding to the Cafcass client satisfaction survey, for instance, (BMRB Social, 2004) said that Cafcass had made the process as easy as possible for the children, with only 13% demurring. Fifty-nine per cent said their children had felt comfortable, with 18% dissenting and 19% saying they had found the meetings distressing. Seventy per cent thought that Cafcass had spoken with their children in a way they could easily understand, with only 5% saying they had not. The earlier MCSI inspections give generally lower proportions of parents feeling their children had felt comfortable, with only three of the seven areas surveyed having more than half the parents being satisfied, although the range was wide, with between 34% and 62% being positive, and between 8% and 36% negative (MCSI, 2002c;

2003e). An inspection of Cafcass Cymru (HMICA, 2006a) reported that 50% of parents said their children had felt comfortable, 23% said they had not.

Aspects of the contact with the child about which some parents were not happy included the following:

- asking inappropriate questions, such as who the child wanted to live with, or asking them to score their feelings about people close to them (Buchanan et al, 2001; Douglas et al, 2006; Ofsted, 2008b).
- asking set questions which did not allow the child the chance to give their own views (Ofsted, 2008b).
- breaching the child's trust, eg by passing on to a parent what the child had said (Douglas et al, 2006; Ofsted, 2008b)
- putting the child under pressure (Douglas et al, 2006; Ofsted, 2008b).
- putting the child at risk by leaving them unsupervised during contact (Douglas et al, 2006).
- interviewing children at school (Painter, 2002; MCSI, 2004b); or in Cafcass offices, rather than at home where they would feel more comfortable (BMRB Social, 2004; Ofsted, 2008a).
- not being child-focused (Douglas et al, 2008; HMICA, 2005).

Assessing the child's views and taking them into account

As noted earlier, not all parents are satisfied that the Cafcass officer had sufficient contact with their children or that the children felt relaxed and able to talk. Some also voice concerns about the extent to which the officer understood their child's perspective (Buchanan et al, 2001; HMICA, 2007; MCSI, 2003d; Ofsted, 2008a, b; Prevatt-Goldstein, 2008; Smart et al, 2005) or was able to differentiate between genuine feelings and those which had been foisted on them by a manipulative parent:

I am sure that I am not the first father denied access to the children. Surely they must be aware of a mother determined not to allow access. ...Can a child think that he does not wish to see his father after a year has lapsed? Their mother influences my children and Cafcass could not determine this even after three interviews. (MCSI, 2003d)

Two Ofsted inspections (2008a; 2008b) and a survey of families where a family assistance order had been made (HMICA, 2007) asked parents specifically if they thought the practitioner had understood their child's wishes and feelings. While the proportions of parents who were confident about this varied widely between the surveys (from 38% to 55%) the proportions who said no were very similar (32%; 36% and 38%).

Some parents are also critical of the extent to which the Cafcass officer took the children's wishes and feeling into account in reaching their conclusions (BMRB Social, 2004; Buchanan et al, 2001; Douglas et al, 2006; MCSI, 2003d, 2004b; Ofsted, 2008b; Prevatt-Goldstein, 2008; Radford et al, 1999; Thiara, 2009). Two themes emerge, as reflected in the quotes below from parents responding to an inspectorate survey (Ofsted, 2008b). First, that insufficient account was taken of the child's wishes; second that too much attention was paid,

They [Cafcass] refused to listen to my children's wishes – kept pushing them to see their father even when they had no wish to do so.

I think Cafcass should consider what is best for the child more than what they want.

There is little numerical data on either of these themes. The Cafcass client satisfaction survey (BMRB Social, 2004) found that 59% of parents considered that the Cafcass officer took their child's wishes into account, with only 19% saying they had not. Prevatt-Goldstein's findings (2008) are rather similar: 19 (of 34) parents said that their child's wishes had been taken into account although five felt that they had been given too much weight. However a small study of children who had been separately represented in private law disputes (Douglas et al, 2006) reports a much lower proportion of satisfied parents (six of 16) with seven considering that the child's wishes had not been taken into account and three expressing mixed views. This is a surprising finding, since one might have expected that any criticism might have been that the child's wishes were given too much, rather than too little weight.

Parental participation in the investigation process

As the two preceding sections have indicated, substantial numbers of parents are critical of some aspect of the investigation process.

According to a pre-Cafcass study of court welfare work (Buchanan et al, 2001) although most parents would like the officer to involve them in deciding how the investigation should be undertaken, only half felt they had been. While parents did not expect to dictate who should be interviewed, they thought better decisions could be made if their views were taken into account on such matters as where the child should be seen, who accompanied them to the interview, and which other family members or professionals should be involved. Parents also wanted to be told in advance who else was being contacted, for the officer to be open about the basis of the assessment and to be made aware of what the welfare report was going to say.

One aspect of the pre-Cafcass investigation process in private law cases which generated concern was the widespread use of joint meetings, even in cases in which domestic violence was an issue. Hester and Radford (1996) report that some women who had experienced domestic violence said they had not been advised of their rights not to attend and felt they had no option but to agree. An inspection report (HMIP, 1997) found that most respondents did remember being given a choice, but highlighted one service area where more than half had never been interviewed alone and only 39% remembered being given the option. Despite strategies within Cafcass to address domestic violence more effectively a later inspectorate report (HMICA, 2005) still reported criticisms by mothers of being pressurised to have joint meetings.

Fairness

Accusations of unfairness are a common thread in both research and inspection reports, although, apart from one study, only the inspections give the proportion of parents satisfied/dissatisfied on this score. The exception, the client survey for Cafcass (BMRB Social, 2004) reports that a sizeable majority of parents (67%) felt

they had been treated fairly, with only 31% dissenting from this. A pre-Cafcass inspection (HMIP, 1997) gives the same figure. (Buchanan's pre-Cafcass study of the court welfare service does not provide quantitative data on overall perceptions of fairness but reports that 59% of parents thought that the welfare report was fair and balanced, which might serve as a proxy).

The baseline inspections (MCSI, 2002a, c; 2003a-d; 2004a) give a more mixed picture, with between 41% and 64% of parents saying they had been treated fairly and between 31% and 45% saying they had not. Fifty-three per cent of parents responding to an inspection of Cafcass Cymru (HMICA, 2006a) said they had been treated fairly, though 27% said they had not. The later Ofsted inspections in England (Ofsted, 2008a-c) indicate between 47% and 64% reporting their treatment to have been fair, between 36% and 'just under a half' unfair. In all but two reports (MCSI, 2002a, 2004a) however, more parents felt they had been treated fairly than unfairly.

Satisfied parents speak of the officer's perceived neutrality, objectivity, and willingness to listen to both sides, several of those responding to the MCSI inspections citing this as the most helpful part of the process:

What helped the most was the unbiased opinion of the CAF/CASS officer. I was completely satisfied with all the service they provided. (MCSI, 2003d)

The way the practitioner was willing to listen to both sides without being judgmental. I wasn't sure about all the process, but I felt reassured once I met up with the CAF/CASS practitioner. (MCSI, 2002a)

All these sources either deal entirely or largely with the views of parents involved in private law disputes. No post-Cafcass research was found which specifically reported the views of parents subject to public law proceedings. Two pre-Cafcass studies report parents' views on fairness in relation to what were then guardians ad litem (now children's guardians). Lindley (1994) found that 52% of the parents interviewed did not think the guardian had been independent/fair; compared to 38% who thought they were, and another 10% who said they had been 'quite' independent/fair. 'Many' thought the guardian had been unduly influenced by the local authority. Freeman and Hunt (1998) report that such undue influence was the single most important criticism to emerge of the service. Parents in both studies expressed the view that '*all social workers stick together*'.

The theme of unfairness as voiced by parents involved in private law disputes has several strands. The most common is that of simple bias against or towards one parent (Douglas et al, 2006; MCSI, 2002a, b; 2003a, b, c, d; 2004c; 2008a; Perry and Rainey, 2006; Smart et al, 2005):

The attitude of the officer against me was unfair and prejudiced against me. (Ofsted, 2008b)

Waste of time – totally one-sided (MCSI, 2003b).

I felt the practitioner was biased towards the other party. She never listened to my views or considered the problems from our point of view. (MCSI, 2003d)

Sometimes these parents pointed to particular actions of the Cafcass officer which highlighted their partiality:

Cafcass needs to spend equal time and see both homes, not just mother's; there was a need for fairness. (MSCI, 2002a)

At the last all day hearing the CAF/CASS officer did not speak to me however spent time talking with my ex-husband. I felt this was very biased and unfair. (MSCI, 2003a).

The officer I dealt with went to the pub for a drink with the other party - this is not professional, nor equal. (MSCI, 200b)

Other parents made a broader critique, alleging gender bias. Most commonly this involved non-resident fathers alleging bias against them:

The service is ...sexist. It does not do enough to protect children's rights to have a paternal relationship. The total lack of understanding on behalf of Cafcass to the well publicised rights of fathers. (MSCI, 2002a)

I feel the system is heavily biased for the mother and against the father" (MSCI 2003b)

Perry and Rainey, however, (2006) also report criticism from some resident fathers - presumably those who felt they had had to fight to obtain residence - that there is an assumption that children should live with their mothers:

I thought they were very biased towards the female and I have heard other people say it in the past as well.... I think the whole service is a waste of time. It really is.

This father linked this 'pro-mother' bias to the gender imbalance in the service:

The first thing that struck me when I walked through the door was: where are the men? There wasn't one man working there. A lot of blokes are going to be uncomfortable, I know I felt uncomfortable.

This point is also made in one of the inspection reports (MSCI, 2002b) which notes a perception that, because most of the practitioner staff are women, there is a positive female bias. This issue was explored specifically in a pre-Cafcass study (Buchanan et al, 2001) which found that most parents did not regard the gender of the officer as an important factor and that while less than 10% of the welfare officers in the study were men, and some men would have preferred a male officer, gender seemed to be rather more important to women. However they do also refer to 'some men' finding it difficult to be interviewed by two female officers, interpreting this as a sign that their perspective would be ignored, and to a few parents valuing being interviewed by both a male and a female practitioner because it would ensure that neither parent was disadvantaged. Douglas et al (2006) also quote one father who thought the routine use of male and female interviewers would be beneficial:

So between them...what he didn't understand or couldn't relate to maybe she could, then whatever question a man fails to ask...a woman might pick it up and the woman

would have more of an idea if the mother was genuine or whether she was just playing the system.

In terms of the relationship between gender and levels of satisfaction a pre-Cafcass study of the views of black and ethnic minority parents involved with one court welfare service (Watson, 1995) reports that while 68% of the women surveyed were satisfied, only 48% of men were. A more recent study of BME parents, however, (Prevatt-Goldstein, 2008) found the levels to be very similar, with exactly the same proportions expressing dissatisfaction (44%) and slightly more men (56% compared to 50% of women) being satisfied. Similarly Buchanan's pre-Cafcass study found that 45% of non-resident applicant fathers and 46% of resident respondent mothers were wholly or mainly satisfied. Nonetheless in this study allegations of bias were a strong theme in the narratives of those who were not satisfied. Dissatisfied fathers saw the officer as adopting an 'anti-father' stance throughout the investigation and taking the expressed wishes of their children at face value, ignoring the possibility that they had been heavily influenced by the mother. Dissatisfied mothers, for their part, saw the officer as pro-father, and believed that the individual needs of their children were sacrificed to the general principle that contact is in the interests of most children. Allegations that Cafcass officers are biased against women are also reported elsewhere (Perry and Rainey, 2006; Ofsted, 2008b; Prevatt-Goldstein, 2008).

I think they were a bit one-sided. They think all mothers poison the children's minds. (Perry and Rainey, 2006)

Cafcass was only interested in what the father said and wanted. (Ofsted, 2008b)

It's like they listen to the dad, it's like father's right, father's rights, mothers never have rights do they? (Prevatt-Goldstein, 2008)

Perceptions of gender bias are also linked with allegations that the Cafcass officer had not approached the case with an open mind and that the outcome was therefore a foregone conclusion:

I felt that the issue was pre-decided and my views ignored. (MCSI, 2002b)

I felt that the practitioner had seen it all before and had made up his mind prior to speaking with me. (MCSI, 2004c)

The outcome was preconceived so the CAF/CASS person just went through the formalities and was not really interested in what I had to say (MCSI, 2004b)

While these views are often not elaborated on, where they are they tend to reiterate the criticisms made by parents in Buchanan's pre-Cafcass research (2001) of a formulaic approach based on the assumption that residence would always go to mothers and fathers should always get contact.

There is only a little information on other forms of perceived bias.

In terms of discrimination because of race, ethnicity or culture, a pre-Cafcass study of the views of minority ethnic parents involved with one court welfare service (Watson, 1995) indicated that some parents did feel they had been discriminated against, with

some black men feeling doubly disadvantaged by gender and ethnicity. This theme also emerges in Buchanan's pre-Cafcass research (Buchanan et al, 2001):

The family court welfare service is 95% against fathers and 100% against black fathers whose ex-partners are white women.

I had to demonstrate more than a white father would have to. I had to make an effort to show that I am a worthy father.

This research also found that black and minority ethnic parents were marginally less positive than white parents with the welfare reporting process (42% describing themselves as satisfied or mainly satisfied, compared with 45%) and that black fathers were more dissatisfied than white fathers (whereas black mothers were more satisfied). Research by Smart (Smart et al, 2005) notes that, in addition to allegations of gender bias, fathers from minority ethnic groups also raised the issue of racism, believing that the officers held stereotypical views, particularly about domestic violence in their communities.

Recently Prevatt-Goldstein has looked specifically at the experiences of black and minority ethnic families involved with Cafcass (Prevatt-Goldstein, 2008). Since her sample only included three white parents the research cannot indicate whether BME parents were any more or less satisfied than members of the majority population. The proportion saying they were satisfied with the service (52%), which is somewhat to the upper end of the spectrum reported earlier (32% to 63%) does not, in itself, provide prima facie grounds for concern.

Forty-one per cent of those interviewed, however, thought that they had been negatively treated because of their race and culture. Inappropriate and negative ethnic stereotyping was particularly reported in relation to South Asian men. All the men who were dissatisfied with the service were South Asian, several of whom alleged discrimination on the basis of their race, culture or religion as well as gender. Two South Asian women (of 9) also reported that negative stereotyping of South Asian men had influenced the Cafcass practitioner. Close analysis of the data by the researcher, however, revealed that most of the cases were handled by one Cafcass team, suggesting that poor practice with South Asian men may not be general. Nonetheless, the researcher notes from interviews with practitioners and analysis of court reports that practitioners '*still seemed prey to stereotypes of dominant South Asian men and vulnerable South Asian women*'. She also notes from this material some stereotyping of Caribbean men, although this was only reported by one of the two Caribbean woman interviewed (the interview sample did not include any Caribbean men).

There are also occasional references in inspection reports to allegations of discrimination (MCSI, 2002a; 2004c):

The welfare officer was racist, anti-Muslim and disrespectful. Lack of questions relating to child concerns. I have made a formal complaint about CWO's lack of respect for my religion, race, child's welfare and having a biased view against me and my family.

Cafcass was not interested in my views and didn't want to know about my racial background and culture. I feel I am a victim of prejudice.

However none of the inspection reports provide any numerical data. Disappointingly, although one inspection was specially focused on issues of race and ethnicity (HMICA, 2006b), the numbers of BME parents participating was so low that no user views were included in the report.

Information about other forms of perceived bias is even rarer. Perry and Rainey (2006) cite one highly critical non-resident father who included 'ageism' among his complaints:

Out of touch, pathetic, biased, ageist, the list goes on... I was criticised for being an older father.

Greenfields' small pre-Cafcass study of traveller parents (2002) reports that officers were generally identified as being 'prejudiced or ignorant' about them and holding 'rigidly conformist' views about the value of a 'settled' lifestyle:

I felt she had a really negative view of things...she didn't come with an open mind, it was one of them 'now listen lady, isn't it about time you grew up and got a grip' sort of attitude, and 'but that's not how you fetch a child up dear'. She were too conventional you know, that people shouldn't live like this and it were 'how can you say your children will be happy like that?

Research in the 1980s raised concerns about the approach to cases involving lesbian mothers. By the mid-90s, however, court welfare officers were said to be '*less prejudiced*' and to have a '*greater awareness of psychological research about lesbian mothers and their children*' (Harne and Rights of Women, 1997). There are some indications, however, that perceptions of bias remain. Smith (2007) reports that two of the five lesbian mothers who had used the family courts in her study felt that their cases had been prejudiced by Cafcass reports which had placed undue and, they felt, irrelevant emphasis on their lesbianism.

We got the Cafcass report and, oh, it was awful. ...I think there were about six or seven points about 'the court would need to consider the damage to the boys of being removed from a heterosexual relationship'. To get that Cafcass report was so awful, it really was. It was so demeaning of our relationship.

Understanding of the issues

Prejudice, of course, is closely linked to lack of understanding. Indeed several of the parents alleging that officers had been biased against them on the grounds of gender, life-style or sexual orientation also referred to practitioners being unfamiliar with the issues or even ignorant. Thus some men complained that there was insufficient understanding of the importance of fathers in children's lives and that men could parent just as well as women (MCSI, 2002a, 2004c; Perry and Rainey, 2006; Watson, 1995).

Mr E thought Cafcass children and family reporters "need to be updated and retrained towards family issues and adapted to current trends, such as it was no longer true that

mothers only look after children – the evidence showed that fathers were important to the emotional development of the child”. (MCSI, 2002a)

A recent Ofsted report (2008b) cites a critical mother complaining that ‘*the complexity of a lesbian relationship was not understood*’. In Greenfields’ study (2002) only one of nine court welfare officers was said to have any knowledge/experience of traveller families, with one informant, whose third officer was the exception, strongly emphasising how vital this had been.

However lack of understanding and bias are not interchangeable concepts. Indeed, one of the participants in a pre-Cafcass study of BME parents involved with one court welfare service (Watson, 1995) carefully distinguishes between the two issues:

I was treated with respect and felt they tried to listen to my side. My complaint is that they did not take into consideration my cultural, religious situation. They did not understand the mechanics of Asian family systems and how it works. They were merely skirting over issues pertaining to my cultural background. Although my ex-partner is white and I am Asian, I don’t believe they were biased towards her or anything. I just believe they were not fully equipped to deal with someone like me from a different culture and religious background from that of their own.

Understanding of racial, ethnic, cultural and religious issues

Although 40% of the respondents in Watson’s study considered that the court welfare officer had understood their cultural/religious background an equal proportion did not. Moreover, while most of those who were critical were displeased about the outcome of their proceedings this was not always the case, other users also said that the service needed to take more account of their ethnicity and background. Watson also noted that there was no indication that welfare officers had addressed the inequalities of influence, resources and disadvantage experienced by BME families. His overall conclusion was that the service had a ‘*long way to go*’ before it could ‘*truly be said to be providing culturally sensitive practice delivery*’.

Another pre-Cafcass study of the court welfare service (Buchanan et al, 2001) also reports some positive experiences. Indeed, as mentioned earlier, it found little difference between white and BME parents in overall levels of satisfaction with the service. However BME parents were less likely to say that the welfare report covered everything it needed to (31% compared to 52%), which might indicate that issues of ethnicity, culture and religion had not been adequately dealt with, while some parents specifically criticised the officer’s understanding of, and response to, these issues.

The only post-2001 research to look specifically at the views of BME families is that by Prevatt-Goldstein (2008). This study is unusual in that as well as asking parents about their actual experiences it also consulted them about what they wanted, using this to develop a model of good practice, which includes: respectful engagement; entering into a dialogue between the culture of the service user and the service; and challenging racism (Prevatt-Goldstein, 2009). On all these elements, while there was some good practice, service users’ experiences fell short. Fourteen of the 15 parents who did not feel they had experienced respectful engagement were dissatisfied with the way race and culture had been dealt with. Some parents complained of negative cultural stereotyping and/or that the cultural information they had provided had been

ignored. Two said their need for interpreters had been ignored. Some parents had experienced culturally sensitive practice and a few reported being involved in a cultural dialogue. Like Watson's study, however, none reported the practitioner tackling racism.

Cafcass's feedback system asks respondents whether any issues of culture, religion or language were important to them and if so, how well the Cafcass worker understood their situation. Of those who said language was important 69% felt the Cafcass practitioner had done all they could to understand their situation although a quarter felt they could have done more. Satisfaction levels were lower for culture (61%) with 31% feeling more effort could have been made and lower still for religion (48%), with 40% being dissatisfied (Guy and Cockayne, 2009).

There is also a little information in inspection reports. The baseline inspections carried out by MCSI specifically asked parents whether their racial or cultural identity was understood or worked with appropriately. Although the value of the exercise is limited because of the very small numbers of BME parents responding, and sometimes the numbers not being given, in each area at least some parents were dissatisfied (MCSI 2002a, b, c; 2003a, b, c, d, 2004a, b, c). There are also references to parents feeling that issues of diversity had not been addressed in an inspection report focusing on domestic violence (HMICA, 2005) and a recent Ofsted report (2008c).

The only quantitative data in inspection reports is in a survey of families subject to a Family Assistance Order (HMICA, 2007) which reports that over half the 49 parents considered that racial and cultural issues were dealt with appropriately. However it does not indicate whether the remainder were not satisfied, or merely that they did not consider the issue relevant, and no breakdown is given of the different groups in the sample.

Three studies, two of them pre-Cafcass, have looked specifically at parental views about ethnic matching of the practitioner and the family. Buchanan and colleagues (2001) found that while most of the 30 BME families in their study had a white officer, only five thought that this was an issue. However half the parents in Watson's study (1995) would have liked at least one of the welfare officers in their case to have been from a similar ethnic background. Thirteen per cent specifically said it was not important, with one person making the point that the issue was not ethnicity but understanding:

The court welfare officers were intimidating. Just because they did not understand my religious beliefs they ridiculed me. They told me they did not see what my religion has to do with the upbringing of my child. For me it was not the colour of the CWO's but the lack of understanding and unwillingness to take on board other people's religious beliefs.

Twelve of the 34 parents interviewed by Prevatt-Goldstein (2008) thought that BME families should have a BME worker. Indeed this was the most common strategy for improvement suggested (only three parents did have a black worker). Only four parents expressed any concern over having a black worker – embarrassment, shame, lack of confidentiality, negative agenda. Parents also referred to the negative effects

of using interpreters, while one, who had a worker who could speak her own language was very positive about this:

He said would you prefer to speak to me in Punjabi, Urdu or in English. That made a world of difference. ...I'd say it in Punjabi, because it makes it more effective, you could understand it when you say in your own language more of an impact, meaning, sounds different.

Understanding of, and response to, domestic violence

Concerns about the marginalisation of domestic violence by Cafcass and the family court welfare service which preceded it has been a recurrent theme in both research and inspections since the issue was highlighted by Hester and Radford (1996) in a study of child contact and domestic violence. Although that study tends to refer generically to 'professionals' rather than singling out court welfare officers in particular, they are clearly included in the criticism. The research found there was often a 'mismatch' between the experiences of women and children living with domestic violence and the awareness and understanding by professionals, with women's accounts either failing to surface or disappearing as they went through the process of negotiating contact, with few professionals making any attempt to find out about the violence or its implications:

Women felt that any possible impact of the father's violent behaviour to themselves or the children, including the impact on children's opinions, tended not to be taken into account.

Later research by Radford and colleagues (1999) reports that of all the key professions involved in contact cases court welfare officers were given the most qualified acknowledgement, with many mothers who had experienced domestic violence feeling that they failed to take the issue seriously and almost half of the welfare reports not even mentioning it. Mothers also felt that children's wishes were more likely to be taken into account if they wanted contact than if they were opposed to it. The report concluded that the guidance which already existed on domestic violence was not being applied consistently throughout the service, with much evidence of variation in practice.

Buchanan's pre-Cafcass study of the family court welfare service (2001) included 11 mothers for whom domestic violence was a current concern. Of these seven were not satisfied with the way the welfare report was prepared and only three felt that the officer had understood the situation and their feelings very well. These were the only ones to feel that the report had dealt adequately with the issue; two said the report had not referred to it at all. The study also asked all parents whether the court/court welfare service treated allegations of domestic violence seriously and whether parents who made allegations of domestic violence were normally believed. Almost half the mothers (48%) disagreed with each statement. Fathers tended to think both were true with only 36% and 29% disagreeing. However some fathers who had been victims themselves said they found it difficult to admit to this or that their experiences were not given due weight. At the same time some fathers who acknowledged they had been violent were anxious that being open about it would result in blanket condemnation while others feared, on the basis, for example, of posters around the office, that the service saw all men as violent.

Early research into domestic violence cases in one Cafcass team (Painter, 2002) found some evidence of good practice but also inconsistency. The majority of the 14 participating mothers reported that they had discussed the abusive aspects of their previous relationship with the family court advisor. However four said that the issue had come up in the course of taking a case history, which suggested the officer had ‘stumbled’ upon it, rather than actively eliciting information. Three mothers were entirely happy with the service they had received, considering that the domestic violence had been properly taken into account and reflected in the recommendations made to the court, and feeling respected and believed. Another three were largely happy. However five felt that their concerns had not been given adequate weight or were outweighed by the presumption of contact:

The abusive aspects weren’t really in the report properly enough. I don’t think I’ve ever been taken seriously on that ever, and I felt unprotected and very vulnerable, because they didn’t listen enough.

I tried to make my reasons clear, but all along it was that a child should have contact with the father, with the absent parent, and that was that really.

Mixed experiences – from the very negative to positive – are also reported in Thiara’s small study of South Asian women, seven of whom had been involved in court proceedings. Those who were negative felt that officers had little or no understanding of the complex issues faced by South Asian women affected by domestic violence and that domestic violence as a pattern of coercive control was rarely recognised. A few women believed Cafcass had influenced children to have contact with fathers, with the children finding it difficult to voice their true feelings. Even those who were positive about Cafcass expressed surprise at the recommendations in the reports, which appeared to be in favour of fathers. Prevatt-Goldstein (2008) also notes that although 40 of the reports she analysed referred to domestic violence, in 24 of these it did not appear to be taken into account in the recommendation.

In 2005 HMICA carried out an inspection of Cafcass specifically focused on domestic violence. Since this was a recruited sample (those participating in focus groups being identified by Women’s Aid; those responding to a postal survey through Cafcass) it is not surprising that it included a high proportion of disgruntled service users. Nonetheless the findings were stark, indicating that much more still needed to be done. Only one of the participants in the focus groups felt positive about her experience while almost half of those surveyed felt Cafcass did not deal seriously with their concerns about domestic violence. The data raised the following issues:

- Practice was out of date and out of touch with current thinking about domestic violence.
- Practitioners did not understand some of the key issues in domestic violence cases. Behaviour was misinterpreted and the enduring effect of domestic violence not appreciated.
- Allegations were not believed but Cafcass did not take steps to obtain corroborative information.
- Violence was ignored and its impact on children not assessed.
- Ensuring the safety of both adults and children received insufficient consideration.
- The perception of a presumption of contact and the focus on agreement is experienced by women as dangerous to themselves and their children.

- Violence was screened out of reports and women told that it was not relevant to the outcome of their case.

Despite this damning report, and the subsequent introduction of a revised domestic violence policy, later inspections (Ofsted, 2008a, b, c) continued to report service users concerns about domestic violence being ignored or marginalised with one report (Ofsted 2008c) noting that about a quarter of adults surveyed (almost all being involved in private law contact cases) disagreed that their own safety and that of their children, had been ensured by Cafcass:

The Cafcass officer didn't listen to my fears.

Despite the fact that I had been assaulted three times by my ex-partner, she [Cafcass] chose to side step this damage witnessed by the children using words like 'altercation'.

This inspection also found many deficiencies in court reports, consistent with the negative comments made by service users. These included instances where the report did not assess the nature and extent of the violence, any evidence bearing on the allegations, the impact of the violence on the child and the risk of future harm. Overall, it concluded, the safeguarding of children and adults in private law cases was inadequate because of the inadequate assessment of domestic violence.

Focus groups convened by Cafcass in 2007-8 (Cafcass, 2008a), although only involving very small numbers of participants, also indicated continuing dissatisfaction, with mothers recommending that officers need to demonstrate more awareness of the reality of families suffering from domestic violence.

Generally the women described listening very carefully to our staff to pick up any reassurance that they understand issues to do with domestic violence. They did not get this and one quoted a member of staff saying: 'Yes, but it's all different now, you and the children are safe'. This conflicted entirely with how she was feeling at the time as she was very scared and knew that leaving had been a dangerous thing to do and that she would remain at risk for some time.

Length of process

What helped the least was the time it takes for reports to be filed. (MCSI, 2003d)

Both non-resident and resident parents...expressed dissatisfaction with the delays from Cafcass. Waiting for the Cafcass report frequently delayed court hearings, to the extent that court appearances were postponed for periods of a few months, which was extremely difficult for those non-resident parents being denied contact with their children by the resident parent. (Corlyon, 2009)

Parental concern over the length of time it took to complete the court proceedings has been noted in a previous chapter. A similar theme emerges in the material specifically on Cafcass, (BMRB Social, 2004; Corlyon, 2009; MCSI, 2003a, c, d; 2004b, c; Ofsted, 2008b; 2009b). One inspection report (MCSI, 2004c) notes that delay was '*by far the largest category of response*' to the question 'what helped the least' about the involvement of Cafcass. Twenty-three per cent of those responding to the Cafcass Client Satisfaction Survey (BMRB Social, 2004) said that Cafcass had created

unnecessary delays. The only other study to provide any quantitative data, (on a single pre-Cafcass court welfare service [Watson, 1995]) reports that 14% of parents felt the process was too long, although it is not entirely clear whether this relates to the welfare reporting element or the whole court process.

In terms of the perceived sources of delay parents identify, variously: the time taken for the officer to first make contact with them; long intervals between appointments; the time taken to file the report; and reports not being filed on time.

Perspectives on the report

Almost all the data about Cafcass reports emanates from parents in private law proceedings. None of the post-2001 inspection reports or research studies give figures for overall parental satisfaction with the welfare report. A pre-Cafcass inspection of the family court welfare service (HMIP, 1997) found that 58% of parents were very (24%) or quite (34%) satisfied, with 18% not being very satisfied and 25% not at all satisfied. Buchanan's pre-Cafcass research (Buchanan et al, 2001) notes that 52% of parents had serious concerns about the welfare report. This study also reports that:

- 84% of parents had found the report clear and understandable;
- 74% considered it to be factually correct;
- 59% felt it was fair and balanced;
- 57% thought it focused on what children needed;
- 51% felt it took proper account of their own views;
- 50% thought it showed understanding of the issues;
- 46% considered it covered everything it needed to.

The BMRB survey (BMRB Social, 2004) similarly found that a large majority of parents (94%) said the report was clear and easy to understand. The proportions feeling that their views had been included are also around the same (26% fully, 27% mostly). Both studies indicate lower levels of satisfaction than the pre-Cafcass inspection (HMIP, 1997) in which 66% of parents felt the report reflected their views very (27%) or quite (39%) well. However a smaller proportion of parents in the BMRB study were very dissatisfied, with only 14% feeling that their views had not been included at all, compared to 34% in the HMIP survey who said the report had not reflected their views at all.

The only other aspects of the welfare report on which the same questions were put in pre and post-2001 research studies are accuracy and fairness. Buchanan found that 74% of parents thought the welfare report was accurate. Only 61% of those sampled for the Cafcass Client Satisfaction survey (BMRB Social, 2004) thought the report was wholly (23%) or mostly (38%) accurate, while a mere 42% of respondents to Cafcass's HearNow feedback system (Guy and Cockayne, 2009) thought so with 22% saying it was inaccurate. Similarly, while 59% of parents in Buchanan's study thought the report was fair to all the parties, the proportion considering the report was fair was only 50% in the feedback report, with 26% stating it was unfair.

There is perhaps sufficient commonality on one further area—Buchanan asked whether the report focused on what the children needed (57% of parents saying yes); BMRB

whether the recommendation was in the child's best interests (61% saying yes; 31% no). Additional data is available from Davis and colleagues (2000), who report that only 46% of parents thought the recommendation was in the best interests of the child, with 32% saying it was partly and 22% not at all. It is not clear, however, whether the parents who did not consider that the recommendation was in the child's best interests would also have disagreed, if asked, that the report was child-focused.

The BMRB study did not ask, as Buchanan did, whether the report showed understanding of the issues, was fair and balanced and covered everything it needed to, but did provide one piece of numerical data not covered in the earlier research: 49% of parents said they believed the report either fully or mostly took account of their children's views. The Buchanan report merely states that 'most' of the parents with children old enough to have their views reported said they had been addressed and over half were satisfied with how this was done.

The BMRB report also explored whether some parents were more likely than others to be satisfied on the various aspects of the report examined. It found no significant differences between applicants and respondents, but noted that parents in contact cases (rather than residence) and those who said either they or the child had some form of special needs were less likely to feel that their views had been included, that the child's views had been taken into account; that the report was accurate; and that the recommendation was in the child's best interests. Parents of younger children were less likely to feel that their own views had been included or the child's views taken into account, while minority ethnic parents were less likely to feel that the recommendations in the report were in the child's best interests. Not surprisingly, given the importance of the welfare report in the court process, parents who were not happy with the outcome of their case were much more likely to feel the recommendations were not in the child's best interests.

Davis and colleagues (2000) report the views of men and women separately. While women were more likely to think that the recommendation in the report was entirely in the best interests of the child (49% compared with 44%), they were also more likely to be very dissatisfied about this (27% compared with 17% saying it was not in the child's interests), the difference being accounted for by the greater proportion of men saying it was partly in the child's interests (40% compared with 22%). Women were also more likely to think that the recommendation was a reasonable one, from their point of view (49% compared with 38%). The proportions saying it was not, however, were around the same (27% men; 29% women) with 35% of men, but only 22% of women saying it was 'partly'.

All the other data relating to reports is qualitative, mainly reflects the issues covered above, and, with few exceptions, is typically critical:

Inaccuracy (Ashley et al, 2006; Douglas et al, 2006; MCSI, 2002a; 2003a; 2003c, 2004b, d; Ofsted, 2008a; 2008b; Perry and Rainey, 2006; Prosser, 1992).

Unfairness (Ashley, 2006; MCSI, 2002a, 2003d).

Not reflecting the parent's views (Douglas et al, 2006; MCSI, 2002a; 2003b; Painter, 2002).

Not reflecting or taking account of the child's views (Douglas et al, 2006; MCSI, 2002a; 2003b; 2004b):

Inadequate coverage/understanding of the issues (HMICA, 2005; MCSI, 2002a; 2003b; Painter, 2002; Radford et al, 1999).

Not focusing on the child's best interests (MCSI, 2002a; Painter, 2002).

A few quotes give the flavour of the negative views expressed:

Misleading, inaccurate and dishonest. (MCSI, 2004b)

Cafcass are not doing reports fully based on children's wishes – they don't consider the views of the children. He said what he was going to put in the report but it was completely different. All the domestic violence I have suffered was under-reported. My religion was treated with disrespect. I don't recognise my child from the report. (MCSI, 2002a)

I felt the practitioner was biased towards the other party. She never listened to my views or considered the problems from our point of view. I felt the reports were very one-sided. (MCSI, 2003b)

The report was full of hearsay from the mother which was then presented as fact. (Perry and Rainey, 2006)

The few positive comments recorded relate to accuracy, fairness and presentation of the parent's views (Douglas et al, 2006; MSI, 2002a; 2003a, d; 2004b; Painter, 2002; Perry and Rainey, 2006). For example:

A job well done in providing a fair and truthful report. (MCSI, 2002a)

A very fair and sound report. A report that was based on what my children, my ex-husband and myself could see was nothing but fact. Extremely well presented...I have nothing but respect and there are no faults whatsoever with Cafcass. (MCSI, 2003d)

One of the issues raised by some parents in pre-Cafcass research on care proceedings (Freeman and Hunt, 1998; Lindley, 1994) was that they did not see the guardian's report sufficiently early to be able to take it in, and if necessary, challenge it. Indeed some spoke of only being shown the report just before a hearing and having to snatch a consultation with their solicitor on their way into court. Davis' research on residence and contact disputes (1988) also reports that parents rarely saw the report in advance and that parents were either ignorant of their rights or too vulnerable to challenge the practice. Buchanan's later research on private law cases (Buchanan et al, 2001) highlights a rather different issue: although 89% of parents said they had seen the court report in advance of the hearing some were taken by surprise at what was in it, suggesting that either they had not been kept informed of the officer's thinking or had not taken in what they had been told. A pre-Cafcass inspection (HMIP, 1997) also found that only 45% of parents said there had been no surprises in the report.

Post-Cafcass data indicates that some parents still experience these difficulties. Although the information presented in the Cafcass client satisfaction survey (BMRB Social, 2004) is somewhat unclear - 84% of those who said a report had been prepared

had seen it before the court hearing but only 69% said they were aware of the content before the court hearing - it would seem to suggest that at least some parents were not fully informed. Other sources are less ambiguous: none of the parents in an inspectorate report on domestic violence (HMICA, 2005) said they had seen the report before the court hearing, while other inspections cite instances where either the report was only seen on the day (MCSI, 2002a; 2003b) or the parent felt they had had insufficient time to absorb it (MCSI, 2003d; 2004c; Ofsted, 2008c). Indeed a recent Ofsted inspection notes that:

In both private and public law, service users often did not receive information about the recommendations to the court in sufficient time. Because of the delay in receiving reports from Cafcass, it is practice in X court for example, to allocate a hearing date for a week after receipt of the report. This gives little time for service users to absorb or challenge the report and its recommendations (Ofsted, 2008c).

There are also indications that some parents are not fully apprised of what the officer will be recommending (MCSI, 2002a; 2003a; 2004c) with some feeling they had been let down or even betrayed.

I was very disappointed because the Cafcass officer was very misleading, her report did not reflect what she said in the interview. (MCSI, 2004c)

He said what he was going to put in the report but it was completely different. (MCSI, 2002a)

Overall satisfaction with the service

Quantitative data on overall levels of satisfaction with Cafcass is available from several sources. However all deal largely or entirely with parents who have been involved in private law proceedings; there appears to be no separate data on public law.

The findings are very mixed, with the proportion of satisfied parents ranging from 32% to 63%, and those who are dissatisfied from 24% to 50%.

The most positive findings are reported in the Cafcass Client Satisfaction survey (BMRB Social, 2004) and the Cafcass feedback system (Guy and Cockayne, 2009). The first found that 63% of parents were satisfied with the service; 35% dissatisfied. The second reports that 57% were very (34%) or fairly (22%) satisfied, 28% very (19%) or fairly (8%) dissatisfied, with the rest not responding to the question or 'not sure'. If the last two groups are excluded this translates to a satisfaction rate of 67%, with 33% dissatisfied. This study also reports that adults involved in public law cases were more likely to be satisfied (69%) than those involved in private law cases (63%), although cautioning that there were low numbers of public law respondents. There are no other studies which report overall satisfaction levels of parents involved in public law proceedings.

In private law, a small study of black and minority ethnic parents (Prevatt-Goldstein, 2008) reports almost equal proportions of satisfied and dissatisfied parents. Perry and Rainey, however, (2006) found a majority of dissatisfied parents (56%, compared to

'less than half' expressing satisfaction). These findings are very similar to a study of the pre Cafcass family court welfare service (Buchanan et al, 2001) in which 56% of parents were dissatisfied (36%) or mainly dissatisfied (20%) while only 44% were satisfied (30%) or mainly satisfied (14%). Similarly, a small study of parents whose children had been separately represented (Douglas et al, 2006) found that 50% were dissatisfied with the Child and Family Reporter, compared to 36% who were satisfied), although the proportions being positive and negative about the guardian ad litem who represented the child in the later stages of proceedings were the same (32%). The highest levels of dissatisfaction, as one might expect, are reported in a survey conducted by Families Need Fathers (2008) in which 64% of non-resident parents were negative or strongly negative about their experience with Cafcass, with only 13% making positive/strongly positive comments and 23% saying it had been 'average'. Corlyon (2009) also reports that 'typically' the service was 'not well-regarded' and that the '*prevailing view among non-resident parents was that while it might be founded on good intentions, in practice it was not adequately equipped (in terms of resources and professionals) to do the job expected of it*'.

A small number of the inspection reports on Cafcass also give some information about overall satisfaction. The only one to cite numbers (MCSI 2004b) is the most negative, with only 39% of positive responses. Other reports indicate a more evenly balanced picture, reporting either about the same proportions being positive and negative (Ofsted, 2008b) or the positives outnumbering the negatives (MCSI, 2002c; Ofsted, 2008a).

Was Cafcass's involvement helpful?

Cafcass offer no benefit or added value – it's a waste of time (parent quoted in MCSI, 2003a)

They helped when I didn't think anybody could. (parent quoted in MCSI, 2004b)

Only two inspections (Ofsted, 2008a and b) specifically put this question to parents. Each reported a substantial proportion of parents (57% and 41%) saying the intervention had been helpful to them. However many others expressed negative views (41% and 44%). These two inspections also asked parents whether things had changed for them since the Cafcass practitioner had worked with them. Again, a sizeable proportion of parents were positive, with between 33% and 43% saying that things had got better. However for around a quarter of parents (24% and 27%) things had remained the same, while for others (24% and 35%) they had actually got worse. One Ofsted report (2008b) expressed concern at these figures, which they deemed '*inadequate*', concluding that:

Much further analysis is needed by Cafcass to identify better what service users want and Cafcass needs to be clear about the extent of its remit in order that service users do not have unrealistic expectations'.

Cafcass's feedback system asks a rather different question, whether respondents thought things had changed for the child since they first met the Cafcass worker (Guy and Cockayne, 2009). Twenty-seven per cent thought that things had improved, 26%

that they had stayed the same, 21% deteriorated and 25% were unable to say. It should be noted, however, that since respondents completed their feedback at different points in their involvement with Cafcass, interpretation of these findings is difficult.

Other studies, and inspection reports in particular, provide information about which aspects of Cafcass's involvement users find helpful/unhelpful. Understandably, among the helpful aspects a key theme is Cafcass's perceived contribution to securing the desired outcome (MCSI, 2002a; 2003a and d; 2004b; Ofsted 2008a and c).

Now I get to see my daughter, whereas before I saw [the FCA] I never thought it would happen.

What helped the most was that someone looked at my case with an impartial view. Without CAF/CASS input my children would still be with their [ill] father.

At the other end of the spectrum, there are many references to the usefulness of simply having someone to talk to, particularly one who listens, understands, and is perceived to be objective, experienced and to have the child's best interests at heart (Buchanan et al, 2001; MCSI, 2002a; 2003a, b; 2004b). In between these two extremes Cafcass is seen as making a positive contribution by offering good advice⁷ and insights, helping a parent to think about his/her situation, and sometimes influencing their thinking (BMRB Social, 2004; Buchanan et al, 2004; MCSI, 2003a; 2003b; Ofsted, 2008a):

She helped me become more realistic about what I could achieve.

He gave me an insight, what (the child) wanted most was for her parents to stop fighting... I realised how much she still loved [her father].'

He was very helpful, sometimes you need outsiders looking in, you think you're thinking about the children but really you bypass them, he got me to see that my feelings about my partner were my issues, not theirs.

Cafcass was also credited by some parents with facilitating communication with the other parent, enabling parents to reach agreement and even, occasionally, improving their relationship (Buchanan et al, 2001; MCSI, 2003b; 2004c; Ofsted, 2008a, c):

They led to my partner and I sitting down together and deciding what we really wanted for us and the children – I'm not sure this would have happened without Cafcass involvement.

The intervention was effective and it made a difference –the relationship is now bearable between myself and my children's father.

She was able to put her ideas across, [the father] listened... we couldn't sit in the same room before, now we even went on the train together.

⁷ The Cafcass Client Satisfaction Survey (BMRB, 2004) reports that 61% of parents said the Cafcass officer had provided helpful advice and suggestions compared to 31% who said s/he had not.

Detailed information is rather sparser from parents who did not find Cafcass's involvement helpful. Some merely refer to the lack of advice or support (MCSI, 2002a; Ofsted, 2008a, b):

I got a report describing the problem but no information on the solution or any progress towards a solution.

In some instances advice was given but was considered to be poor or confusing because it conflicted with that coming from other professionals (MCSI, 2003a; 2004b), or the officer's involvement, rather than helping parents reach agreement, made matters worse (MCSI 2004b, Ofsted, 2008c):

They were of no use in my case, even offering bad advice, which proved more destructive than constructive.

Advice given was in contrast to the children's psychologist causing significant confusion.

I found the service very unhelpful and it fuelled an already contentious situation.

Parents also comment on the lack of support or follow-up once the proceedings have finished (MCSI, 2002a; 2003a, b, d; 2004b):

(What was least helpful was) being told that CAFCASS could not get involved if there were problems with the contact arrangements; so the whole thing is a farce. My son now enjoys no overnight contact.

I am dealing with the situation in isolation with no support and it is very worrying.

Family Assistance Orders

Family Assistance Orders provide a mechanism by which families can be offered on-going help from Cafcass. Although these have been the subject of a small number of research studies only one (Trinder and Stone, 1998) includes any data on parents' views and the only substantial material comes from an inspection report (HMICA, 2007) which looked specifically at these orders.

It is not always clear whether what parents had to say referred to the period of the order itself or to their whole experience of being involved with Cafcass. These responses could apply to either:

- 60% felt they were treated fairly; 20% did not;
- 60% said they had been listened to by the FCA; 30% disagreed;
- 54% felt that they had been understood; 32% did not;
- 58% felt confident about the FCA's competence; 22% did not;
- 55% felt the FCA had spent enough time with the children; 30% did not ;
- 49%) felt that the FCA had understood their children's wishes and feelings; 32% did not;
- over half felt that racial and cultural issues were worked with appropriately;
- 52% felt that Cafcass had been helpful, 32% did not;

- 37% said that things had got better because of the FCA's involvement; 43% that things had stayed the same and 20% had got worse.

The only quantitative data which clearly related purely to the FAO was whether parents had consented to and agreed the purpose of the FAO. Most of the parents (42 of 49) said they had, with only 4% demurring. A less positive picture emerged however, from in-depth interviews, in which a consistent theme was that consent was not informed because neither Cafcass nor any other part of the family justice system had provided clear information about the nature and process of the FAO. (Two of the six parents in the study by Trinder and Stone (1998) also make this point). Moreover some users said that they had given their consent under duress and were influenced by fear that the court decision would go against them if it was refused. Parents also referred to being unclear about the purpose of the order or having expectations that were not realised where the officer did not use case plans and agreed objectives and to valuing opportunities to determine objectives with Cafcass and to review progress.

It is not clear from the report whether parents had generally found the order helpful; it just states that all service users very much appreciated having a third party, whether as mediator, negotiator or advisor. However this could apply to their whole involvement, as could comments such as helping over practical concerns, giving advice, helping with emotions, normalising, facilitating contact, sorting out adult relationships. The report also refers to some parents criticising the order as a waste of time and to having expectations raised but not met.

Complaints

The data presented in the preceding pages indicates that while many parents have positive views about Cafcass a substantial proportion are dissatisfied. Yet it appears that very few make use of the complaints process. A third of the parents responding to the Cafcass Client Satisfaction Survey (BMRB Social, 2004) considered that they had reasons to complain about the service they had received. However only 16% of these had actually made a complaint, with a further 5% saying they intended to.

Asked about their reasons for not making a complaint, 12% said they were unaware of the complaints process. As noted earlier, several inspection reports also found a proportion of parents (ranging from a significant minority to the majority) saying they did not know/had not been told about the complaints process (MCSI, 2002c; 2003a; 2004a; Ofsted, 2008a, c) even though some of the reports also point out that a leaflet explaining the process is routinely sent out to parents with the initial information. Data from the Cafcass feedback system (Guy and Cockayne, 2009) also shows that while 67% said they did know how to make a complaint, 24% did not.

The BMRB report also notes other reasons why dissatisfied parents did not make a complaint, the main ones being: feeling that it was a waste of time (29%); the desire to prevent further emotional distress (12%); not wanting any further contact with Cafcass (11%); feeling that complaining would create further trouble for the child (7%); and the fact that the court decision had gone in their favour (5%). Six per cent of parents said they had been advised not to complain, a point also made by a parent quoted in a recent Ofsted report (2008c):

A solicitor advised ‘not to rock the boat because this FCA is much respected’. The service user said, ‘yes he might have been respected by the courts but he wasn’t by me – he was horrible’.

Parents cited in other reports also said they were wary about making a complaint because it might prejudice their case in the future:

I was actually thinking about putting in a formal complaint about this. But if I did have to go to court again, would it prejudice my case? (Corlyon, 2009)

‘ I thought it would make it worse for me, they would come down harder on me. (Ofsted, 2008c)

. I shall not ever complain as this would go against me in court and I do not wish to jeopardise contact with my children. (MSCI, 2002a)

Has the creation of Cafcass made a difference to parents’ views?

The material presented in this chapter relates not only to parental perceptions of Cafcass but also to its predecessor services. Two questions then arise: are the problems the same and have there been any changes over time? As far as the first is concerned the answer is yes – almost all the concerns raised in pre-Cafcass research continue to be salient in post 2001 data. Where this is not the case this is due to the lack of research (notably on public law cases) rather than the issue no longer being live.

The answer to the second question is rather more difficult, not least because even where studies do exist, and have examined the same issues, differences between the samples make comparison difficult. Hence any findings can only be indicative rather than conclusive.

In terms of **overall satisfaction** there is only one pre-Cafcass study which provides baseline quantitative data, and this is limited to private law proceedings, (Buchanan et al, 2001). This found that 56% of parents were dissatisfied (36%) or mainly dissatisfied (20%) with the family court welfare service, while fewer (44%) were satisfied (30%) or mainly satisfied (14%). Subsequent studies do not give a consistent picture. The study which is probably most closely comparable to Buchanan’s (Perry and Rainey, 2006), suggests that there has been no change – 56% of parents involved in contact disputes were dissatisfied with their experience of Cafcass and less than half satisfied. One of the early inspections of Cafcass (MCSI 2004b) gives an even lower proportion of satisfied clients (39%). In contrast, other sources suggest a more positive client group. Some (Prevatt-Goldstein, 2008; Ofsted, 2008b) report an almost equal division of satisfied and dissatisfied parents, while in others - the Client Satisfaction Survey (BMRB Social, 2004), the findings from Cafcass’s feedback process (Guy and Cockayne, 2009) and two inspection reports (MCSI, 2002c; Ofsted, 2008a) positive parents are in the majority (amounting to 63% in the BMRB survey, compared to 35% being dissatisfied, and 67% in the feedback data, compared to 33%).

For some of the specific aspects of the service experience considered there is insufficient data to make comparison possible. This applies to parents' views about the agency premises; the practitioner's manner and interpersonal skills; whether the generality of parents felt they had been understood (though there is some information on this relating to BME parents); their participation in the process; whether they considered the child's views had been understood and taken into account; and length of process.

On the crucial issue of **fairness**, there is no quantitative data on public law cases and although there is material on private law proceedings, relating to both Cafcass and the court welfare service, the data is contradictory: either there has been no change, or there has been a deterioration. Pre-Cafcass, according to an inspection report (HMIP, 1997), 67% of parents said that they had been treated fairly. The later Cafcass Client Satisfaction Survey (BMRB Social, 2004) reports exactly the same figure, with 31% dissenting (the HMIP report does not give data on parents who did not think they had been treated fairly). The various inspection reports provide a wide range of results. In the baseline inspections (MCSI, 2002a, c; 2003a-d; 2004a) between 41% and 64% of respondents felt they had been treated fairly and between 31% and 45% that they had not, both worse than the HMIP figures. Subsequent Ofsted inspections in England (Ofsted, 2008a-c), again show variation across the areas (47% to 64% parents saying they had been treated fairly and between 36% and 'just under a half' unfairly) but similarly indicate some deterioration in perceptions of fairness. .

There are only two other aspects of the investigation process where the available data (which is limited) suggests either no improvement or even some worsening in parents' views.

The first is **whether parents felt they had been listened to**. In the pre-Cafcass inspection report on the court welfare service (HMIP, 1997) 79% of parents were positive about this. The baseline inspections (MCSI, 2002c; 2003e), however, which report between 43% and 78% of satisfied parents, and between 8% and 45% dissatisfied) suggest lower overall levels. Nor do any of the later inspections suggest subsequent general improvement – an inspection of Cafcass Cymru (HMICA, 2006a) reports 58% of parents feeling they had been listened to as against 32% disagreeing, and two Ofsted inspections (2008a and b) report 71% and 52% satisfied, 27% and 37% dissatisfied.

The second is **whether parents from minority ethnic communities felt that the practitioner understood the cultural and religious issues involved**. A pre-Cafcass study of the court welfare service (Watson, 1995) reports that while 40% of BME parents thought that the practitioner had understood, an equal number thought they had not. More than a decade later Prevatt-Goldstein's interviews with BME parents involved in private law proceedings (2008) revealed an almost identical proportion of dissatisfied parents, 41% being critical of the way race and culture had been dealt with.

As far as other aspects of the investigative process are concerned, however, the data suggests a trend towards more positive views – although again, it is largely based on parents in private law proceedings.

As noted earlier, one of the aspects of their service experience about which parents tend to be most positive is the **information** they are given at the outset. An inspection report on the pre-Cafcass court welfare service found that 68% of parents remembered receiving written information; later research on Cafcass (BMRB Social, 2004) reports 76% doing so. Early inspections of Cafcass ((MCSI 2002a; 2002b; 2002c; 2003a; 2003b; 2003c; 2003d; 2004a; 2004b; 2004c; 2004d) report that of those who remembered receiving information between 67% and 85% said it was easy to understand. By the time of the Client Satisfaction Survey (BMRB Social, 2004) the overall proportion had risen to 93%, while a later Ofsted report (2008c) states that ‘almost all service users’ found the information easy to understand. An inspection of Cafcass Cymru (HMICA, 2006a), however, found that only 60% thought it was easy to understand, which indicates that any improvement may not be universal. It is also unclear if any improvement applies to the provision of information for parents whose first language is not English, on which there is no post-2001 data, although this was identified as a problem in pre-Cafcass research (Buchanan et al, 2001; Watson, 1995).

Parents’ knowledge about the **complaints procedure** may still be an issue: one Ofsted report (2008a) notes that a ‘significant minority’ of service users in one area did not know how to make a complaint. Since other Ofsted reports have not included this it is not possible to know whether they would also be a minority in other areas but if so, this would represent an improvement on the pre-Cafcass position when 59% of parents did not remember being given information about complaining by the court welfare service (HMIP, 1997). Earlier inspections (MCSI 2002a; 2002b; 2002c; 2003a; 2003b; 2003c; 2003d; 2004a; 2004b; 2004c; 2004d; HMICA, 2006a) suggest a patchy picture, the proportions varying from 12% to 58%, but again indicate an overall improvement. Data from the Cafcass feedback system (Guy and Cockayne, 2009) indicates that 67% of adults say they know how to make a complaint.

The data also suggests rather more parents feel practitioners in Cafcass are **accessible**. In pre-Cafcass research 42% said they had had difficulties getting in touch with the court welfare officer. In the Cafcass Client Satisfaction Survey (BMRB, 2004) this had slightly dropped to 36%, while the Cafcass feedback data suggests a more substantial drop (to 18%). One Ofsted inspection (2008c) reports a third having difficulties, and other inspections (MCS, 2003; HMICA, 2006a) between 15% and 30%).

As noted earlier, criticisms of the practitioner’s **thoroughness** is one of the strongest negative themes in the material on parents’ views. Even in the Cafcass Client Satisfaction Survey (BMRB, 2004) only a scant majority (55%) were satisfied that the practitioner was sufficiently thorough and spent enough time on the case, with 41% disagreeing. However this is a somewhat lower proportion than that reported in pre-Cafcass research on the court welfare service (Buchanan et al, 2001) in which only 36% were satisfied with the time spent and half were dissatisfied. Similarly, Buchanan’s pre-Cafcass research reports that 46% of parents criticised **insufficient contact with the child**. Although one Ofsted report (Ofsted, 2008a) has highlighted the fact that this was the point on which parents were least satisfied, the proportion (37%) is at least somewhat lower. An Ofsted report on another area (2008b) reports a similar proportion (36%).

In terms of the **quality of contact with the child**, rather than time spent, Buchanan's pre-Cafcass research reports that only half the parents interviewed had no reservations about this. The only post-2001 data on the broad group of parents (BMRB Social, 2004) indicates more positive perceptions, with between 59% and 71% being satisfied on the various dimensions tapped. Although much less positive findings are reported in two studies of particular sub-groups - BME parents (Prevatt-Goldstein, 2008) and parents whose children were separately represented in private law proceedings (Douglas et al, 2006) - and more positive ones about mothers who had experienced domestic violence (Painter, 2002) there is no pre-Cafcass research against which they can be compared.

Although there is only slight data on the perceptions of **domestic violence** victims what there is also suggests some improvement although it remains a major issue. In Buchanan's study seven of the 11 mothers for whom domestic violence had been a concern at the start of the proceedings (64%) were not satisfied with the way the welfare report was prepared and only three felt that the officer had understood the situation and their feelings very well. In a later thematic inspection dealing exclusively with the issue of domestic violence, while a worryingly high proportion of the mothers surveyed said that Cafcass did not deal seriously with their concerns about domestic violence it suggests there may be a trend in the right direction. Painter's earlier small study (2002) also found a lower proportion of dissatisfied clients than Buchanan (36%).

The product of the welfare investigation in private law cases, of course, is the **welfare report**. Here unfortunately, there is only a little comparative data on parental perceptions and it is rather mixed. Buchanan's pre-Cafcass study (2001) found that a high proportion of parents (84%) found the report clear and understandable; the Cafcass Client Satisfaction Survey (BMRB, 2004) indicates even more parents are now satisfied about this (94%). Slightly more parents responding to this survey were also satisfied that the report focused on the child's interests (61% compared to 57% in the Buchanan study). In contrast, fewer parents in the BMRB survey were happy with the accuracy of the report (61% compared to 74% in Buchanan's study) and the Cafcass feedback report found only 42% of adults thought the report was accurate (Guy and Cockayne, 2009). Similarly, while 59% of parents in Buchanan's study thought the report was fair to all the parties, the proportion in the feedback report was only 50%.

The only other aspects of the welfare report on which the same questions were put in pre and post-2001 research studies are accuracy and fairness. Buchanan found that 74% of parents thought the welfare report was accurate. Only 61% of those sampled for the Cafcass Client Satisfaction survey (BMRB Social, 2004) thought the report was wholly (23%) or mostly (38%) accurate, while a mere 42% of respondents to Cafcass's HearNow feedback system (Guy and Cockayne, 2009) thought so, with 22% saying it was inaccurate.

There is also some comparative data on the coverage of the parents' views, although the questions put are not identical. Here there appears to be little increase in the proportion of positive parents and possibly a substantial decrease, depending on which baseline data is used - the BMRB survey reports that 53% of parents felt that their views had been fully (26%) or mostly (27%) included. This is slightly more than

the 51% in the Buchanan study who thought that the report took proper account of their views but considerably less than the 66% cited in a pre-Cafcass inspection report (HMIP, 1997) who said that the report reflected their views very (27%) or quite (39%) well. However the proportion who were very dissatisfied in the BMRB survey – the 14% who said their views had not been included at all – was much smaller than in the inspection report (34%).

Conclusions

The most striking feature of the material presented in this chapter is the wide spectrum of views reported. At one extreme are parents who are highly complimentary about the service they received, describing practitioners as ‘brilliant’, ‘caring’, ‘sensitive’, ‘approachable’, ‘fair’, ‘supportive’, ‘well-informed’ and ‘professional’. At the other are parents who are strongly negative, experiencing practitioners as ‘cold’, ‘uncaring’, ‘rude’, ‘judgemental’ and ‘biased’. It is hard to imagine that they have all actually been involved with the same service. Yet it is not simply a reflection of the various studies using different samples, although of course there is an element of this. Rather it is that in every study very discordant views are reported.

The balance between positive and negative views varies considerably. In terms of overall satisfaction, for instance, even in broadly-based samples, the proportion of positive parents ranges from 39% to 63% and negative from 24% to 56%. Similar variation is found when one considers parental views on most of the specific aspects of their experience.

Nor is there consensus as to whether positive views outweigh negative. In terms of overall satisfaction, for instance, some studies indicate a large preponderance of satisfied clients; some the reverse, and others an almost equal breakdown. Again, two recent Ofsted reports asked parents whether they had found Cafcass’s intervention helpful. In one area more parents were positive than negative; in the other it was the opposite. There is a similar absence of consensus about the balance of positive and negative views for most of the particular aspects of the process examined. All one can confidently say, therefore, is that research indicates that while a substantial proportion of parents are critical of the service they received it is by no means a universal experience.

There is no aspect of the experience which elicits either universal approbation or opprobrium: for every aspect of the service on which data is available at least some parents are positive, others negative: information provided about the service; the offices; practitioner accessibility, competence, manner; understanding of the issues and ascertaining and taking account of the child’s views; whether the parent felt listened to and understood; the thoroughness and fairness of the investigation; contact with the child; the report; and the length of time it all took.

However some issues do seem to elicit less or more criticism than others.

On the more positive side all the studies report that more parents were satisfied than dissatisfied with the information they received about the reporting process at the

outset – although there do appear to be some problems with information about the complaints system; parental understanding of the role of the 9.5 guardian, and meeting the needs of parents who have concerns about domestic violence. More than half of all parents (ranging from 51% to 76%) felt able to get in touch with the practitioner when they needed to, with around a third or less saying they had experienced problems. The findings about practitioner competence also tend to be positive: all but two of seven inspection reports found that more than half the parents were satisfied about this. Although there is limited quantitative data on inter-personal skills, what there is suggests that satisfied parents are in the majority.

The strongest negative theme is concern about the thoroughness of the investigation process in private law cases. Even the Cafcass Client Satisfaction study (BMRB, 2004), which typically reports more positive findings than other studies, found that only 55% of respondents thought that Cafcass was sufficiently thorough and spent enough time getting to know their situation, with 41% being dissatisfied about this.

Accusations of unfairness, particularly in private law cases, are also a common theme, although it should be noted that in all but two of the reports which give numerical data more parents felt they had been treated fairly than unfairly, and the proportion of satisfied parents ranged from 67% -41%, those dissatisfied from 27% to just under half. Finally, a substantial proportion of parents did not consider that they had been heard or understood by the practitioner, even if most feel they have been listened to.

A substantial proportion of parents have concerns about the welfare report. The highest levels of satisfaction are expressed in relation to the report's clarity. Criticism of content include: inaccuracies; inadequate coverage and understanding of the issues; unfair and biased conclusions; not reflecting the parents' views; not reflecting or taking account of the children's views; not focusing on the child's interests. There are also criticisms of parents only being able to read the report on the day of the hearing or of not being appraised of the officer's thinking so that they are taken by surprise by the report and its recommendations.

The material presented in this chapter relates not only to parental perceptions of Cafcass but also to its predecessor services. A comparison of studies conducted pre and post 2001 shows that the *nature* of the concerns remain the same. Any conclusions about changes in *levels of satisfaction* can only be partial, because comparative data is not available on some topics: this applies to views about the premises, the practitioner's manner and interpersonal skills; whether parents felt they had been understood; satisfaction with their participation in the process; whether the child's views had been taken into account and length of process. Where pre and post-2001 research is available, differences in study design mean that any findings can only be indicative, not conclusive.

The picture which emerges is mixed. There do seem to be some elements of the user experience which are reported somewhat more positively in post 2001 private law work. These include information about the service; practitioner accessibility; practitioner thoroughness; quality of contact with the child and handling of domestic violence cases. On others, however, there appears to have been no change or even possibly deterioration: this applies to perceptions of fairness; whether parents felt they had been listened to; and whether parents from BME communities felt that the

practitioner understood the issues involved. Finally, in terms of overall satisfaction, the data is contradictory, with some material suggesting parents consulted post-2001 are more positive, others suggesting no change or deterioration.

Irrespective of any change since Cafcass came into being, however, the fact remains that a substantial proportion of clients are not satisfied with at least some aspect of their involvement with the agency, even if others view their experience much more positively. Moreover, it is clear that the proportion who make a formal complaint is not a good measure of the extent of dissatisfaction: discontented parents may not be aware of the process or, for a variety of reasons, decide not to make use of it.

7 Factors associated with parental satisfaction with Cafcass

The relevance of outcome

To what extent do parents' views about the outcome of their case colour their views about their involvement with Cafcass and its predecessor services? One pre-Cafcass study of parents subject to court welfare reports (Buchanan et al, 2001) found that outcome was the strongest predictor of satisfaction (although it was not statistically significant). Of those who were entirely negative about the outcome, 95% were dissatisfied with the welfare reporting process, compared to only 30% of those who were entirely positive about the outcome and 62% of those who had mixed views. Evidently, however, as is apparent from these figures, the association is not perfect: although it was extremely rare, in this study, for parents to be satisfied with the process even though they were not happy with the outcome, a worrying proportion of those for whom the outcome was favourable nonetheless were critical of the process by which that outcome had been achieved.

The Cafcass Client Satisfaction Survey (BMRB Social, 2004) also notes a 'high correlation' between dissatisfaction and unhappiness with the outcome: 75% of those dissatisfied with the process were also unhappy with the outcome. However statistical analysis showed that, although important, outcome was not the key driver; at least seven other factors had a greater impact (see next section), of which the most important was whether parents felt they had been treated fairly by the worker.

Two other small studies, both conducted with black and minority ethnic parents involved in private law proceedings, also concluded that outcome was not the most important factor. Watson's pre-Cafcass study (1995) found that satisfaction was based on the perceived quality and appropriateness of the service received: 41% of clients were not satisfied with the service although 50% were happy with the outcome. Of the 59% who were generally satisfied, 29% did not get what they wanted. Overall 58% did not link satisfaction with outcome.

Prevatt-Goldstein's more recent study (2008) found a 'weak link' between satisfaction and outcome. Ten of the 18 satisfied service users (56%) were pleased with the outcome; five displeased (28%). In comparison only four of the 15 dissatisfied service users (27%) were pleased with the outcome; eight (53%) displeased. However there was a much stronger link with the quality of interaction: all of the 15 service users who were displeased with the interaction with at least one of their workers were dissatisfied with the service and all of the 18 service users who were pleased with the interaction with all their workers were satisfied.

Service-related factors

The Cafcass Client Satisfaction Survey (BMRB Social, 2004) provides the most comprehensive statistical analysis of the service-related factors associated with

satisfaction. As noted above, the strongest driver was found to be perceived fairness. Other factors, in order of importance, were parental views as to whether: the Cafcass recommendation was in the child's best interests; the welfare report was accurate; the child's best interests were represented in court; the officer could be trusted; and the officer gave helpful information.

Separate analyses conducted for applicants and respondents produced slightly different results: although the sense of fairness was the main driver for both, it was more dominant for respondents, who were also more concerned about their interpersonal relationship with the officers. Applicants were said to be more driven by the process being carried out properly and in the child's best interests.

Parents who expressed overall satisfaction with the service were asked to explain why. Although one of the two most common responses related to getting a satisfactory outcome only 16% of parents mentioned this and an equal number singled out one particular service-related factor – that the prime concern had been for the well-being/feelings of the child. Of the other factors mentioned by at least 5% of parents all related to the Cafcass officer: being professional /unbiased (14%); communicated well/everything explained (14%); sympathetic/understanding (14%); listened to parent's views (6%); pleasant/friendly/approachable (5%); thorough (5%).

The most common criticisms among parents who were dissatisfied with their experience were: bias (25%) and the officer being unpleasant/ unprofessional/ unapproachable/ incompetent/ late/ unprepared. Other reasons were: the officer did not have the child's interests at heart (15%); the parent's views were not listened to (11%); the report was inaccurate/contained lies (11%); the process was too quick/ insufficient time was spent assessing the case (9%); the child's wishes were not listened to (8%); the officer was not interested in the case (6%); and there was no consideration of the parent's feelings (6%).

Statistical analysis of the first year's data from the Cafcass feedback system (Guy and Cockayne, 2009), linked with case management data, identified seven 'drivers' of overall satisfaction, which in combination explained 94% of the variability in response. The strongest was whether the practitioner was considered to be easy to contact, followed, in order of importance, by: the perceived accuracy of the Cafcass report, knowledge of how to make a complaint; how easy it was to talk to the worker; whether they felt the Cafcass worker understood their situation; and whether their view had changed about what they wanted for the child.

Two studies of the views of BME parents highlight the treatment of race, ethnicity and culture. Watson's pre-Cafcass study of the court welfare service (1995) identifies a link between satisfaction and the practitioner's willingness and ability to address and respect issues relating to ethnicity, culture and religion. Prevatt-Goldstein (2008) found there was a 'strong link' between this and overall satisfaction: of the 15 dissatisfied service users 14 felt negatively stereotyped and/or patronised and/or disadvantaged by the lack of an interpreter and/or that their culture had been ignored. All 14 were also displeased with the quality of the interaction. In contrast, 14 of the 18 who were satisfied had their 'race' related expectations met.

Both these studies, however, also identify other service-related factors. Prevatt-Goldstein found the strongest link with overall satisfaction was the quality of interaction with the officer. Watson also points to this as well as to the practitioner's knowledge, understanding and consideration of the user's background situation; an even handed approach to gender issues; access to relevant information about services and flexibility within existing policy and procedures; and acceptance, sensitivity and non-judgemental attitudes.

Factors related to the proceedings

Analysis of Cafcass feedback data (Guy and Cockayne, 2009) indicates that parents involved in public law are more likely to be satisfied than those in private law (69% compared to 54%). The Cafcass Client Satisfaction Survey (BMRB Social, 2004) is even more specific: parents involved in contact proceedings were more likely to be dissatisfied than those in residence proceedings, with 40% of the former saying they were not very (9%) or not at all (31%) satisfied (compared to 11% and 18%). Fewer also said they were very satisfied (34% compared to 39%). Parents in contact proceedings were also more likely to be dissatisfied with individual elements in their service experience, viz:

- the amount of contact with the Cafcass officer (44% dissatisfied compared to 37% of parents in residence proceedings);
- whether their views were taken into account in the report;
- the coverage of the child's views in the welfare report;
- the accuracy of the report;
- whether the child's best interests had been represented in court proceedings (50% satisfied compared with 63%).

The BMRB study found that whether the parent was an applicant or respondent in the proceedings made no difference to overall satisfaction. Applicants, however, did tend to be less satisfied than respondents on three particular aspects of the service:

- the amount of contact with the Cafcass officer (47% felt there should have been more contact compared to 30% of respondents);
- whether they felt their child's best interests had been represented in court (53% satisfied compared to 63% of respondents)
- whether their own views were taken into account in the report (difference reported as slight, no figures given).

Cafcass feedback data similarly did not find much difference between applicants and respondents in overall levels of satisfaction with 54% of applicants and 52% of respondents being very or fairly satisfied and 29% and 28% being fairly dissatisfied or not at all satisfied. However a higher proportion of applicants were extremely dissatisfied (23% compared to 15%).

The pre-Cafcass study by Buchanan and colleagues (2001) does not give separate figures for applicants and respondents but notes that there was little difference in overall levels of satisfaction between applicant, non-resident, fathers (45% were satisfied with the welfare reporting process) and respondent, resident mothers (46%).

This study did find a difference according to whether the parent was legally aided, with those on legal aid being less likely to be satisfied than those who were not (44% compared to 53%).

The only other data on proceedings related factors come from the Cafcass feedback report (Guy and Cockayne, 2009) which found that involvement in a non-FPC case was linked with satisfaction.

Family-related factors

Parental gender and status

A small pre-Cafcass study of BME parents (Watson, 1995) reports that while 68% of mothers were satisfied with their experience of the court welfare service, only 48% of fathers were. Other studies, however, have found little difference in overall satisfaction. A more recent study of BME parents (Prevatt-Goldstein, 2008) found the levels to be very similar, with exactly the same proportions expressing dissatisfaction (44%) and slightly more men (56% compared to 50% of women) being satisfied. Buchanan's study of the pre-Cafcass court welfare service does not separate out gender from status but, as noted above, found that almost identical proportions of non-resident applicant fathers (45%) and resident respondent mothers (46%) were wholly or mainly satisfied.

Cafcass feedback data reports a slight difference in overall satisfaction, with 59% of women being very or fairly satisfied, compared to 56% of men. It also found men were more likely to be 'not at all satisfied' (21% compared to 16%) (Guy and Cockayne, 2009).

The Cafcass Client Satisfaction survey (BMRB Social, 2004) found no gender difference in terms of overall satisfaction, but does report variation in levels of satisfaction with different aspects of the service received, viz:

- fathers were more likely than mothers to feel they had had insufficient contact with the Cafcass officer (48% cf 36%);
- fathers were more likely to feel the scope of the investigation should have been wider (55% cf 44%);
- fathers tended to be less happy than mothers about the extent of the Cafcass officer's contact with the child. (No figures given).

Davis and colleagues (2000) also found some differences in relation to the recommendation in the welfare report, with women were more likely to think it was entirely in the best interests of the child (49% compared with 44% of men and that it was a reasonable one from their point of view (49% compared to 38%). Interestingly, however, similar proportions of men and women did not think the recommendation was reasonable (27% men, 29% women) while women were more likely than men to think that the recommendation was not in the child's best interests (27% compared to 17%).

The only study to look at the effect of previous marital status is that by Buchanan and colleagues (2001) which found that those who had been married were more likely to be satisfied than those who had not (48% compared to 39%), with the latter group being the most dissatisfied of all those interviewed.

Parental race and ethnicity

The only study to examine this directly appears to be Buchanan's pre-Cafcass work (2001), which found only a small (and not statistically significant) difference in overall satisfaction levels (42% of BME parents being satisfied compared to 45% of white parents, with black fathers being more dissatisfied than white, whereas black mothers were more satisfied). As noted in the previous chapter, the fact that 52% of the BME parents in the study by Prevatt-Goldstein (2008), said they were satisfied with the service received from Cafcass, which is towards the upper end of the spectrum, does not suggest that ethnicity in itself impacts on satisfaction. However this study did find that there was a strong association between parental perceptions of how well the issues of race and culture were dealt with and overall satisfaction. Of the 15 dissatisfied service users 14 felt negatively stereotyped and/or patronised and/or disadvantaged by the lack of an interpreter and/or that their culture had been ignored. All 14 were also displeased with the quality of the interaction. In contrast, 14 of the 18 who were satisfied had their 'race' related expectations met. Watson's pre-Cafcass study (1995) also identifies a link between satisfaction and the practitioner's willingness and ability to address and respect issues relating to ethnicity, culture and religion.

The Client Satisfaction Survey (BMRB Social, 2004) does not report any link between overall satisfaction and ethnicity but does note that BME parents were less likely to be satisfied that the child's best interests were reflected in the report's recommendations. Prevatt-Goldstein (2008) also notes that only 10 parents (29%) were wholly positive about the Cafcass officer's contact with the child, which is lower than that recorded for the generality of parents in other studies.

The age of the child

The BMRB study (2004) does not report any association between overall satisfaction and the age of the child. However it did find that parents of younger children tended to be more dissatisfied with certain aspects of the service, viz:

- The child's contact with Cafcass;
- Including the child's views and feelings in the report;
- Whether the child's best interests had been represented in court. (54% of parents with a child under 11 were satisfied with this compared to 67% of parents with an older child);
- Whether their own views were taken into account in the report.

Physical or mental health problems in parent or child

The Cafcass Client Satisfaction Survey (BMRB Social, 2004) found that parents who reported that either they or their child/ren had a special need – defined as a physical or mental health problem – were less satisfied with Cafcass than other parents. It also

found that these parents tended to be less satisfied with particular aspects of the welfare report, viz: its accuracy; whether their own views were taken into account; whether the child's views had been fully included; and whether the child's best interests were reflected in the recommendation.

Parents and children taking part in Buchanan's pre-Cafcass research on the court welfare service (2001) completed standardised tests of well-being. This indicated that the least satisfied parents were those who were themselves highly stressed (44% being satisfied compared to 54% of other parents) or whose child was highly stressed (44% compared to 60%), although neither association was statistically significant.

Domestic violence

Buchanan's pre-Cafcass study (2001) found that mothers for whom domestic violence was an issue were one of the least satisfied groups among those interviewed and less likely to be satisfied with their experience than other mothers (41% compared to 47%), although the difference was not statistically significant. Although none of the other studies examine the link between domestic violence and dissatisfaction it will be evident from the previous chapter that this is a consistent theme, with concerns being raised about the information made available to victims, the safety of the premises, joint interviews, the officer's contact with the child, the treatment of the child's wishes and feelings, how the issue was handled in the welfare report, inadequate foreknowledge of the content of the report and overall, the officer's understanding of and response to the issues.

Conclusions

Given the paucity of information about the factors which drive parental satisfaction with Cafcass, or even its predecessor organisations, the material presented in this chapter can only be regarded as giving clues, rather than conclusive evidence. It is, also, focused on private law proceedings – on this, as on so many other issues, there is very little research on parents involved in public law proceedings.

From the available information it is apparent that outcome does make a difference: parents who are dissatisfied with the outcome are much more likely to be critical of the process. It is probably unrealistic to expect that a point could ever be reached when a substantial proportion of parents who did not achieve an acceptable outcome could still feel satisfied with the way that outcome had been achieved.

Nonetheless outcome is not everything, and perhaps the most striking finding is that a satisfactory outcome is not sufficient to guarantee satisfaction with the process. It is possibly from these parents that most could be learned in future research.

Existing research suggests a range of service-related factors are related to overall satisfaction with the process. Some of these, however, are likely to be quite closely related to views about outcome, viz: perceived fairness; whether the recommendation of the welfare report were thought to be in the child's best interests; whether the child's best interests were represented in court; an even handed approach to gender issues. Others are perhaps somewhat more independent: the accuracy of the welfare report; the quality of the interaction with the officer and whether they were easy to

contact; whether the officer could be trusted; whether the officer gave helpful information; the amount of time spent with the parent; the understanding and consideration of the parent's position; the treatment of race and culture and whether the parent knew how to make a complaint.

Attention to these aspects of practice might produce a more satisfied client group.

There are also some pointers to the characteristics of parents who are more likely to be unhappy with their overall experience: those involved in contact proceedings rather than residence; those on legal aid; those whose case was heard in the FPC; mothers for whom domestic violence was an issue; previously unmarried parents; and parents who reported that either they, or their child, had physical or mental health problems. The only other characteristic of the child which appears to have been explored is age, and that only in one study, which found no association with overall satisfaction but greater unhappiness among parents of younger children with the practitioner's contact with the child; the coverage of the child's wishes and feelings in the report, whether the child's interests had been represented in court and whether the parent's own views were taken into account in the report.

In general the gender of the parent, whether they are resident or non-resident; or the applicant or respondent in the proceedings, have not been found to relate to overall satisfaction. However some studies have found links with dissatisfaction with certain aspects of the experience. Thus one study found that fathers (and applicants) were more likely than mothers to feel the practitioner should have spent more time with them and with the child and that the investigation was too narrow. Applicants were also less likely to consider that the child's best interests had been represented in court and that their own views had been taken into account in the report. Another study found that although a higher proportion of mothers were satisfied that the recommendation in the report was completely in the child's interests and reasonable from their own point of view, mothers outnumbered fathers in the group who did not think the recommendation was in the child's interests.

Race and ethnicity per se do not appear to make a significant difference to overall satisfaction, as distinct from parental perceptions of how the issues were dealt with. However one study did find that BME parents were less likely to consider that the report's recommendations reflected the child's best interests while another reports lower levels of satisfaction among BME parents with the practitioner's contact with the child than reported in broader samples of parents.

8 Perspectives on in-court conciliation

The Data

The previous two chapters examined the views of parents involved with Cafcass because the court had ordered a report or the child was represented by a guardian. In private law cases, however, parents' first (or sometimes only) encounter with the service is likely to be when they attend court for the initial hearing, when an attempt will be made to narrow the points at issue and if possible help parents to reach an agreement. Such 'in-court conciliation' schemes have become a common feature across the country, at least in the county courts, although they are organised in a variety of ways (MCSI, 2003f; Trinder et al, 2006a) including the extent to which the judiciary are directly involved in, or run, the conciliation appointment and the part played by Cafcass.

Since the Children Act 1989 four pieces of research have been conducted which include parental perspectives on these schemes. Two of these were conducted pre-Cafcass, each on a single family court welfare service (Mantle, 2001; Morgan, 1996). Trinder's later study (Trinder et al, 2006a) which covered three Cafcass areas, interviewed parents who had attended conciliation in seven county courts and the Principal Registry of the Family Division. These parents were then followed up two years later (Trinder and Kellett, 2007). With one exception (MCSI, 2002a), the area inspection reports do not specifically cover this area of Cafcass work and although MCSI did conduct a thematic inspection (MCSI, 2003f), they were only able to include the views of 42 parents, all drawn from one court (a 21% response rate). Fewer parents (24) were interviewed as part of the regional inspection (MCSI, 2002a) and again they were all drawn from one court.

Sample sizes in the research studies are quite large, ranging from 71 (Morgan, 1996) to 345 (Mantle, 2001) and response rates are good – from 48% (Mantle, 2001) to 67% (Trinder et al, 2006a) – and high for postal/telephone surveys. This is likely to minimise the risk of sample bias. Trinder's study is particularly likely to be representative of the experience of parents attending in-court conciliation in the research areas: the achieved sample included exactly the same numbers of men and women, virtually the same numbers of applicants and respondents and only slightly more resident than non-resident parents (139 as compared with 111). The researchers were also able to interview both parents in 62% of cases (and checks were made to ensure this did not distort the results). Moreover, since the research areas were carefully chosen to represent three contrasting models of in-court conciliation, the results are likely to be generalisable beyond the study areas.

Details of the studies can be found in Appendix B, table 3.

Overall satisfaction with outcome and process

Given that parents in private law cases are coming to court because they have been unable to resolve their disagreements, in-court conciliation can be remarkably

effective in bringing about agreement –72% of the parents in Trinder’s study (2006a) reached full (45%) or partial agreement. Sixty-two per cent of these parents, moreover, said they were happy with their agreements, which means that a single, brief session was instrumental in 45% of conflicted parents reaching an agreement with which at least one of them was satisfied. Overall, 51% of all parents, irrespective of whether they reached agreement, said they were satisfied with the outcome, with those reaching full agreement being most satisfied, those who did not reach even partial agreement least. Similarly, 54% of parents responding to the MCSI survey (MCSI, 2003f) agreed that the arrangement made at conciliation was the best possible under the circumstances, with only 29% disagreeing. As Trinder notes, these findings are broadly similar to levels of satisfaction in studies of other forms of process, including trials.

In terms of overall views of process, Trinder and colleagues (2006a) found that half the parents were satisfied, the proportion varying among the schemes from 34% to 58%. Half would recommend conciliation to other parents, ranging from 27% to 61%. The MCSI survey (2003f) reports a higher rate: 60% agreed they were satisfied with the scheme, with 31% disagreeing, while the MCSI inspection report on one area (MCSI, 2002a) states that ‘most users’ found the process useful and helpful in focusing on the issues.

Mantle’s pre-Cafcass study (2001) does not provide an overall satisfaction level but reports that 70% of parents felt that their conciliation session had been of an acceptable (26%) or better (44%) standard. Eighty-four per cent thought conciliation was a good thing in principle. The main reasons given for this view was that it provided an opportunity to discuss the situation with an unbiased third party who might offer a way forward or new insights; it was a means of finding a compromise; and it was less stressful than a court hearing. Asked to suggest one good thing about mediation the main theme to emerge was having a structured, managed, and fair opportunity to establish communication and reach agreement. Other themes were the value of having an unbiased person dedicated to achieving a workable set of agreed arrangements and the role of conciliation in encouraging the parties to focus on the child’s interests.

Factors associated with satisfaction

There is some evidence from Trinder’s study (2006a) to suggest that non-resident parents take a more favourable view of conciliation than resident parents: 72% of non-resident parents were satisfied with the outcome and 55% with the process; the comparable figures for resident parents being 54% and 46%). Only 42% of resident parents would recommend conciliation to other parents, compared to 59% of non-resident parents. Analysis of cases where data was available from both parents showed that there were twice as many ‘father win, mother lose’ cases as vice versa (35% compared to 16%). Trinder also reports that resident parents reported less choice about entering the process, more anxiety beforehand, more tension in the meeting, felt more dissatisfied with the amount of time available, less able to say all they wanted to; less likely to see the Cafcass officer and District Judge as helpful; more likely to feel their concerns were not understood, dismissed or marginalised; and to report being pressurised into agreement by their ex-partner.

Mantle's pre-Cafcass study (2001), however, found no statistically significant association between satisfaction and any characteristics of the parties. Perhaps not surprisingly, he did find a strong and significant association with whether the arrangements were still intact at follow-up, and how long the arrangements had lasted. In terms of the process itself there was also a strong and significant association with the following: whether parents felt able to say everything they wanted; felt fairly treated; thought the ground rules had been applied effectively; had found the presence of their solicitor helpful. There were also significant but less strong associations with: whether they felt something else could have been done; whether conciliation had been helpful in enabling parents to change the arrangements; whether they felt the presence of solicitors was a good thing in principle; and whether they were concerned about sitting opposite their ex-partner. A significant association was also found for women with whether they were legally represented and whether they had sat opposite their ex-partner.

Perspectives on aspects of the conciliation process

Information, understanding and choice

Seventy-two per cent of parents in Trinder's study (2006a) said they had had clear and understandable information about conciliation prior to attending, although the proportions varied from only 52% in one area to 82% in another. The overall figure is higher than that reported in Morgan's pre-Cafcass study of a single service (1996) in which 83% of parents said they had received a leaflet, of whom 73% said it gave them a good understanding of the process (from which it may be calculated that 61% received understandable information). Ninety per cent of parents in this study said that the practitioner had explained the process at the start of the meeting. Other sources do not indicate what proportion had been given information but of those who had between 83% (MCSI, 2003f) and 100% (MCSI, 2002a) were happy with it. Although the general picture may be quite positive, clearly there are some parents who do not feel adequately informed and there are additionally some brief references to misunderstandings (MCSI, 2002a) and inappropriate expectations (Cafcass, 2008a).

Moreover, although most parents may be in a position to make an informed decision about whether to participate in conciliation, they do not necessarily feel free to choose. Only 55% of the parents in the MCSI survey (2003f) and a mere 33% in Trinder's study (2006a) agreed that they had a choice - indeed in one area the proportion was as low as 17%. Again resident parents tended to be more dissatisfied, only 20% saying they had felt able to choose, compared with 49% of non-resident parents.

Pre-Cafcass research indicated that pressure to take part in joint meetings, including in-court conciliation, was particularly an issue for mothers who had experienced domestic violence (Hester and Radford, 1996):

It was disgusting.....We'd said no [to the joint meeting]. But all the time I tried to seem as if I was cooperating with the courts, I had to do that so that I didn't look as if I was being vindictive.

Indeed one welfare officer interviewed in the study acknowledged that such meetings were ‘almost compulsory’ and parties did not realise they were voluntary.

Painter’s research (2002) indicates that, at least for some mothers who have experienced domestic violence, choice is now more of a reality. Only two of the 14 participants in this study had attended conciliation, neither of whom felt under any pressure to go. Five others said that it had been suggested but did not go ahead because they were not comfortable with the idea, although some were critical of the fact that it had even been suggested.

This guy’s abused me and they’re offering me to sit down in a room with him, I just found it insulting.

However a thematic inspection report focusing on domestic violence (HMICA, 2005) gives some indication that problems still exist. Although little is said specifically about in-court conciliation the report cites women’s general criticism that they were not given an informed choice in the decision-making process and that the system put pressure on them to go along with what Cafcass wanted, including being required to attend a joint meeting. The report also recommended that an information pack should make it clear that participation in conciliation was voluntary.

The conciliation meeting

Stress and fear

As noted earlier, one of the attractions of conciliation for parents, according to Mantle (2001) is that it is likely to be less stressful than a court hearing. Nonetheless it is not a stress-free experience. Trinder reports that 58% of parents felt anxious beforehand and 61% said the meeting itself had been very tense and unpleasant, with resident parents significantly more likely than non-resident to report this (69% compared to 49%). Comparing these findings with data from Davis et al (2000) on, respectively, out of court mediation and court hearings⁸, she concludes that:

Conciliation appears to sit somewhere between mediation and hearings in terms of the level of upset and distress caused by the process though the extent of upset ...is closer to that of parents who had had a trial’. (Trinder et al, 2006a)

Mantle (2001) highlights the stress which can be occasioned by the seating arrangements within the room, particularly for women. Typically (87%) parties were seated opposite each other. While only 13% of men were concerned about this, 40% of women expressed feelings of anxiety and worries about intimidation, increasing their sense of confrontation and being at risk. Since the few parents who had sat next to their ex-partner all felt uncomfortable, Mantle suggests a triangular arrangement might be more acceptable.

Women who have experienced domestic violence, as mentioned earlier, are perhaps less likely now to feel pressurised into joint conciliation meetings. If this is the case

⁸ Davis et al found only 43% mediation clients found it upsetting. 69% who had experienced a trial did so

then pre-Cafcass findings of women feeling intimidated by their ex-partner during the meeting and even subject to verbal or physical abuse (Hester and Radford, 1996; Mantle, 2001), will hopefully be less salient. Nonetheless the MCSI study of in-court conciliation (2003f), which was not confined to domestic violence cases, produced the worrying finding that while 71% of parents had felt safe in the meeting, 12% had not.

Impartiality

Most parents appear to experience conciliation as a fair and impartial process. Mantle's pre-Cafcass study (2001) reports that 84% said they had been fairly treated, with only 16% disagreeing. Female applicants and male respondents were more likely to be critical. Men who felt they had not been treated fairly cited assumptions about the relative importance of men and women. Women related unfairness to views about the 'burden of care' and the lack of sensitivity to domestic violence and intimidation. Dissatisfied parents also complained that the officer had already made up their mind and that the ground rules had not been applied even-handedly.

Although the proportion of dissatisfied parents in the MCSI survey (2003f) was higher (28%) satisfied parents (61%) still made up the majority. Trinder's results fall in-between: 74% thought the District Judge was impartial; 73% the Cafcass officer. Non-resident parents were more likely than resident parents to see the DJ as unbiased (79% compared to 71%) whereas the reverse was the case in relation to the Cafcass officer – 74% of resident parents compared to 71% of non-resident.

Only two studies, both pre-Cafcass, have looked at parental views on the gender or ethnicity of the conciliator or whether having two workers was/might have been helpful. Mantle (2001) found that most did not think it mattered if there were one or two workers and 91% thought that the gender or race of the worker was immaterial. Morgan's earlier study reports more mixed results: while 65% of those with only a single worker thought a gender balance was not important, 50% of those who had experienced male/female co-working thought it was:

I think there should be one of each gender in all meetings so that both parties' views can be looked at in different ways plus giving the impression that both are equally represented.

Time available for conciliation

Conciliation is a brief intervention, typically involving only one meeting lasting for no more than an hour and often less. While most parents seem to accept this framework, a substantial minority would prefer to have more time with the conciliator. Thirty-seven per cent of the parents in Morgan's pre-Cafcass study (1996) who were only offered one meeting said they would have found it helpful to have had more. Trinder and colleagues (2006a) report that, when asked to select any changes they would have liked from a list of options, around a third of parents said they would have liked more time either through longer sessions (38%); more sessions (34%); or a scheduled review (42%). It should be noted, however, that in response to another question about the length of session 74% said it was about right, with only 21% considering it was too short and 5% too long.

Being heard and understood

Given the time constraints discussion is necessarily focused - 77% of parents in Trinder's study (2006a) said the conciliator made sure the discussion kept to the point. This in itself may help to explain why substantial proportions of parents feel they were not able to say everything they wanted to (26% in the MCSI study [2003f]; 29% in Mantle's [2001] and 50% in Trinder's [2006a]) the latter study again reporting greater dissatisfaction among resident parents, with only 43% feeling they had been able to say everything, compared to 58% of non-resident parents).

Other factors, however, also play a part. Mantle (2001) refers to parents feeling overwhelmed; being interrupted or intimidated by the other party, and it is striking that all three research studies (Morgan, 1996; Mantle, 2001; and Trinder et al, 2006a) report parents saying they would have liked an opportunity to meet separately with the conciliator prior to the joint meeting, which may mean that they did not feel able to speak freely or completely in the presence of the other party. Mantle reports 'many requests' to have a separate meeting while Trinder gives a figure of 64% parents selecting this from a list of possible desired changes, rising to 71% of resident parents (compared to 54% of non-resident).

Twenty-two per cent of parents in the MCSI study (2003f) said that the conciliator had not listened to them while Morgan (1996) refers to parental complaints of being made to feel that the material they wanted to contribute was irrelevant or trivial. Discussions are likely to be orientated towards reaching an agreement about future arrangements, and as Trinder points out (2006) this future-looking focus, combined with a pro-contact presumption, may make it more difficult for parents to raise concerns and have them taken seriously. Twenty-nine per cent of parents in this study (34% of resident and 21% of non-resident parents) said there had not been enough time to deal with the past, with resident parents in particular feeling frustrated that their concerns were dismissed. Both Mantle (2001) and Morgan (1996) also refer to parents feeling their concerns had been marginalised:

I didn't feel they listened to my concerns. They just wanted an agreement and I felt pushed towards that. (Morgan, 1996)

Trinder (2006a) reports that only 62% of parents felt that the Cafcass officer understood the problems, with resident parents being less satisfied on this score than non-resident (56% compared to 69%). Ratings for judicial understanding were even lower, at 49% overall, although since the highest ratings were given by parents who had experienced conciliation at the Principal Registry, which is judge-led, this may simply reflect the more limited input of the judiciary elsewhere. Similarly, although Cafcass officers were more likely than DJ's to be rated as 'helpful' (72% compared to 58%) the scores were higher for the judiciary in the Principal Registry. On both issues resident parents were less positive than non-resident (39% compared to 61% and 51% compared with 67%).

None of the studies examine the extent to which parents who had experienced domestic violence felt the issues were understood by the conciliator/s and only the MCSI inspection report (MCSI, 2003f) looks at the understanding of diversity,

finding that only 4% of respondents did not agree that their family's racial and cultural identity was understood and worked with appropriately.

Coerced agreements

While, as noted earlier, some parents appreciate the role of conciliation in facilitating agreements, others experience the process as coercive, including some who were satisfied with the outcome:

Although the end result was good I felt badgered into making that decision.
(Morgan, 1996)

I did feel very pressurised into agreeing to what the mediator thought was the best solution. (Mantle, 2001)

Trinder and colleagues (2006a) report 'mixed' results on this question, noting that 'probably all parents experienced some pressure to reach agreement from some source' and that while sometimes this was acceptable, sometimes it led to parents being rushed into agreements that they later regretted. Around a fifth of parents in this study reported feeling pressurised into an agreement: 23% said either they or their ex-partner had been pressurised by the conciliator; and 21% said the pressure had been applied by the other parent. Resident parents were significantly more likely than non-resident to report feeling under pressure, both from the conciliator (26% compared to 19%) and from their ex-partner (26% compared to 15%).

Trinder does not report what proportion of parents who felt pressurised into an agreement had experienced domestic violence, an issue highlighted in pre-Cafcass research (Hester and Radford, 1996) which reported that 'many women' felt compelled to agree to arrangements which put their own safety at risk.

Focusing on the child's interests and taking account of their views

As a part of the court process, the underpinning principle of conciliation is the best interests of the child. Around six in 10 parents appear to be satisfied that their session reflected this. Sixty-four per cent of those responding to the MCSI survey (MCSI, 2003f) agreed that the Cafcass practitioner had acted in the child's best interest (with 34% disagreeing) and 61% of parents in Trinder's study (2006a) said that the session had focused on children's needs – although of those who reached agreement, less than half (48%) said the agreement was in their child's interest.

Where parents are in dispute over the arrangements for their children the Children Act requires that the court should take account of the wishes and feelings of the child. This is typically done through the mechanism of a welfare report and the officer would usually speak directly with the child. At the time the studies cited here were carried out, however, it was rare for conciliation to involve children directly. Hence the child's views would typically be presented through one or both parents.

In Mantle's pre-Cafcass study (2001) only 'a few' parents suggested that children should be involved in the conciliation meeting, although there was some criticism that children's views had not been taken into account. In the later survey by MCSI

(2003f), however, 36% of parents said their children should have spoken to the conciliation service, with 24% disagreeing. Trinder's study (2006a) included one court where children aged nine and above were seen. The parents in these cases were evenly split, half liking the idea, half not and 55% finding it helpful, although few thought the child had liked it. The views of parents whose children had not been seen were similarly polarised with 47% in favour; 43% against. However, only a quarter thought that their eldest child would have liked to be involved.

The role of lawyers

Two studies report parental views on the attendance and role of solicitors. Seventy-eight per cent of parents in Mantle's pre-Cafcass study (2001) said they thought it was good in principle to have solicitors present; and 74% said it had been helpful in their conciliation session. Some wanted solicitors to play a more active role. Those who had not been legally represented were more likely to take a negative view on the issue, although the only reason cited was that they created additional tension. Those who were positive about solicitors attending cited: the availability of legal and procedural advice; support; recording what had been discussed and agreed; enhancing the sense of the session's significance, gravity and orderliness; and giving the lawyer the opportunity to observe the shortcomings of the other parent.

Trinder's study (2006a), which asked parents whether they would have liked lawyers to be less involved, found that resident parents were significantly more likely to want to retain or expand the role of lawyers, with only 11% wanting them to have less involvement, compared to 23% of non-resident parents.

The impact of conciliation

The durability of agreements

As noted earlier in this chapter, in-court conciliation results in partial or full agreements in a large proportion of cases. Many of these agreements, however, do not last. Morgan's pre-Cafcass study (1996) reports that only 66% of agreements were still in place six months on, with most of the rest ending within three. The proportion is lower in Mantle's study (only 52% of full agreements lasting for six months) with again most of those which did not persist ceasing within three. The MCSI survey (2003f) records an even lower rate (45%), although the interval since the conciliation is not given.

Trinder (2006a) reports the lowest survival rate (39%). However, in contrast to Mantle, who found that where arrangements had changed this was usually because one of the adults or the child was not complying, this study emphasised that a large proportion of the agreements which were no longer intact at six months had been renegotiated, and that most of these had resulted in an extension of contact. The most common reason for change was that the original agreement had only been an interim arrangement with a review scheduled later in on-going proceedings: 'a typical scenario would be to agree a timetable to restart contact at the first session and then to review and often extend at follow-up'. Nearly half the renegotiated agreements followed a review, report or hearing and a quarter were renegotiated by the parents,

usually without professional intervention. Only a minority of parents had re-litigated to arrive at a new arrangement. Overall, only 21% of agreements were judged to have failed.

The parents in this study were followed up again two years on (Trinder and Kellett, 2007). Of the 84 re-interviewed parents who had negotiated agreements in the original conciliation appointment 21% were still operating the same arrangements while a further 19% had made some revisions but the arrangements were still broadly intact. Seventeen per cent reported that the original arrangements had broken down and they had been unable to agree new ones. In the remaining cases the agreement had been changed, either by the six month point (27%) or subsequently (19%). The researchers do not give an overall 'failure rate' but were more pessimistic about the findings, reporting that where agreements had been dropped or broken down the changes appeared to be due to one or more of the adults or children not supporting the agreement, rather than an adaptive response to changed circumstances. In this respect the results are in line with those of Mantle (2001) at the six month point.

These findings, which indicate that between 34% and 60% of arrangements made in conciliation do not persist unchanged, are not substantially different from those for private law proceedings overall, where, as reported in chapter 4, between 26% and 66% of arrangements change. Unfortunately the only study which reports the durability of arrangements made through contested proceedings (Buchanan et al, 2001) is based on small numbers and the figures quoted are only for contact arrangements, which are, as the authors note, much more volatile than residence. This records that where arrangements were made as the result of a contested hearing 55% (6 of 11) did not persist unchanged, the proportion being even less for those made at the door of the court (9 of 10).

All the research studies cite complaints from some parents that the agreement reached in conciliation or a court order was not being complied with. Although most of the parents in Mantle's study (2001), (which looked only at cases where a full agreement had been reached in conciliation), thought that nothing else could have been done to ensure the arrangements were sustained, most of the rest suggested there should be some form of written record (which was, in fact, already part of National Standards for the Family Court Welfare Service). Some said something stronger than an agreement was needed, such as a court order. Asked what was the one thing they would change about conciliation, a 'recurrent theme' was that agreements should be made legally binding or enforceable. Morgan's study, also pre-Cafcass (1996) similarly notes calls for agreements to be enforceable and also that there should be some follow-up from the family court welfare service to check if the arrangements were working.

Within days of agreement my ex partner refused me access and my only avenue was to go through the whole procedure again.

Trinder (2006a), however, notes that although the underlying problem identified by both resident and non-resident parents was that orders were not being adhered to, little faith was placed in the court's ability to change the situation.

Non-resident father: It was about 18 months now since I've sort of seen them. It might even be two years ... And [ex] said they didn't want to go [for contact].

Interviewer: Right. So have you thought of going back to court?

NRF: No. For what reason?...What do you think the Court would [do]? Because I have a court order. I mean the only thing I could possibly do is upset them more by forcing them to come and see me. They don't want to come and see me. That's the problem, so... It could only be influence from their mother."

Resident Mother: He phones up and says he's not coming the next day. Many things like that happen and it's pointless trying to tell a judge that, you know. And as a mother I just pick up the pieces each time, you know."

Impact on parental ability to negotiate

According to Trinder and Kellett (2007) one aim of the in-court conciliation process should be to enable parents to renegotiate future agreements by themselves, where necessary, without further professional involvement. However, there is little evidence that this is the case. Mantle's pre-Cafcass study (2001) reports that in a quarter of the cases where the arrangements reached in conciliation had changed six months on, only 25% of parents said that conciliation had helped them to make new arrangements, usually because there had been an improvement in parental communication. Trinder and colleagues (2006a) similarly found that only a quarter of the changes which had occurred by six months had been renegotiated by parents, usually without professional intervention.

Trinder and Kellett's follow-up study (2007) reports that at the two year point 79% of parents had an agreement about contact, slightly higher than the proportion who had reached agreement in the initial conciliation (75%) although lower than those who had done so by six months (84%). Half of these parents were working with new or replacement agreements that had been established after the baseline and half of those who still had a broadly intact baseline agreement had made some revisions to it. This might suggest enhanced capacity to negotiate. The researchers conclude, however, that this was not the case and that conciliation was not equipping large numbers to renegotiate by themselves: two thirds reported having had some further legal intervention since the initial appointment, ranging from solicitor negotiations to reports and hearings, and 40% reported relitigation.

Impact on parental relationships

There is also little evidence that conciliation has much impact on parental relationships. While, as noted above, Mantle (2001) reports that most of the minority who said that conciliation had helped them to negotiate changes felt that their communication had improved, he goes on to say that in the main the evidence points to '*continuing antipathy*'. Two years on from conciliation Trinder and Kellett (2007) report some improvement: two thirds of parents described their relationship as 'quite good' or 'fair' compared to only one in five at baseline and the six months follow-up. Thirty-eight per cent also said that their relationship had improved, compared with a quarter at six months. Resident and non-resident parents were equally likely to report improvement. However, far more parents (two-thirds) continued to see their relationship as poor or non-existent and 62% as the same, or worse than before.

Levels of shared decision-making in this study are also reported to remain low: although there was a statistically significant increase in sharing of major decisions only one fifth of parents reported having recently shared decision-making on day to day issues and a third to have discussed children's problems. It was, moreover, far from clear that any improvement was attributable to the court process, let alone specifically to conciliation. Certainly the parents did not generally make this attribution, those who had 'moved on' referring to factors outside the court process: time, new partners, children ageing and personal development.

Impact on contact patterns

The only research examining the impact of in-court conciliation on contact is that by Trinder and colleagues (Trinder et al, 2006a; Trinder and Kellett, 2007). These studies found that conciliation - or at least the process of going to court, since the conciliation effect was not distinguished - did have a marked impact on contact patterns. At the point the application was made contact was taking place in about two thirds of cases. At the six month point this had risen to nearly 90%, subsequently dropping back to 78% two years on, around the level which had been taking place six months before the application. The researchers conclude that conciliation was effective in restoring contact where it had recently broken down, less so where the absence of contact was more long-standing.

Conciliation/the court process also significantly increased the chance of children having overnight contact, and the overall amount of contact. Where contact was taking place at the point the application was made 53% of parents said that it included overnights. This rose significantly to 78% at the six month point, and to 82% at two years. The amount of contact per month also rose from a median of 55 hours in cases where contact was taking place six months prior to the application to 81 hours at the six month follow-up and 96 hours two years on (no figures are given for the amount of contact at application).

Nonetheless the researchers note that the power of the court is not limitless in achieving contact. In around 10% of cases contact was not established and whether contact was or was not established and the levels of contact achieved were related principally to the duration of any break in contact before the proceedings and to the levels of any contact which had been taking place.

Impact on contact problems

Again, the only research to examine this issue is by Trinder (Trinder and Kellett, 2007). This reports that two years on 43% of parents reported some reduction in contact problems, with threats to stop contact dropping to very low levels (16% from 40%) and concerns over commitment and reliability reducing, though still expressed by half the parents. The proportion of parents for whom fears about violence affected contact dropped significantly (from 41% to 21%) as did problems over the controlling behaviour of the other parent (from 61% to 32%) and disputes about money (from 57% to 35%). However, there was no real reduction in concerns about the ex-partner's parenting or children's reaction to moving between one parent to the other (65%). A third of parents were still concerned that the other parent would be too harsh or might harm the children, and about 70% reported that the other parent was not

sufficiently attentive to the children or provided sufficient discipline. Conflicts about children seeing third parties (typically new partners), remained stable at just under half the sample.

Conciliation Plus - The Family Resolutions Pilot

The Family Resolutions Pilot, which ran for 12 months in 2004/5 in three areas, was a scheme which aimed to help parents involved in private law disputes about contact to reach agreement and to improve parental relationships. After an initial risk assessment to exclude domestic violence cases, parents attended two educational groups led by Relate and then had a parent planning meeting with Cafcass. The intervention thus represented a form of 'conciliation plus', but also took place away from the highly pressurised environment of a court hearing.

The scheme was evaluated by Trinder and colleagues (2006b), who obtained data from 36 of the 43 parents who attended the group work stage (84%) and 21 of the 37 (57%) who attended the parent planning meeting. Follow up interviews were also conducted with 67 parents (54% of all those who were referred to the pilot).

The scheme did not attract as many referrals as had been hoped and only half of those referred completed the programme, with most of those dropping out before the first session. Results of the scheme for those who did participate were also generally not that different from standard in-court conciliation eg in terms of parental satisfaction with the outcome, or the proportion of children having contact. Only 57% of parents (62% resident, 52% non-resident) said they would recommend the scheme to others in their situation. However, there was one critical difference: those who had completed the pilot were significantly more likely to report the parental relationship had improved than a) parents who did not complete and b) those who just attended in-court conciliation.

In terms of the parent planning stage, the researchers concluded that it seemed little different from traditional in-court conciliation and the responses of parents were very similar, with parents participating in the pilot scheme feeling no more or less heard, comfortable, pressured or treated fairly than those attending in-court conciliation, despite the greater time available. The only difference –which would seem to be an important one - was that the pilot parents were significantly more likely to report having understood their ex-partner's perspective.

Exit questionnaires completed by 21 parents after completing the planning stage showed that:

- 76% thought the content of the meeting was relevant to them;
- 67% felt it had focused on the children's needs and welfare;
- 67% thought the Cafcass officer had been impartial;
- 62% felt their concerns had been clearly heard and respected;
- 43% felt comfortable and relaxed;
- 33% felt the session had helped them understand their ex-partner's point of view;

- 29% felt under pressure to reach agreement;
- 10% felt it was rushed and there should have been more time.

The group meetings, however, were a new element. The great majority of parents were positive about these, more than they had been about the planning meetings, and the researchers concluded that at least some gained some tangible benefits in the form of support, greater awareness of the perspective of the child and their ex-partner and possibly some practical techniques for dealing with conflict. Almost all (92%) said they would recommend them to other parents in their situation. The two changes most commonly suggested were more time (79%) and more individual advice (82%).

Only a very small number were wholly negative. Just one parent felt the sessions had been intrusive and was uncomfortable talking about her personal situation and only one felt criticised as a parent.

Exit questionnaires, completed by 36 parents, indicated that:

- 92% said they now knew more about how children are affected by parental separation;
- 91% felt the course would help them and their children;
- 86% said the sessions had made them look at their situation differently;
- 81% said they learnt something new;
- 77% thought the sessions would have a positive impact on the other adult;
- 69% thought they would be able to communicate better with the other adult as a result of the sessions;
- 64% thought the content was relevant to their situation.

Several parents reported that being in a group with a mix of men and women, resident and non-resident parents, made them more aware of their ex-partner's position:

It was male and female which was good because you could hear the male perspective of it, not necessarily in exactly the same situation as you...but I could hear how he might feel from, from someone else sitting beside me and I listened to their kind of emotional side of it, which I hadn't really taken into account. I had to be very protective and build a big bubble around me, you know. I've got to look after myself, I've got to look after the kids, don't care what he does, don't care about how he feels. And that's how I kind of felt. And then I started to see it, although I didn't agree with it necessarily, but I started to see how he could be hurting. And I think he, you know, may have seen women in his group who had been left holding the babies and felt very protective and feisty. So he saw how I was feeling.

Conclusions

For courts and Cafcass, conciliation represents a very useful addition to private law proceedings, bringing many parents to full or partial agreement and thus reducing the demand for welfare reports and contested hearings.

Although only limited data is available on parental views there is some evidence that most parents also see value in the process in principle, providing an opportunity to

discuss their situation with a neutral facilitator; who might enable them to reach a mutually acceptable compromise and avoid the stress of the court process.

In practice, however, many parents have reservations. The most substantial piece of research (Trinder et al, 2006a) reports that only half of all parents were satisfied with the process and no more than that would recommend it to others. It also found that even where agreement was reached only around six in 10 parents were completely satisfied with the outcome and less than half thought it was in their child's best interests. Only around half of parents expressed satisfaction with the outcome, the proportion being broadly similar to levels of satisfaction with the outcomes of the trial process. Given that parents who are able to settle at an early stage are, if anything, likely to be less conflicted than those who pursue their dispute to a contested final hearing, these results do not suggest that conciliation has any particular advantage in terms of outcome for parents in general.

Trinder's study, however, does suggest that it may be more advantageous for non-resident parents, who were much more likely to be satisfied with the outcome than resident parents. The latter were also less likely to be satisfied with the process overall and to say that they would recommend it to others. They were also more dissatisfied on almost every aspect of process on which their views were sought, reporting less choice about entering the process, more anxiety beforehand, more tension in the meeting, more dissatisfaction with the amount of time available, less able to say all they wanted to; less likely to see the Cafcass officer and District Judge as helpful; more likely to feel their concerns were not understood, dismissed or marginalised and to report being pressurised into agreement by their ex-partner. The only exception was that they were marginally more likely to see the Cafcass officer involved in conciliation as unbiased.

In terms of particular aspects of process, the most positive findings relate to the information provided to parents beforehand, the perceived fairness of the conciliators and their focus on the interests of the child. In other respects, however, the findings present a much less rosy picture. Many, perhaps most, parents do not feel they have any real choice about participating in the process and a substantial minority feel under pressure to reach agreement. Conciliation is probably less traumatic than a contested hearing but it is still a very stressful process. Some parents feel they were given insufficient time and many that they were unable to say everything they wanted, or that they were not listened to, their problems imperfectly understood and their concerns marginalised.

The evidence about the durability of agreements is quite mixed and difficult to interpret. Clearly a substantial number do not survive unchanged for even six months but the proportions vary between a third and six in 10. These are not that different from those reported for private law court proceedings generally which, as reported in chapter 4, range from 26% to 66%, while the small amount of data on cases which went to a contested hearing gives a rate of 55%. Change does not necessarily mean, of course, that the arrangements have failed, some will have been renegotiated, with or without professional help. However some clearly do collapse – one study, for instance, reports two years on, 17% had completely broken down and no other arrangements had been put in place. Moreover, all the research studies cite complaints from some parents that the agreement reached was not being complied with.

Conciliation does appear to be quite effective in restoring contact where it has only recently broken down and increasing both the amount of contact and the likelihood of children having overnights stays with their non-resident parent. Parents also report an improvement in some contact problems – threats to stop contact, concerns over the other parent’s commitment, reliability or controlling behaviour; fears of domestic violence and disputes over money - though these are not necessarily attributable to the conciliation. Other concerns – about the ex-partner’s parenting, children’s reactions to moving between parents and conflict about children seeing certain people, usually ex-partners, seem less amenable to change. There is also little evidence that conciliation equips parents with the skills to negotiate arrangements in the future without professional help or that it has much impact on parental relationships.

The Family Resolutions Project represented an attempt to improve on standard in-court conciliation by offering parents two educational groups followed by a parent planning meeting with Cafcass, all taking place away from the pressurised setting of a court hearing. Although overall parental satisfaction was little different from that of parents experiencing ordinary conciliation, one important difference was that they were more likely to report having understood their ex-partner’s perspective. Moreover, while the parent planning meeting elicited similar levels of satisfaction to conciliation, parents were much more positive about the educational sessions, which do therefore, seem to offer potential added value.

9 Perspectives on solicitors: the data

The focus of the studies

The material presented in the preceding chapters has all been based on parents who have been involved in court proceedings. Fifteen of the studies included in this chapter also focus on this group. Six cover the views of parents involved in public law cases: care proceedings (Booth 2004; 2005; Brophy et al, 2005; Freeman and Hunt, 1998; Lindley 1994); and adoption (Charlton, 1998; Mason and Selman, 1997). The parents in the Booths' research all had learning difficulties; those in Brophy's were all from minority ethnic groups. The other four public law studies used more general samples. Private law cases are the focus of eight studies (Buchanan et al, 2001; Davis, 1988⁹; Families Need Fathers, 2008; Harne, 2004; Painter, 2002; Pickford, 1999; Radford et al, 1999; Trinder et al, 2006a). The parents in Trinder's study were those participating in in-court conciliation and in Buchanan's those subject to a report from a family court welfare officer. Harne, Painter and Radford focus on parents who have experienced domestic violence. Pickford's sample consists of fathers applying for parental responsibility orders or registering parental responsibility agreements.

Parents may seek help from solicitors, however, without necessarily being involved in court proceedings. Material is therefore included from an additional 10 studies with broader samples (Corlyon, 2009; Davis et al, 2000; Greenfields, 2002; Hester and Radford, 1996; Lindley et al, 2001; Moorhead et al, 2004; Peacey and Hunt, 2009; Simpson et al, 1995; Smart and Neale, 1999; Thiara, 2009). All but one of these studies (Lindley et al, 2001, which uses a sample of parents subject to child protection procedures) involve private law issues. Two (Hester and Radford, 1996 and Thiara, 2009) are confined to women who have experienced domestic violence, and in the case of the latter South Asian women victims only. Greenfields' respondents were all members of the travelling community. Moorhead reports the perspectives of resident parents; Corlyon and Simpson that of non-resident. Davis, Peacey and Hunt, and Smart and Neale, all cover both perspectives.

Also included are some studies of family cases which are not confined to parents or necessarily children's issues viz: Pleasance et al, 2004; Sefton, 2009; Stark and Birmingham, 2001; Walker et al, 2007 and Wright, 2006; and one study (Craig et al, 2001) which includes family cases as part of a broader study of non-business, civil cases. Most of these studies relate only to private law cases or do not differentiate their findings.

Only a few of the studies referred to, all in this last group, have solicitors as their primary focus (Craig et al, 2001; Sefton, 2009; Walker et al, 2007; Wright, 2006). In others the amount of data relating to solicitors varies from fairly substantial to only occasional references.

⁹ Although this research was conducted prior to the Children Act it was considered too important a study to omit.

Sample sizes

It is not always clear what proportion of parents in a study actually had experience of using a solicitor. In those which do provide this information, sample sizes vary from several hundreds to as few as 10:

Over 100 participants with experience of solicitors

Craig et al, 2001:	180 family clients, not necessarily parents or children's issues
Davis 1988	297 family clients, mainly children's issues
Davis et al, 2000	577 clients with children's issues
Moorhead et al, 2004	119 resident parents
Stark and Birmingham, 2001	1838 initial telephone survey, c526 follow-up postal survey. Divorce clients, not necessarily parents or children's issues
Walker et al, 2007	916 family clients in telephone survey; 385 had a child with the other person in the case; 44 in-depth interviews with parents.

Between 51 and 75 participants with experience of solicitors

Pickford, 1999	65 fathers
Smart and Neale, 1999	60 parents

Between 26 and 50 participants with experience of solicitors

Lindley 1994	46 of 48 adults (of whom 39 were parents)
Families Need Fathers, 2008	44 parents
Freeman and Hunt, 1998;	35 parents
Wright, 2006;	40 divorcing clients, not necessarily parents or children's issues

25 or less participants with experience of solicitors

Brophy et al, 2005	12 parents
Painter, 2002	12 parents
Peacey and Hunt, 2009	20 parents
Sefton, 2009	12 family clients, not necessarily parents or children's issues
Greenfields, 2002	10 parents

In the remaining studies it is probable that most, possibly all, of the parents in public law cases involving court proceedings were legally represented. Total sample sizes in these cases are: Mason and Selman, 1997 (21); Booth and Booth, 2004 (30); Charlton et al, 1998 (100). Nine of the 28 parents in Lindley's study of advocacy for families subject to child protection procedures had also had lawyer advocates and an unspecified number may have had advice from a lawyer rather than a specialist advocate.

In private law, however, even where there are court proceedings, a greater proportion of litigants are likely to be self-represented. Where the overall sample is small, therefore, any findings relating to solicitors may be based on very few cases, while larger studies probably have a more substantial evidence base. Total sample sizes in these studies, some of which include parents where there have not been proceedings, are:

<i>Total sample over 100</i>	
Trinder et al, 2006a	250
Radford et al, 1999	130
<i>Total sample 76-100</i>	
Buchanan et al, 2001	100
Simpson et al, 1995	91
<i>Total sample 26-50</i>	
Hester and Radford, 1996	40
Corlyon, 2009	34
<i>Total sample 25 or less</i>	
Thiara, 2009	12
Harne, 2004	10

Representativeness

Only a few of the studies which do give the number of participants with solicitors also report what proportion of their target group their *total* sample represents. Although how they calculate response rates varies, it this does give some indication of how generalisable the findings might be beyond the group participating in the research:

Davis, 1988	37% of the sampling pool; 50% of those approached;
Freeman and Hunt; 1998	30% of the pool;
Painter, 2002	16% of those identified;
Walker et al, 2007	78% of contactable clients in phase 1 (31% of sampling pool); 69% phase 2.

The high response rate in this last study, combined with the very large numbers involved, means that the findings are likely to be representative of parents using solicitors in the study areas. The researchers also conclude that they can be generalised more widely since the research areas reflected the whole country on most key characteristics apart from ethnic mix and the pilot areas were fairly representative of the country as a whole on most key factors other than the ethnic mix of the resident populations and over-representation of clients from more deprived areas. Davis considers that the parents in his study, since they were drawn from court lists, are likely to be representative of those bringing their disputes to court although no data is produced to substantiate this. Freeman and Hunt report that their sample of families going through care proceedings under-represented families not known to Social Services prior to the events which led to proceedings and those with the most serious social problems. Painter does not give any indication of how her sample compared with those who did not participate in the research.

Response rates are also cited in three of the studies which do not give the numbers of respondents with experience of solicitors:

Buchanan et al, 2001	25% of those eligible
Radford et al, 1999	25%

Trinder et al, 2006a 67%

Buchanan's sample is described as well matched against the total sampling pool on most characteristics except there was a smaller proportion of cases where there were serious welfare concerns. Trinder and colleagues report that their sample was highly representative of parents going through in-court conciliation, although it possibly slightly under-represented the more difficult cases where a welfare report was subsequently ordered. Davis and colleagues (2000), while not giving the response rate, note that their total sample of 965 clients (577 of whom consulted solicitors over children's issues) over-represented those in non-manual occupations.

In terms of the geographical spread of the study samples several either draw from a national population or from a very large number of locations (Craig et al, 2001; Davis et al, 2000; Families Need Fathers, 2008; Lindley, 2004; Moorhead et al, 2004; Peacey and Hunt, 2009; Pleasance et al, 2004; Radford et al, 1999; Sefton, 2009; Stark and Birmingham, 2001). Most of the others use at least three research sites, viz:

Booth and Booth, 2004	six local authorities
Brophy et al, 2005	three court areas
Buchanan et al, 2001	three family court welfare services
Corlyon, 2009	seven locations
Freeman and Hunt, 1998;	three local authorities
Hester and Radford, 1996	three areas
Pickford, 1999	11 courts
Trinder et al, 2006a	eight courts
Walker et al, 2007	nine areas

Of the remaining studies which provide data on this, Davis (1988) sourced his sample through two county courts in different circuits; Harne (2004) through two support networks for women who had experienced domestic violence and Charlton (1997) through two adoption support projects. Smart and Neale (1999) and Wright (2006) used a single geographical area although since these are quite large (West Yorkshire and the North of England, they are likely to cover quite a spread of practice. The most localised studies are those by Painter (2002) who used a single Cafcass team and Mason and Selman (1998) who drew from one adoption support project.

Details of all the studies can be found in Appendix B, table 4.

10 Parental perspectives on their solicitors

Choosing a solicitor

We are aware that birth parents had little understanding of the legal process and their choice of solicitor was often ill-informed and frequently based on their knowledge of a solicitor from very different briefs. (Charlton et al, 1998)

A number of studies of court proceedings, particularly public law cases, highlight difficulties experienced by parents in identifying an appropriate solicitor (Booth and Booth, 2004, 2005; Charlton et al, 1998; Freeman and Hunt, 1998; Greenfields, 2002; Lindley, 1994; Mason and Selman, 1997). Freeman and Hunt, for example, note that only eight of the 35 parents interviewed had been represented by solicitors with specific child or family law expertise. Most had approached solicitors they already knew or who had been recommended by family and friends and the rest had taken pot-luck. Although only one parent said they regretted not having a specialist lawyer, the researchers were concerned about the impact of this on the quality of representation. Similarly, Booth and Booth (2004; 2005) report that few of the parents in their sample, all of whom had learning difficulties, were offered any advice about how to find a solicitor, most being left to do this for themselves, a situation, the researchers concluded, which *'does not serve parents well'*.

I went to a solicitor to try and get (the child) back. I went through Yellow Pages and saw the solicitor's name and thought, he sounds a good 'un. (Booth and Booth, 2004)

Greenfields' study of traveller parents involved in private law residence and contact cases reports that only two (of eight) were able to instruct solicitors with any previous experience of traveller families. While neither was completely happy with the advice they had been given, as one said *'at least he'd had contact with people that were on a similar path to me'*.

Overall satisfaction with solicitors

Data on overall satisfaction with solicitors is fairly limited. In terms of parents involved in court proceedings over children, three studies present data on care cases. One (Freeman and Hunt, 1998, which looked at a broad sample of care cases) found *'a generally high level of satisfaction with the support they had received, the challenge the solicitor put up in court and the overall standard of service, including advice, explanations, preparation of the case, understanding and contact'*. Only five parents (of 34; 14%) voiced any criticism. Moreover satisfaction was not affected by the outcome of the case.

The second study, on a sample of parents with learning disabilities (Booth and Booth, 2004; 2005), similarly found that the majority had a good opinion of their solicitor and were satisfied with the service received. Indeed only one parent (of 32; 3%) could think of anything they did not like. Again, views about the solicitor were not linked to outcome. The third study (Lindley, 1994, which used a general sample of care cases)

found a more dissatisfied group, with only 52% expressing satisfaction; 7% being ambivalent and 41% dissatisfied. As noted in an earlier chapter it is possible that since this study was conducted by Family Rights Group, it may have attracted a more generally disaffected sample of parents. However it should be noted that two studies of parents whose children had been adopted, often compulsorily (Charlton et al, 2004; Mason and Selman, 1997) also record that ‘many’ were unhappy with their solicitor’s performance, although not giving precise numbers.

There is also scant data about the overall satisfaction of parents involved in private law proceedings. One study of in-court conciliation (Trinder et al, 2006a) reports that lawyers had consistently positive ratings from both resident and non-resident parents, with 87% (86% RPs; 89% NRPs) saying they had been fairly or very helpful. A pre-Children Act study of in-court conciliation by Davis (1988), reports that 45% rated their solicitor at very helpful and only 12% as not at all helpful.

A few of the studies which use broader samples (ie those going to solicitors because of family issues but not necessarily involving the courts) give data on overall satisfaction levels. Research on participants in a pilot scheme to provide information to couples intending to divorce (not necessarily parents) found that most were satisfied with their solicitor, a higher proportion than were satisfied with counsellors or mediators. A fifth, however, were dissatisfied, with some being extremely negative and sometimes angry (Stark and Birmingham, 2001).

Later research by this research group (Walker et al, 2007) which compared the views of large numbers of parents using solicitors before and after the introduction of FAInS (the Family Advice and Information Service) found even higher rates of satisfaction 70% in each group being very satisfied and 21%/24% being quite satisfied. Only a tiny minority (9% pre FAInS and 5% post) were not very satisfied or not at all satisfied.

Other studies have found lower satisfaction rates, although this is probably explained, at least in part, by the nature of the samples. Moorhead and colleagues (2004), using a sample of lone resident parents contacting a helpline for one-parent families, report that although the majority were satisfied (62%) a substantial minority (30%) were not. Respondents to the small membership survey by Families Need Fathers (2008) were very disgruntled, 66% being negative or strongly negative, only 5% positive and 30% saying their solicitor had been ‘average’. Simpson and colleagues, researching the views of non-resident parents (1995) similarly report the ‘*deep antipathy*’ towards the legal profession held by some fathers, ‘*grounded in the view that (they were) at best ineffectual and at worst biased*’.

One very large study of non-business clients seeking legal advice (Craig et al, 2001) includes a small proportion (12%) of divorce cases. Although these may not have involved children’s issues, indeed the clients may not even have been parents, it is interesting that although 74% said their solicitor had been good or very good, this was lower than the average for the whole sample (83%) and the proportion rating their solicitor as poor (12%) was higher than the average (7%). Divorce clients were also slightly more likely to have complained about their solicitor (11% compared to an average of 8%).

There is very little information on what proportion of clients change their solicitor because they are unhappy with the service received although this could provide further insights into satisfaction levels. Indeed one study of care cases (Booth and Booth, 2004) reports that one of the reasons why parents expressed little criticism of the solicitor they were asked about was that they were not reluctant to get rid of those they felt were not going a good job. Research with parents whose children had been adopted (Charlton et al, 2004) notes that *'many lost faith in their solicitors and changed them in panic at the time of key hearings'*.

In private law Davis (1988), reports that 26% of clients had moved to their current solicitor from a different firm, although it is not specified whether this was because of dissatisfaction. Walker (2007) states that most of those who had changed had done so out of dissatisfaction but records much lower proportions changing (6% pre-FAInS and 3% post). Greenfields' small study of traveller families (2002) reports that three of eight parents had changed their solicitor because of dissatisfaction. Smart and Neale (1999) report that 'not infrequently' non-resident fathers sacked their solicitors and represented themselves.

There is very little data on why parents decided to go to a solicitor in the first place or whether, with hindsight, they thought they had made the right decision. Research on divorcing couples involved in the information meeting pilots (Stark and Birmingham, 2001) found that only a minority (41% at the time of the meetings and 27% two years on) had not consulted a solicitor, the reason being either they did not consider it was necessary or that they could not afford it. For the majority of people, the researchers concluded 'it seems that using a solicitor during the process is inevitable', citing one respondent as saying: *'if you're ill you go to the doctor's. If you want to divorce you go to the solicitor's*. Although the reasons given are described as 'many and varied', the only ones cited are: financial advice (65%); to protect their rights (60%) and to manage the divorce (58%). Another study (Genn, 1999) describes what divorcing clients wanted from their solicitors as advice about their legal rights (66%); procedures (43%); assistance in solving a problem (44%); and financial advice (43%). This study also concluded that divorcing couples appear to see the law and lawyers as fundamental to the resolution of disputes surrounding relationship breakdown. Eighty-two per cent of interviewees consulted a solicitor in private practice at some point, and for 61% it was their first port of call. The reliance on legal advice was much greater than for other forms of 'justiciable' problems.

In Freeman and Hunt's study of care proceedings (1998), in which all the parents were legally represented, most saw such representation as crucial and only two (out of 35) said that if they were in the same situation again they would prefer to do without a solicitor and represent themselves. Similarly, 81% of the parents in the study by Davis and colleagues (2000) said they would recommend others in their position to use a solicitor. There does not appear to be any data on whether parents who have represented themselves subsequently considered this had been the right course of action – although Moorhead and Sefton's study (2005) included a small number of self-represented litigants, some of whom were involved in family cases, this group is not differentiated.

Satisfaction with outcome

Surprisingly few studies report what clients thought of the outcome of their solicitor's involvement. Davis and colleagues (2000) looked at cases in which an agreement was reached by solicitor negotiation. Sixty-four per cent said they were either very (31%) or fairly (33%) happy with the agreement; 23% were very (16%) or fairly (7%) unhappy and 13% were neutral. They also report data from an earlier stage in the study which found that where agreement was reached without any court attendance 55% of parents thought the agreement was completely in the child's best interests and 48% that it was completely reasonable from their point of view. Where agreement was reached on the court premises but without a trial around the same proportion (53%) thought it was entirely in the child's interests, but only 35% thought it was reasonable. At both points, they report, men were less likely to be completely positive than women, from which the researchers infer that solicitors bring pressure to bear on their male clients, requiring them to modify their initial position to bring this more into line with the norms of settlement in child contact disputes. They also found a positive association between fear of violence and satisfaction, with 69% of clients who reported such fear considering the outcome to be completely reasonable, compared to only 36% where this was not an issue.

A study of divorce cases (Craig et al, 2001) reports that 57% were very (26%) or extremely (30%) satisfied with the outcome, with only 21% being not very (10%) or not at all satisfied. However it does note that divorce clients were less satisfied than those with other civil problems.

Walker and colleagues (2007) report another measure which might reflect satisfaction with the effect of the solicitor's involvement. Where cases had been resolved, 83% of clients said they felt better about the problems they had when they first went to the solicitor, with only 2% being more worried.

As noted earlier, two of the studies of care proceedings (Booth and Booth, 2004; Freeman and Hunt, 1998) report that satisfaction with the solicitor did not appear to be affected by the outcome of the case. Surprisingly, however, none of the other studies provide any data on this.

What do parents value in a solicitor?

There are a number of studies examining client expectations of their solicitor in other areas of law. The findings have been summarised as follows (Moorhead et al, 2003):

- Promptness;
- Interest in the client's problem and whether they were listened to;
- Understanding and remembering the facts of the case;
- Honesty;
- Willingness to explain matters and keep the client informed;
- Attentiveness;
- Explaining the necessary legal steps;
- Predicting how long the case would take;
- Willingness to make home visits;

- Continuity or explanation about the use of multiple advisers;
- The handling of complaints;
- Confidence in advocacy and negotiations and robust advice.

Moorhead also uses his own research (Moorhead et al, 2001) to explore the issue in another way - the factors strongly associated with overall dissatisfaction. This found statistically significant associations with: the use of more than one adviser (and not receiving adequate explanations for this); case duration; perceptions that the case took too long and not being given any indication of expected duration; and poor handling of client complaints.

In family law, however, there appears to be no research which specifically addresses parental expectations of their solicitors or the factors linked with overall satisfaction. Nonetheless it is possible to compile, from the accounts in the various studies of what parents praised or criticised, a list of what is seen to be valuable.

The importance of *continuity* emerges from several studies (Charlton et al, 1998; Davis, 1988; Freeman and Hunt, 1998; Lindley, 1994). Davis comments that:

Being passed down the line does not inspire confidence. It could contribute to the view that they were not being given authoritative advice, or that they were just another case, slotted into the office routine.

Freeman and Hunt report that discontinuity was a source of confusion and insecurity for most parents who had experienced it, while a study of parents who had lost their children to adoption (Charlton et al, 1998) refers to parents feeling their solicitors had 'deserted' them by sending them to other colleagues.

In terms of the service received from individual lawyers, Freeman and Hunt (1998) list the qualities which appeared to make a 'good solicitor' in the eyes of parents involved in care proceedings:

- Being partisan and committed enough to put up a good fight and show a personal interest in them and their children;
- Being caring and understanding;
- Developing a rapport with the client;
- Being prepared to listen. Parents valued the opportunity to unload some of their burdens;
- Feeling believed;
- Involving parents in discussion, negotiations and decision-making;
- Being able to advise, inform and explain in simple, direct and honest language.

In private law, Stark and Birmingham (2001) concluding that solicitors are regarded as providing a good service when they 'do what the attendee wants in the way that they want', report that this *often* included:

- The solicitor keeping the client informed about what was happening;
- Not dragging their feet and taking longer than necessary;
- Not fostering an adversarial situation between the parties.

It was also important for people to feel that the solicitor was working in alliance with them, rather than dictating what actions should be taken, and that the solicitor acknowledged the emotional impact of divorce. When the client felt the solicitor cared about what happened to them, they comment, they lavished praise and expressed satisfaction with how the case had been handled.

Other studies both confirm and add to the factors identified in these studies. Although there is a degree of overlap, they cluster around four main themes:

Competence, efficiency and commitment

- Availability (Freeman and Hunt; 1998; Lindley, 1994; Stark and Birmingham, 2001; Walker et al, 2007);
- Acting expeditiously (Davis, 1988; Stark and Birmingham, 2001; Walker et al, 2007);
- Competence (Freeman and Hunt, 1998); experience (Lindley, 1994); and grasp (Davis, 1988);
- Understanding of cultural issues (Greenfields, 2002; 2006);
- Explaining the options (Davis, 1988; Stark and Birmingham, 2001); providing understandable information and explanations (Booth and Booth, 2004 and 2005; Freeman and Hunt, 1998; Lindley, 1994; Stark and Birmingham, 2001; Walker et al, 2007; Wright, 2006);
- Willingness to give advice (Davis, 1988; Lindley, 1994; Smart and Neale, 1999; Stark and Birmingham, 2001; Walker et al, 2007);
- The quality of advice (Freeman and Hunt, 1998; Lindley, 1994; Moorhead et al, 2004; Pickford, 1999; Simpson et al, 1995; Walker et al, 2007);
- Showing interest and commitment (Charlton et al, 1998; Freeman and Hunt, 1998; Stark and Birmingham, 2001; Walker et al, 2007); making an effort (Booth and Booth, 2004; Davis, 1988; Freeman and Hunt, 1998; Lindley, 1994).

Partisanship, adversarialism and compromise

- Being partisan (Booth and Booth, 2005; Davis, 1988; Freeman and Hunt, 1998; Stark and Birmingham, 2001; Walker et al, 2007; Wright, 2006); emotional commitment (Stark and Birmingham, 2001; Walker et al, 2007); believing the client (Booth and Booth, 2005; Freeman and Hunt, 1998);
- Not being aggressively adversarial (Davis, 1988; Greenfields, 2002; Stark and Birmingham, 2001);
- Being conciliatory (Davis, 1988); but not too conciliatory (Davis, 1988; Walker et al, 2007); preserving a relationship with the ex-partner (Wright, 2006); getting a 'fair settlement' rather than one which gave them the best deal (Wright, 2006).

Participation and control

- Involving the client (in discussions, decision-making and negotiation) (Davis, 1988; Freeman and Hunt, 1998; Lindley, 1994; Stark and Birmingham, 2001; Wright, 2006);
- Doing what the client wants (Smart and Neale, 1999; Stark and Birmingham, 2001);

- Not making the client feel pressurised (Booth and Booth, 2005; Corlyon, 2009; Stark and Birmingham, 2001) or rushed into decisions (Corlyon, 2009; Davis, 1988).

Inter-personal skills and support

- Ability to develop a rapport with the client (Freeman and Hunt, 1998; Walker et al, 2007);
- Willingness to listen (Booth, 2005; Freeman and Hunt, 1998; Walker et al, 2007);
- Being caring (Freeman and Hunt, 1998; Stark and Birmingham, 2001); sensitive (Walker et al, 2007) and understanding (Booth, 2005; Freeman and Hunt, 1998; Stark and Birmingham, 2001); not impersonal (Corlyon, 2009; Freeman and Hunt, 1998) or brusque (Freeman and Hunt, 1998);
- Providing emotional support (Lindley, 1994; Sefton, 2009; Smart and Neale, 1999);
- Not being judgmental (Greenfields, 2002; Lindley, 1994; Walker et al, 2007).

Each of these main themes is examined in more detail below.

How far do solicitors meet their client's expectations?

Competence, efficiency and effort

Whatever else clients may value in a solicitor, at its most basic they are seeking help to resolve a legal problem (Walker et al, 2007). It is, therefore, likely to be important for them to feel confident that the lawyer understands the issues in the case; explains and advises appropriately on the options; deals with the matter competently and expeditiously; and vigorously pursues a course of action likely to promote the client's interests. One must also assume that clients expect their lawyer to understand the law, although information on this is conspicuous by its absence.

Understanding the issues

Only one study (Trinder et al, 2006a) examines this specifically in relation to parents involved in court proceedings. This reports very high levels of satisfaction among parents in private law disputes (86%), with both resident and non-resident parents expressing 'consistently positive' ratings. Favourable results are also reported in studies using broader samples of parents, all relating to private law issues. Davis and colleagues (2000) report that 91% of parents felt their solicitor had understood the situation very (69%) or quite (22%) well, with 6% opting for 'not very well' and 3% for 'not at all well'. There were only small differences in the responses of men and women. Although the question posed by Walker and colleagues (2007), was slightly different - how helpful the solicitor had been in identifying the client's problem - they also report high scores, with 88% of pre-FAInS clients and 89% post FAInS rating their solicitor as 'very' or 'quite' helpful. The findings of a study by Moorhead and colleagues (2004) based on a sample of resident parents using a helpline, although not necessarily about children's issues, may also indicate quite a high level of confidence in the lawyer's grasp of the situation, since over 60% said they felt they had been given advice tailored to their problems. Most of the unmarried fathers in Pickford's

study of parental responsibility orders (1999) said they had not had difficulty in getting correct advice, although solicitors who were not specialist family lawyers were said to have limited knowledge of the topic.

While in general solicitors seem to attract high levels of approval for their understanding of the issues, a somewhat discordant note is evident in research with mothers who have experienced domestic violence. Thus Painter (2006) concludes that *'it is clear that....a lack of understanding still exists around the link between domestic abuse and the issue of child contact'*. Her data, it has to be said, is not typically in the form of explicit criticisms from the mothers themselves about lack of understanding. However the fact that three of the 12 participants said that domestic violence had not come up in discussions with their solicitors at all and only two of the others said that the solicitor had raised the issue, may be indicative of a failure to understand the difficulties abused women have in disclosing their experiences (see also Walker et al, 2007). Some of the participants in this study also felt there was insufficient time to discuss the abuse fully, or that the lawyer's attitude meant they were not particularly responsive. In another study (Thiara, 2009), a mother who said that she had been advised to accept unsupervised contact, reported her solicitor saying *'(the child)'s with you 24 hours a day, what will happen for a few hours?'*, which would seem to reflect a lack of appreciation of the links between domestic violence and child abuse. Hester and Radford (1996) also note that most women reported solicitors paying extremely poor attention to issues such as safety at court and keeping their whereabouts secret.

Surprisingly, there appears to be no data on solicitors' understanding of cultural issues in minority ethnic families. Brophy and colleagues (2005), however, reporting that half their BME interviewees were dissatisfied with their statements, does refer to perceptions that their cultural and religious backgrounds were not covered, which may indicate a lack of understanding of the relevance of these factors. Information on other forms of diversity is also very limited: Greenfields' study of traveller parents (2002) reports that only two of the eight parents interviewed said their solicitor showed cultural awareness of their lifestyles, while three said they had changed solicitor because of the prejudice displayed against them.

Providing information and explaining the options

The small amount of data available on these factors presents a generally positive picture. In the study by Walker and colleagues (2007) more than nine in 10 clients (95% pre FAInS; 92% post) said the solicitor was helpful in providing information and 'most' confirmed that s/he had offered them a range of options and explained the advantages and disadvantages of each. Similarly, Davis's pre Children Act study (1988) found that 88% of informants said the solicitor was helpful (60%) or fairly (28%) helpful in 'giving a better idea of the options' (with men and women giving similar responses). Only three per cent said the solicitor had not been at all helpful in this respect. However it did note a number of cases where parties felt they had lost out because the solicitor had not explained the full legal position, including a mother who had ceded 'custody' not knowing about the possibility of joint custody. Corlyon's recent study of non-resident parents (2009) similarly notes 'a number of respondents' who felt that the option of shared parenting had not been fully explored with them and

that they had been shepherded, by solicitors - and the legal system generally – into agreeing that one parent should have primary responsibility.

The solicitor's ability to explain things in a way which is intelligible to the client, of course, is crucial. Some clearly succeed in this (Booth and Booth, 2005; Freeman and Hunt, 1998; Lindley, 1994; Walker et al, 2007), although sometimes only after it has become apparent the client has not understood, as evidenced in these quotes from a study of parents with learning difficulties involved in care proceedings:

She did it so I understood. If there was something I didn't understand (she) put it in shorter sentences and explained it more clearly. (Booth and Booth, 2005).

When solicitor sends me anything I ask her to put it in plain English and not jargon. Cos she puts words in my records and I can't understand them. (Booth and Booth, 2004)

Walker and colleagues (2007) also cite 'several' clients who expressed appreciation of their solicitor checking that they had understood what was being said and felt able to ask if they did not.

She's really good... she explains everything for me because I'm stupid.

Some of the informants in this study said their solicitor had been careful not to use language which they did not understand, though others were less fortunate:

I went to another lawyer first, and he started proceedings, but I didn't go through with it. He was a male lawyer. I am not sure if it was because he was a man – I don't know. A woman lawyer is much easier. She would listen to me, and the words she used in the letters were quite firm, straight to the point. She would listen, then put it down in the way that you would say it, not in the jargon. I could just phone her up. If I didn't understand some points, the secretary would explain it to me. The letters from the lawyer, though, made sense. They were forceful, but I could still understand them. The other lawyer wrote high[ly] convoluted letters. I don't know if she had a family, but I think that female lawyers understand more. She listened to me, it was a good thing that I went to her.

I said, 'Sorry about the misunderstanding but I don't know what you're saying. You have to tell me in layman's terms, I don't understand in the big languages you come out with.' I said, 'I'm sorry if you think that I'm being difficult, but I don't understand what you're saying' ...At first I didn't know what these big words were and stuff like that, I hadn't got a clue.

An earlier study by this research group (Stark and Birmingham, 2001) also reports some clients complaining of solicitors not explaining things clearly or using legal jargon. Wright (2006) found that although most interviewees found solicitors' letters clear and easy to understand, there was more of a problem with verbal information, and that this was not confined to the less educated and articulate. Having observed the interviews she comments that this was not surprising since solicitors did not always explain all aspects of the case clearly and did not explain technical terms. One solicitor, who 'took a great deal of time explaining', was described as 'exceptional'. She also makes the important point that interviewees were sometimes hesitant about admitting to the researcher that they had not understood, and often blamed themselves

for a failure to understand, eg 'I get easily confused'. Thus it is possible, she suggests, that clients gave the solicitor the impression of understanding what was being said and that instructions were accepted in the mistaken belief that they were making an informed decision.

Advice

Davis's pre Children Act study (1988) commented on the perceived reluctance of some solicitors to give advice, noting that it was more common to be told that a solicitor had failed to do this than that they had been too controlling. Stark and Birmingham (2001) also report some criticism on this score. However Walker's later study (2007) suggests that this may no longer be such an issue, since almost all clients (95% pre FAInS; 94% post) said their solicitors had been 'very' or 'quite' helpful in terms of the legal advice given. As noted earlier, 60% of the resident parents in the survey by Moorhead and colleagues (2001) were satisfied that they had been given advice tailored to their problems. Positive findings are also reported by Pleasance et al, (2004), who note that clients with divorce problems (who are not necessarily parents, of course,) 'frequently' rate the advice given as 'very helpful'.

The only data on the views of parents in court proceedings (Freeman and Hunt, 1998, public law) is generally positive about the quality of advice. However there was one exception to this: parents who had agreed, on the advice of their solicitor, to their children being accommodated by the local authority, only to find themselves later subject to care proceedings, felt they had been 'sold down the river' by solicitors who had misled them and taken the line of least resistance.

It is not clear from research whether clients expect advice on matters others than the purely legal. Most of the *solicitors* interviewed by Walker and colleagues (2007) thought that clients had unrealistic expectations, believing solicitors could solve all their problems. However the researchers did not get this impression from the clients themselves - many clients were reluctant to raise non-legal issues with their solicitor, were not expecting them to help them deal with non-legal issues or to refer to other agencies, and most placed greatest value on the quality of the legal advice.

The focus of that research was on the Family Advice and Information Service (FAInS), a project which aimed to extend the solicitor's role in family cases to provide a more holistic service and signpost clients to other relevant services. Post FAInS clients were more likely to report that their solicitor had suggested a referral to another agency or made a referral on their behalf (56% compared with 48%), the most common service being mediation (26% pre FAInS, 32% post). Other services included domestic violence support services, marriage counselling, personal or other forms of counselling, social services and welfare advice services. Around six in 10 clients did actually make contact with these services (66% pre FAInS; 62% post) of whom three-quarters (73% pre FAInS and 73% post) said the contacts had been very or quite helpful.

Efficiency and effort

In a study of 'non-business clients', 12% of whom were going through a divorce, a substantial minority were critical of their lawyer's inefficiency or lack of effort (Craig et al, 2001). Twenty-four per cent specifically cited inefficiency and 19% lack of

interest in the case; while 8% said the solicitor could have worked harder and 7% that s/he was careless. Although the report does not present separate figures for the family cases it notes that while 21% of all clients felt their lawyer could have achieved more, divorce clients were one of the two groups most likely to feel that more could have been achieved. A study using a sample of lone parents who had contacted an advice line (Moorhead et al, 2004) reports that almost 40% thought the lawyer had taken too long to deal with their case, although the high level of dissatisfaction is probably at least partially explained by the source of the sample.

Pre Act research on a conciliation sample (Davis, 1988) also reports that ‘one of the most common complaints’ was that the solicitor had acted too slowly. Although he suggests a number of alternative explanations, it was tempting, he concluded, in some of the cases, to ascribe this to ‘*sheer indolence*’. Nonetheless he also noted that it was clear that many solicitors do act, they are efficient, and a minority display commendable speed. Later research by Davis and colleagues (Davis et al, 2000) suggests that more clients are satisfied than dissatisfied, reporting that 64% thought the solicitor had acted very promptly. Stark and Birmingham (2001) do not give figures but report one of the two most common reasons for people being dissatisfied was the length of time solicitors took to process the divorce, with some accusing solicitors of ‘spinning things out’.

Other research makes only brief reference to perceptions of efficiency and effort. Freeman and Hunt’s study of parents involved in care proceedings (1998) cites ‘*incompetence*’ and ‘*laziness*’ among the criticisms made by parents (while emphasising that only five of the 34 parents in the study had any complaints at all). Two other studies of care proceedings also paint a generally positive picture: Lindley (1994) refers to parents appreciating the effort solicitors made to explain and prepare cases and their willingness to advise almost on demand while Booth and Booth (2005) note that even when parents had lost their children they appreciated the solicitor had fought hard for them. However both these latter studies also refer to other parents who were not convinced that their solicitor had done this:

Now and again I think he’s doing a good job but to me I think he could have done a lot better to try and save me two boys and me daughter. He could have tried harder with them and he could try harder with this one as well. It’s just got to the stage where I find myself not trusting him now. (Booth and Booth, 2004)

Partisanship, adversarialism and compromise

I felt he was not 100% on my side. He was easy to talk to and explained things well but did not fight for me. (Wright, 2006)

The importance to clients of feeling the solicitor is on their side and vigorously pursuing their interests has been a key theme in pre and post Act research by Davis (1988; 2000), who argues that:

The solicitor’s partisanship enables him to provide a different order of support from that offered by mediators or welfare officers. Qualities which do not in themselves imply partisanship eg willingness to listen or being down to earth, each of which is highly valued, need to be provided within a framework of unambiguous partisanship because partisanship is what people feel they need when they are under threat.

Solicitors who understand this provide a haven of support for their clients. (Davis, 1988).

It is also noted in Freeman and Hunt's study of care proceedings (1998) and studies on solicitors in private law by Stark and Birmingham (2001) and Wright (2006). As noted earlier, Stark and Birmingham found that 60% of clients went to a solicitor because they wanted to protect their rights.

This does not necessarily mean that clients want an adversarial, 'all-guns blazing' approach. Indeed some are reported to be critical of this – seven per cent of the parents in Davis's 1988 research said their solicitor had been unnecessarily forceful and aggressive. Stark and Birmingham (2001) report a common concern that a solicitor might aggravate their situation, because the involvement of solicitors suggested opposing interests and fighting corners. They also cite some clients who felt the solicitor's unduly adversarial approach had actually exacerbated the conflict with their ex-partner:

I don't think he's acting on my behalf. Even my husband said 'Who's this man working for, you or me? There's no animosity between us at all apart from when solicitors stick their finger in it...I think it's dreadful.

Wright (2006) similarly reports that that it was important to clients that the solicitor did not act in a way which further exacerbated conflict, though commenting that most of her research sample were satisfied that this had been the case.

However, being conciliatory within a framework of strong partisanship, which Davis concludes is the approach clients are typically looking for, is not necessarily what everyone wants, and can in any event be a difficult path to tread. The 'moderately-worded affidavit', identified as 'part of the stock in trade of the new breed of matrimonial lawyer'. 'Detached objectivity', rather than unquestioning adherence to the client's instructions. The readiness to negotiate and compromise. Perceived reluctance to stand up to the aggressive tactics of the other side. All these, according to Davis (1988), can leave clients feeling aggrieved. This study notes a 'great many' cases in which the solicitor was regarded as insufficiently robust or wholehearted and that, far from being regarded as unduly litigious, many solicitors were seen as being far too accommodating. Stark and Birmingham (2001) also report some instances of this.

Indeed it is possible that as the conciliatory approach in family law has become more embedded in mainstream practice, client dissatisfaction may have increased. Writing in 1988, Davis found that most clients favoured a conciliatory approach, and conciliatory solicitors were more likely to be seen as having protected the client's interests. Wright (2006), however, reports that views about solicitors on the 'conciliatory end of the spectrum' were less positive and that the approach of some solicitors in seeing both sides of the dispute was not always appreciated.

Participation and control

Solicitors clearly see it as part of their role to discourage clients from making unreasonable or unrealistic applications (Hunt and Macleod, 2008; Walker et al,

2007). Indeed, according to this latter study, some clients appreciate not being given false hopes:

He's straight with you, doesn't lie to you, won't go behind your back or anything like that. If he doesn't think it's correct what you're saying, he won't just go along with what you say – he'll tell you you're wrong. He tells you how it is, he tells you straight. That's what you want, that's what you're paying him for. I can't see the point in paying somebody who, when they know at the back of their minds you've got no chance, or at the back of their mind they're thinking, well, you're wrong in what you're doing but you're paying me so I'll do it, I don't think so – if he doesn't think you're right, he'll tell you.

However research also indicates that not all clients appreciate, or even understand, the solicitor's stance of 'detached objectivity' (Davis, 1988). As Walker and colleagues (2007) point out:

It is not always easy for solicitors to meet their clients' expectations, particularly if these are unreasonable. While some clients appreciated their solicitor's ability to step back from their case and provide 'honest' and unemotional advice, other clients wanted their solicitor to adopt their own position and become emotionally committed to their case.

Smart and Neale (1999) concluded that what mattered most to men involved in private law disputes about their children was having a solicitor who would 'do their bidding'. Although they might accept advice on how to achieve their objectives, fathers tended to think they should be in control of the process. Not infrequently they decided to dispense with their solicitor and become a litigant in person.

Where clients do take their solicitor's advice they can feel they have not been given a chance to make their case. Corlyon (2009) and Greenfields (2002) refer to non-resident parents' dissatisfaction with being steered away from applying for shared residence on the grounds that it was not achievable. Mothers who have experienced domestic violence report being advised not to raise the issue (Radford et al, 1999; Thiara, 2009) and/or persuaded to agree unsatisfactory and risky contact arrangements rather than argue their case before a court which is perceived to be very pro-contact (Hester and Radford, 1996; Painter, 2006; Radford et al, 1999; Thiara, 2009). Harne (2004) cites a mother who said her solicitor had told her she must agree to contact despite being attacked at knife point post separation. Painter (2006) concludes that:

The current presumption of contact within the Family Court appears to be biasing the way in which solicitors deal with their clients, almost as if to prepare them for the inevitable. Thus it could be said that legal professionals themselves are perpetuating the presumption of contact by preparing cases in a way which reflects this presumption, rather than identifying cases in which it would be appropriate to fight against it.

More generally, as noted in an earlier chapter, few family cases go to full trial, most settle, and at least some parents, in both private and public law cases, report feeling pressurised into reaching 'agreement' or withdrawing their application. Their own solicitor is likely to be one source of such pressure, or even the primary source, as these quotes (Buchanan et al, 2001) indicate:

It was forced upon me – my solicitor said I wouldn't get any concessions out of mother.

It was out of my hands; the solicitor said 'You've got to give him something'.

Stark and Birmingham (2001), noting that it is important for people to feel that their own aims and desires are being taken into account in the way the case is run, rather than the solicitor taking over, also cite instances of clients feeling rushed or pressurised into making decisions before they were ready:

(Solicitors) do have a tendency to bulldoze you into decisions that perhaps you didn't want to make initially.

Davis (1988) refers to parents having a sense of the case being taken out of their control more generally:

The conversion of a family dispute into a legal issue, justiciable by a court, is likely to involve considerable artificiality. The task of translation, enabling a private quarrel to be expressed in such a way that it becomes open to formal legal solution, falls largely to solicitors. It is transformed into a highly technical and inaccessible legal matter. The result is that clients do not understand what is going on and they are not allowed to contribute directly to the resolution of their quarrel. The client's control over the conduct of case declines to vanishing point. This was at the heart of much of the criticism of the legal process.

Research on parents involved in care proceedings (Freeman and Hunt, 1998) notes that parents valued solicitors who involved them in discussion, negotiations and decision-making, with specific criticism being recorded of those who did not discuss whether applications for interim orders should be contested or an expert report should be sought and who did not keep parents informed about discussions with other professionals at court (Lindley, 1994). Brophy's study of BME parents (2005) notes that one of the reasons for dissatisfaction with their statements was that they were not in the parents' own words.

At the other end of the spectrum, one of the intended features of the new process of collaborative law is that it should be client led. Clients are expected to participate fully, rather than have their lawyers speak for them, and to take a full share of the responsibility for identifying the outcomes which best meet their needs (Sefton, 2009). Initial findings, which included a small sample of clients (not necessarily parents, or with child related issues) suggests that in many instances this is achieved and that most people felt that they had participated to the extent they wished and had been able to work with the lawyers involved. However, interestingly, some felt they had had to do too much of their own talking and had been expected to shoulder too much responsibility.

Inter-personal skills and support

According to one analysis of client expectations of solicitors in other areas of law (Sommerlad, 1999) a good relationship with the solicitor is essential in enabling clients to feel a sense of ownership of their case and is linked with their satisfaction with both the process and the outcome. Although these associations have not been specifically tested in family law it is clear that the way the solicitor relates to parents

is important. Thus praise is given to solicitors who are seen to be, variously, approachable; down to earth; caring, sensitive, understanding, patient, a good listener; non-judgemental and empathetic (Booth and Booth, 2005; Corlyon, 2009; Davis, 1988; Freeman and Hunt, 1998; Lindley, 1994; Stark and Birmingham, 2001; Walker et al, 2007).

She was so patient. She gave me as much time as I needed. 'Cos it wasn't easy. There was a lot that I hadn't told anyone else before. And there were times when I just couldn't say it. I'd try but then I couldn't, it was too hard and I would just start to choke and cry. It was dreadful, the things that I said. But she let me talk. She gave me all the time I needed, and just listened. She didn't judge or anything, but let me go on. (Mother cited in Walker et al, 2007)

Bless her, she's ever so nice, she really makes you feel welcome when you go in to see her, she really does ... she helps me – you know, lets me talk. (Father cited in Walker et al, 2007)

Having a positive relationship, of course, is likely to be more productive than a negative one. It also provides clients with an element of emotional support, which may be particularly important in family matters, since, according to one study of civil, non-business litigation (Craig et al, 2001) clients in divorce, matrimonial and child care cases are the group with the highest personal stress levels (an average of 6.4 on a 10 point scale, with a quarter scoring at the top of the scale). Davis (1988) also found that the need for emotional support was common to both men and women, although a later study (Smart and Neale, 1999) suggested that emotional support is particularly important for women, and is what women were looking for above all in a solicitor:

Mothers wanted a friend, a source of support and good advice.....Mothers felt completely isolated and frightened following the break-up of their marriages. They did not want to isolate their feelings and emotions from the legal forum because they were experiencing more than a technical process.

Stark and Birmingham (2001) emphasise the importance to clients of feeling that the solicitor understands the emotional impact of divorce.

There is no quantitative data on the proportion of solicitors who are able to meet their client's needs in terms of positive relationships and emotional support although the high levels of overall satisfaction reported earlier would suggest many do. However clearly some are a disappointment to their clients, with complaints being voiced of solicitors who were brusque, impersonal, treated the client with a lack of care, or were prejudiced (Corlyon, 2009; Freeman and Hunt, 1998; Stark and Birmingham, 2001; Walker et al, 2007; Greenfields, 2002). Davis (1988) concluded that the service provided by solicitors in this respect 'varied spectacularly in quality'.

Cost

The question of costs arises in several studies. Peacey and Hunt (2009) note that complaints about expense were common, as was the perception that lawyers were only in it for the money:

The amount of money that solicitors make out of it is absolutely obscene. And I know they have their charges and that but there's no way it should cost them the amount of money that it does. ...All they are interested in is making the money. That's the be all and end all of solicitors, they're in there to make money and they're basically living off people's misery.

Stark and Birmingham report that costs were one of the reasons why some people going through divorce did not use a solicitor and among those who did, costs were one of the two most common reasons for dissatisfaction. Similar criticisms are recorded in Corlyon, 2009; Smart and Neale, 1999; and Moorhead, 2004. Smart and Neale report that almost all those not on legal aid, men and women equally, felt the charges were excessive, producing a general deprecation of solicitors as people who make money out of the misfortune of others. Craig found that divorce clients were more than twice as likely as other clients to feel they got poor value for money (35% compared with 15%) and 36% felt they were overcharged (compared with 19%).

Pre court advocacy in child protection cases

Research conducted in the 1990's (Freeman and Hunt, 1998) indicated that although parents subject to care proceedings were entitled to legally-aided representation, they might also benefit from the assistance of an independent advocate at an earlier stage in the process. Government guidance on the management of child protection cases (Department of Health, 1999) acknowledged the potential value of such advocacy as a means of empowering parents and enabling them to participate actively in the process and urged that parents should be informed of available services.

Lindley and colleagues (2001) conducted research with 39 parents (and 4 other relatives) who had obtained advocacy and/or advice from either solicitors or specialist advocates – who came from a range of professional backgrounds. The vast majority (29 of the 31 responding to the question) thought the intervention had been helpful/very helpful, and made a positive difference to the case, only two demurring. The researchers acknowledge, however, that their sampling method (recruiting parents via the advocacy services and solicitors' firms), probably skewed the sample towards clients with more positive experiences. Clearly, however, the sample did not consist entirely of those whose children had remained at home since the researchers comment that positive views were not restricted to this group, although no figures are given.

Participants offered two main reasons for needing assistance at an early stage in a process they found extremely stressful. First, information and advice about the process and their rights from a specialist independent source – ignorance and isolation exacerbated their anxiety and fear; input from their advocate was often reassuring. Second, having someone they could trust to work through the issues and be open and honest with them so they could formulate their own views. When this trust was established it seemed to give them confidence to begin to address the issues. Clients described advocates helping them to work with the local authority and building bridges between them.

Advocates played an important role in translating jargon and enabling parents to understand social services concerns. They could help parents to cope in meetings with professionals and make them feel more empowered, less railroaded. Advocates also intervened directly to challenge the local authority, although some were seen as being reluctant to do this and in others the advocate had limited impact because of social services intransigence.

Participants in this study who had had early contact with an advocate valued it enormously; others regretted not doing so. Although they did not necessarily think it would have altered the outcome, they felt it would have increased their ability to participate if they had been aware of the options and the issues and been supported through the process. The research found that, where there was a well-developed relationship between the local authority and a local advocacy service, families had few problems finding an advocate. Where they had to use informal routes, however, they had experienced great difficulty. Families thought it would be helpful, therefore, to have a routinised referral system as part of the early stages of the child protection enquiries. In addition to helping them to find the appropriate help this would also reassure them that seeking an advocate would not incur the risk of it being used against them, of being perceived as confrontational or even guilty.

Conclusions

It is scarcely surprising that parents are more likely to express positive views about the lawyers acting for them and protecting their interests than they are about the courts or Cafcass officers whose concern is the welfare of the child. Nonetheless it is important to highlight the fact that most of the research presented in this chapter shows that the majority of clients are satisfied with the overall service received, with those who are not typically making up a relatively small group (from 3% to 20%). Of the studies which present quantitative data there are only two in which dissatisfied clients are in the majority and each is likely to suffer from a degree of sample bias.

In most respects the research gives a clear picture of what clients in family cases value in solicitors. They want them to be available when needed, to act expeditiously, to be competent and experienced, to explain the options, provide sound understandable information and advice, show interest and commitment, and where relevant, to understand cultural issues. In addition to these aspects of professional competence they also want a solicitor with good inter-personal skills, someone who can develop a rapport with them, who is willing to listen, is caring, sensitive, understanding, non-judgemental and provides emotional support. They do not want to be pressurised or rushed into making decisions or for the solicitor to ignore or override their views about how the case should be run or the desirable outcome – though opinions about whether the parent or the solicitor should be in the driving seat may differ. They also want their solicitor to be partisan, although views on how aggressively they should pursue their client's interests and how far they should take a conciliatory approach appear to vary.

As to how far solicitors are seen as living up to these expectations, the amount of material available varies – ranging from no data, through qualitative only, to substantial numerical data.

In terms of the various dimensions of what might be broadly termed *professional competence*, where there is a reasonable amount of statistical data, solicitors generally get quite high, if not unanimous, approval ratings. In all the studies which cover this well over half of the research respondents considered that their solicitor understood the issues (with 3 studies reporting over 85%, the fourth 60%), although particular groups – women who have experienced domestic violence, BME families and parents from travelling communities are less positive about this. Around nine in 10 were satisfied about the information the solicitor gave and the explanation of the options open to them, although some non-resident parents criticise solicitors for not explaining the option of seeking a shared residence order. Between 60% and 95% were satisfied with the advice they received, although some were critical of solicitors who appeared reluctant to give advice and some parents in public law cases, who said their solicitor had advised them to agree to their children being accommodated in order to avoid care proceedings, thought they had been badly advised. Solicitors are also sometimes criticised for not explaining things intelligibly, although there is no numerical data to indicate how common this is. The only area of professional competence on which there does appear to be substantial criticism is the time taken to complete the case, with delay emerging as a common/the most common complaint in several studies. The other common reason for dissatisfaction is the cost of legal fees.

There is no statistical data on the extent to which solicitors have the *inter-personal skills* clients' value or provide them with emotional support. Clearly not all do – one study notes that in this respect the service provided 'varied spectacularly' and other research notes complaints of solicitors who are perceived as brusque, impersonal, and uncaring. However the overall high levels of satisfaction recorded would suggest that negative experiences are not the norm.

A sense of *not being in charge of their own case* emerges as an issue in several studies, whether in terms of parents not being consulted or kept informed; feeling their own views were marginalised or being persuaded/pressurised into reaching agreements. It should be noted, however, that none of the studies give numbers and while most only record critical comments this does not necessarily mean that most parents have a bad experience. Two groups in particular express dissatisfaction: mothers for whom domestic violence is an issue, who feel pressurised into agreeing inappropriate contact arrangements for their children, and non-resident parents who took their solicitor's advice not to pursue applications for shared residence.

Although there is no numerical data on the proportion of clients who felt their solicitor was insufficiently *partisan*, this is clearly a live issue. At the same time there are also complaints about solicitors being too aggressive in pursuing the client's interests and aggravating conflict. How far this reflects different norms of behaviour by individual solicitors and how far differences in client preferences is an unexplored area.

There is little research on why parents decide to go to a solicitor and none on how those who decide they do not need, or cannot afford, such assistance fare. Difficulties in finding an appropriately experienced lawyer are noted in several studies, though almost all relate to families in public law proceedings. It is not known whether clients experiencing other forms of family problem have similar difficulties.

11 What do we know? What do we need to know?

The limitations of the knowledge base

Only a limited amount of research is available and recent substantial research is rare

The study uncovered only 51 pieces of research conducted in the 20 years since the Children Act which contain *any* material on parental perspectives on courts, solicitors or Cafcass (including its predecessor organisations).

If this seems quite a large number it should be noted first of all that most studies do not cover all three areas. Twenty-two studies deal with only one part of the system – courts (7); Cafcass (4); solicitors (11). A further 15 only deal with two out of three.

Second, most research does not have the views of *parents* involved in *children's* cases as the primary focus. Hence there are more studies in which there are only a few relevant references than there are studies which provide moderate to substantial coverage of any of the target areas.

Third, much of the research is now quite old, with 16 of the 51 studies being published before 2000. Much of the chapter on Cafcass, for instance, is based on research on its predecessor organisations. Only 12 research studies were found which made *any* reference to parents' experiences since Cafcass came into being in 2001, of which only four contained substantial amounts of information. Cafcass's new feedback system is likely to provide a rich source of information in the future but only one year of data is yet available. Hence much of the specifically Cafcass-related material is drawn from inspection reports. In relation to solicitors, although there are more studies conducted in this decade (19), again only four have substantial coverage of the views of our target group. Indeed the most relevant and substantial research study was conducted prior to the Children Act. Recent studies referring to parental experiences of the courts were the most numerous (23) but once again most of these contain just a few references, with only eight containing more substantial material.

The experience of parents involved in public law cases is particularly poorly covered

Only 10 studies deal exclusively with parents involved in public law cases. This compares with 37 dealing with private law. Although a few studies cover both, the material from the two groups is rarely differentiated, and in reality the findings of such research, as for example in the Cafcass Client Satisfaction Survey (BMRB, 2004) and Cafcass's feedback system (Guy and Cockayne, 2009) will primarily reflect the views of participants in private law cases.

Moreover, while 21 of the studies focusing on private law were published in this decade only four of the public law studies were. Indeed the two most substantial studies on public law cases were based on work carried out in the early 1990's.

Nor is the imbalance corrected by data from inspections. Of the post 2000 inspections none focus on public law, compared to six which deal solely with private law. And while many of the user surveys conducted by the inspectorate/court service say they include litigants in both types of proceedings the material is not differentiated.

Much of the research is qualitative, not quantitative and/or based on small/unrepresentative samples

Qualitative research, which explores the interviewee's perspective in depth, is enormously valuable in identifying what parents find positive or negative about their experiences and therefore pointing to what changes might need to be made. However, since it is typically based on small, unrepresentative samples it cannot establish the *scale* of any identified problem – ie what proportion of users it affects, or the balance between satisfied and dissatisfied clients. Indeed, because interviewees are often more forthcoming about poor aspects of their experiences, elaborating on the details, and researchers are commonly concerned to identify areas where improvements are needed, there is a risk that such research can paint an unduly black picture.

Quantitative research also has its limitations - since it typically gives participants a restricted number of pre-set responses to fixed questions, it cannot elucidate the nuances of experiences and tends to flatten out differences. On the positive side, however, samples are usually much larger, typically aim to be representative and are often able to indicate any ways in which the achieved sample is not representative and the findings likely to be skewed. Hence such research can give an idea of the overall *balance* of views in the target population. It can also enable robust analysis of the factors associated with different views, such as the extent to which satisfaction with the service received is driven by, or independent of, outcome.

Nineteen of the research studies examined in this report do not present any numerical data at all. Of the 33 which do (including Davis's pre Children Act study), 18 had sample sizes of less than a hundred, which means that although the numbers are a helpful indication of the balance of opinion in the particular sample it would be difficult to generalise from them with confidence. Most of the remaining studies either lack data on representativeness, have very low response rates, or report that their samples are skewed in some way. This leaves only a handful of studies with large, reasonably robust samples, some of which contain only a few references to parental perspectives on any aspect of the family justice system.

Given the limitations of the research base highlighted above, it is difficult to say that we reliably 'know' a great deal about parental views of the family justice system, particularly the views of those involved with the system as it now operates. With this caveat, the following section will attempt to summarise the key messages emerging from the available research.

Key messages from research

Key point 1: The news is not all bad

The most positive messages, not surprisingly, emerge from studies which have examined parents' views of their solicitors. Most research shows that the majority of clients are satisfied with the service they received, with only a minority (between 3% to 20%) expressing overall dissatisfaction. There are only two studies in which the proportion of dissatisfied clients outnumber the satisfied and both are likely to suffer from a degree of sample bias. Quantitative data on specific aspects of the solicitor's input also indicates that most clients are satisfied that their solicitor understood the issues, provided information and advice, and explained the options, all central elements in professional competence.

Many clients are also positive about Cafcass or its predecessor organisations. While a substantial number are critical, this is by no means a universal experience – every study contains a very wide range of views. The proportion of those expressing positive opinions on the overall service received ranges between 39% and 63% and some studies actually report a preponderance of satisfied clients. Moreover, for each aspect of the service on which there is quantitative data a substantial group of parents are satisfied, and for some elements – such as information, practitioner accessibility, competence, fairness; clarity and accuracy of reports – most studies indicate they are in the majority. A good proportion of parents report that the Cafcass intervention was helpful and a sizeable minority that their situation had improved. Similarly, most parents also see value in in-court conciliation and around half are satisfied with their experience and would recommend the process to others.

It is harder to find positive messages about the courts. They also tend to come from official court surveys and inspections rather than research and to relate to such matters as the availability and helpfulness of court staff; the clarity of information provided and the quality of the court environment rather than substantive issues such as litigants' satisfaction with the decision-making process. However some research studies report quite positive findings about judicial impartiality, understanding of the issues and satisfaction with the outcome. Some litigants are also very complimentary about the way they were treated by individual judges.

Key point 2: Parents find the whole experience of going to court traumatic and alienating

This finding is not unique to family courts. A study of the small claims court, for instance, (Baldwin, 1977) reports that litigants often found the experience intimidating and frightening. However it seems particularly regrettable in a supposedly family-friendly institution. The over-riding message is that greater attention needs to be paid to the needs of parents caught up in court proceedings, and most particularly to the needs of especially vulnerable groups such as parents with learning difficulties or mental health problems, women who have experienced domestic violence, and parents from minority ethnic communities. The research indicates that parents want a less intimidating, more personal, and participatory process, preferably with the same judge throughout. This appears to be the approach being adopted in the new drug and alcohol court currently being piloted in London

and it will be interesting to see whether the final results of the evaluation indicate that it does produce a more satisfied client group. It might be argued, of course, that it is impossible to make going to court a comfortable experience, given what is at stake. However there is some evidence from research that it can, at least, be made less horrendous.

Key point 3: Many parents do not have confidence in the decision-making process

Parents do not necessarily feel their views are heard and taken into account by Cafcass or the court. There are criticisms of the quality of the evidence presented, of over-reliance on professional evidence, and on the thoroughness of the Cafcass investigation. A substantial proportion do not feel that the court, and/or Cafcass, understood the issues in their case and in private law accusations of bias, particularly gender bias, are common. Confidence in decision-making is further undermined by judicial discontinuity.

Key point 4: Parents do not necessarily endorse the settlement-seeking approach of the family justice system and some are critical of how this is operationalised.

The research is somewhat contradictory as to whether most parents think that parents should be encouraged to reach an agreement rather than submit their dispute to adjudication. However there is clearly some dissatisfaction with the settlement-seeking process, with parents reporting feeling under pressure to settle and subsequently regretting the decisions they had made. Some parents report feeling under pressure to take part in in-court conciliation and while most report that the conciliation session was fair, it is also experienced by some as stressful, rushed, pressurised, not giving parents the opportunity to say what they want, unduly future-focused and resulting in coerced agreements.

Key point 5: Court proceedings do not necessarily make things better for families

Although the data on the durability of the arrangements made in the course of private law proceedings is somewhat contradictory, at least some arrangements do persist. The proceedings may also be effective in restoring contact and increasing the extent of contact and over time some contact problems may diminish. What they do not appear to do, however, is to improve parental relationships and therefore parents' capacity to manage post-separation parenting.

Key point 6: Some groups of parents are more dissatisfied with the family justice system than others

Two groups of dissatisfied parents particularly stand out. First, non-resident parents in private law proceedings, who are fairly consistently found to be less positive than resident parents about Cafcass and the courts. Strikingly, however, the position is reversed in relation to in-court conciliation. The second group is mothers who have experienced domestic violence. There is also some evidence in relation to other groups: parents from BME or traveller communities; parents involved in contact

rather than residence proceedings, parents of young children; and parents in cases where either the child or the parent has a special need.

Key point 7: While parents' satisfaction with outcome is related to their views about the system it is not the only driver and may not be the most important.

Most of the research demonstrates that parents who are dissatisfied with the outcome of court proceedings are more likely to be critical of the system than those who were pleased with it. However the association is far from perfect and studies highlight the importance of process. Hence while it is probably unrealistic to expect that most parents who do not get what they hoped for should nonetheless be positive about the system, it is possible that addressing some of the sources of dissatisfaction could produce a less disgruntled clientele. It is, moreover, concerning that, even where parents achieve a satisfactory outcome, they are not necessarily positive about the outcome.

What further research is needed?

Given the limitations outlined at the beginning of this chapter it seems clear that in general terms new research is needed to update, extend and improve on existing research on parents' experiences of the family justice system. Such research needs to build on earlier studies, and examine the extent to which previously identified issues remain salient, what, if anything, has been done to address them, and to what effect. It is particularly important that among any new studies there should be at least some which include a quantitative element, and are based on reasonably large, robust samples.

In terms of specifics, the most glaring gap is in research on the perspectives of parents caught up in public law proceedings, where the most substantial research is now very old. There is also very limited research on the experience of certain sub-groups of parents, both those from minority groups such as BME, gay and lesbian parents, and those from traveller communities, and those who are potentially particularly vulnerable because of learning difficulties, mental health problems, disabilities or who are involved in substance abuse. There is scant research on the experiences of birth parents whose children are removed and placed for adoption and no research on the experience of parents who represent themselves in family court proceedings. Certain parts of the court process are not covered at all – emergency protection orders and contact proceedings in public law; section 8 proceedings other than contact and residence applications in private law

It would be useful to have more research on what parents want and expect from the family justice system and what are the key drivers of satisfaction/dissatisfaction. More analysis is also needed of the sources of dissatisfaction, and how far satisfaction is coloured by outcome. There is no research exploring the use of complaints systems.

In addition to more research documenting and exploring what parents think of their experience of the family justice system, it is important that some work is undertaken which will enable those views to be corroborated - or not - from other sources. While this is perhaps most crucial where parents are highly critical – such as allegations of

bias in the court or Cafcass and the treatment of cases involving domestic violence – it also applies to more positive experiences – parents may have nothing but praise for a particular aspect of their experience when a neutral observer might be more negative. User views are important, but they cannot be the only measure of the system, particularly a system in which it is the child's interests, not the parents, which are of paramount importance.

It is also important to emphasise that, while new research is clearly needed, policy and practice need to take account of the issues already identified, otherwise conducting user research becomes mere tokenism.

References

- Aris, R., Harrison, C., Humphreys, C. (2002): *Safety and Child contact: An analysis of the role of child contact centres in the context of domestic violence and child welfare concerns*. Lord Chancellor's Department.
- Ashley, C., Featherstone, B., Roskill, C., Ryan, M and White, S. (2006) *Fathers Matter: research findings on fathers and their involvement with social care services*. Family Rights Group.
- Bailey-Harris, R., Davis, D., Barron, J. and Pearce, J. (1998): *Monitoring Private Law Applications under the Children Act. Report to the Nuffield Foundation*. University of Bristol.
- Baldwin, J. (1997) *Monitoring the Rise in the Small Claims Limit: Litigants' experiences of different forms of adjudication*. Lord Chancellor's Department Research Series 1/97
- BMRB Social (2004) *Cafcass client satisfaction survey*. BMRB
- Booth, T. and Booth, W. (2004) *Parents with learning difficulties, child protection and the courts*. Report to the Nuffield Foundation.
- Booth, T & Booth, W (2005) 'Parents with learning disabilities in the child protection system', *Journal of Intellectual Disabilities*, 9 (2), 109-129
- Brophy J, Jhutti-Johal J and McDonald E (2005) *Minority ethnic parents, their solicitors and child protection litigation*. DCA
- Buchanan, A., Hunt, J., Bretherton, H. and Bream, V. (2001) *Families in Conflict: perspectives of children and parents on the Family Court Welfare Service*. Bristol, Policy Press.
- Charlton, L. Crank, M. and Kansara, K. (1998) *Still Screaming. Birth Parents compulsorily separated from their parents*. Manchester, After Adoption.
- Corlyon, J. (2009) *Separated Families: how mainstream services support disadvantaged children and their non-resident parents*. Final report prepared by the Tavistock Institute for the Fatherhood Institute.
- Craig, R., Rigg M, Briscoe R. and Smith, P. (2001) *Client Views. Clients' experiences of using a solicitor for personal matters*. Research Study No. 40, London: Law Society.
- Davis, G. (1988) *Partisans and Mediators: the resolution of divorce disputes*. Oxford, Clarendon Press.
- Davis, G., Bevan, G., Clisby, S., Cumming, Z., Dingwall, R., Fenn, P., Finch, S., Fitzgerald, R., Goldie, S., Greatbatch, D., James, A. and Pearce. J. (2000) *Monitoring Publicly Funded Mediation*. Report to the Legal Services Commission.

Department of Health (1999) *Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children* Department of Health.

Douglas, G., Murch, M., Miles, C. and Scanlan, L. (2006) *Research into the operation of Rule 9.5 of the Family Proceedings Rules 1991. Final Report to the Department for Constitutional Affairs.*

Families Need Fathers (2008) *The Law, the Authorities, and You!* FNF

Freeman, P. and Hunt, J. (1998) *Parental Perspectives on Care Proceedings.* London, TSO.

Genn, H. (1999) *Paths to Justice: What People Do and Think About Going to Law,* Hart

Greenfields, M. (2002) 'Equal In the Eyes of the Law? New Traveller Families and s8 Children Act applications'. Unpublished paper presented at the SLSA Annual Conference, Aberystwyth, 3-5 April, 2002

Greenfields, M. (2006) 'Gypsies, Travellers and Legal Matters'. In Clarke, C. and Greenfields, M. (2006) *Here to Stay: The Gypsies and Travellers of Britain.* Hatfield, University of Hertfordshire Press. 133-181

Guy, J. and Cockayne, A. (2009) *Listening, hearing, responding. Results of the first full year of HearNow service user feedback and the implications for Cafcass.* Cafcass

Harne, L. and Rights of Women (1997) *Valued Families: The Lesbian Mothers' Legal Handbook.* 2nd edition. London, Women's Press.

Harne, L. (2004) *Violence, power and the meanings of fatherhood in issues of child contact.* PhD Dissertation, University of Bristol

Hester, M. and Radford, L. (1996) *Domestic violence and child contact arrangements in England and Denmark.* Bristol, Policy Press.

Hester, M. Humphreys, C. and Pearson, C. (1994) 'Separation, divorce, child contact and domestic violence'. In Mullender, A. (ed) *Children living with domestic violence.*

HMCS (2006) *Survey of Civil and Family Court Users.* Ministry of Justice

HMCS (2007) *Court User Survey Findings from Year One (2006/07)* Ministry of Justice

HMICA (2005) *Domestic violence, safety and family proceedings.* HMICA

HMICA (2006a) *Inspection of the discharge by the National Assembly for Wales of its functions concerning advisory and support services for family proceedings.* HMICA

HMICA (2006b) *Promoting Race Equality*. HMICA

HMICA (2007) *Assisting Families by Court Order. A Thematic review of service provision by the Children and Family court Advisory and Support Service (CAFCASS) to children and families through Family Assistance orders*. HMICA

HMICA (2008) *The Family Courts – the experiences of court users*. HMICA

HM Inspectorate of Probation (HMIP) (1997) *Family Court Welfare work. Report of a thematic inspection*. Home Office.

Humphreys, C. and Thiara, R. K. (2002) *Routes to Safety: Protection Issues Facing Abused Women and Children and the Role of Outreach Services*. Bristol, Women's Aid Publications

Hunt, J. and Macleod, A. (2008) *Outcomes of applications to court for contact orders after parental separation or divorce*. London, Ministry of Justice

Lindley B. 1994. *On the Receiving End: Families' Experiences of the Court Process in Care and Supervision Proceedings under the Children Act 1989*. London, Family Rights Group

Lindley, B., Richards, M. and Freeman, P. (2001) 'Advice and Advocacy for parents in child protection cases – what is happening in current practice?' *Child and Family Law Quarterly* 13, 2, 167-195.

Mantle, G (2001) *A Consumer Survey of Agreements reached in county court dispute resolution (mediation)*. Essex Probation Occasional Paper 2.

Mason K and Selman P. (1997) 'Birth parents experiences of contested adoption'. *Adoption and Fostering* 21:1 21-9

MCSI (2002a) *MCSI Inspection of Court Services: Children and Family Court Advisory Service (CAFCASS) Greater London Region. Report of a baseline inspection carried out during June and July 2002*. MCSI

MCSI (2002b) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) Eastern Region. Report of a baseline inspection carried out during May 2002*. MCSI

MCSI (2002c) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS). Wales/Cymru. Report of a baseline inspection carried out during September 2002*. MCSI

MCSI (2003a) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) East Midlands Region. Report of a baseline inspection carried out during January 2003*. MCSI

MCSI (2003b) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) North East Region. Report of a baseline inspection carried out during December 2002.* MCSI

MCSI (2003c) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) South East Region. Report of a baseline inspection carried out during March 2003.* MCSI

MCSI (2003d) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) North West Region. Report of a baseline inspection carried out during June 2003.* MCSI

MCSI (2003e) *Setting a Course. Children and Family Court Advisory and Support Service (CAFCASS) Overview Report of six baseline inspections carried out from March to December 2002* MCSI

MCSI (2003f) *Seeking Agreement: A Thematic review of Cafcass schemes in private law proceedings.* MCSI

MCSI (2004a) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) West Midlands Region. Report of a baseline inspection carried out during November 2003.* MCSI

MCSI (2004b) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) Yorkshire and Humberside Region. Report of a baseline inspection carried out during September 2003.* MCSI

MCSI (2004c) *MCSI Inspection of Court Services: Children and Family court Advisory Service (CAFCASS) South West Region. Report of a baseline inspection carried out during July 2004.*

Moorhead, R. and Cowan, D. (2007) 'Judgecraft: an introduction'. *Social and Legal Studies*, 16, 3, 315-320

Moorhead, R., Sherr, L., Webley, L., Rogers, L., Sherr, A., Paterson, A. and Domberger, S. (2001) *Quality and Care: final report on the contracting of civil, non-family advice and assistance pilot.* Norwich, Stationery Office.

Moorhead, R., Sherr, A. and Paterson, A. (2003) 'What clients know: client perspectives and legal competence', *International Journal of the Legal Profession*, vol. 10, no. 1, 5.

Moorhead, R, Sefton, M, and Douglas, G (2004) *The Advice needs of lone parents.* London, One Parent Families.

Moorhead, R. and Sefton, M. (2005) *Litigants in person: Unrepresented litigants in first instance proceedings.* DCA Research Series 2/05

Moorhead, R, Sefton, M. and Scanlan, L. (2008) *Just satisfaction? What drives public and participant satisfaction with courts and tribunals*. Ministry of Justice Research Series 5/08

Morgan, C.A. (1996) *Findings of Research Project into the effectiveness of mediation in West Glamorgan Family Court Welfare Service*. Unpublished.

Ofsted (2008a) *Ofsted's inspection of Cafcass East Midlands: key challenges and opportunities*, Ofsted

Ofsted (2008b) *Ofsted's Inspection of Cafcass South-East Region*. Ofsted.

Ofsted (2008c) *Ofsted's inspection of the experience of Cafcass service users in the family courts in South Yorkshire*. Ofsted.

Ofsted (2009a) *Ofsted's inspection of Cafcass: Near South West Service Area*. Ofsted

Ofsted (2009b) *Ofsted's inspection of Cafcass: Birmingham and the Black Country Service Area*. Ofsted.

Painter, C. (2002) *Repeat victimisation? An investigation of the experiences of survivors of domestic abuse within the civil court system*. MSc Criminology, University of Leicester. Unpublished.

Peacey, V. and Hunt, J. (2009) *I'm not saying it was easy...Contact problems in separated families*. London, Gingerbread.

Perry, A. and Rainey, B. (2006) *Supervised, supported and indirect contact: orders and their implications*. Report to the Nuffield Foundation, University of Wales, Swansea.

Pickford, R. (1999) *Fathers, Marriage and the Law*. Family Policy Studies Centre.

Pleasance, P. Buck, A., Balmer, N., O'Grady, R., Genn, H and Smith, M (2004) *Causes of Action: Civil Law and Social Justice*. LSC Research paper No 11. Norwich, TSO

Prevatt-Goldstein, B. (2008) *An examination of CAFCASS practice in addressing 'race' and culture when working with black minority ethnic families in contested contact and residence applications to court*. PhD Dissertation, University of Bristol

Prosser, J. (1992) *Child Abuse Investigations: the families' perspective*. Stansted, Essex: PAIN

Radford, L., Sayers, S. and AMICA (1999) *Unreasonable Fears? Child Contact in the context of Domestic Violence: a survey of mother's perceptions of harm*. Bristol, WAFE

Radford, L and Hester, M. (2006) *Mothering through domestic violence*. JFK

Ryburn, M. (1994) 'Contested adoption: the perspective of birth parents'. In Ryburn, M (ed) *Contested adoptions: research, law policy and practice*. Aldershot: Arena

Sefton, M. (2009) *Collaborative law in England and Wales: early findings*. Resolution.

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

Smart, C., May, V., Wade, A., and Furness, C. (2005) *Residence and Contact Disputes in Court, Volume 2*. London: DCA

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

Smith, L (2007) *The Problem of Parenting in Lesbian Families and Family Law*. PhD dissertation. School of Law, Queen's University of Belfast, June 2007.

Sommerlad, H. (1999) 'English Perspectives on Quality: The Client-Led Model of Quality – A Third Way' *University of British Columbia Law Review*, 33(2) 491

Stark, C. and Birmingham, C. (2001) 'The Role of Lawyers in Divorce'. In Walker J. (ed.) (2001): *Information Meetings and Associated Provisions within the Family Law Act 1996: Final Report. Vol 2* London: Lord Chancellor's Department.

Tarleton, B. Ward. L and Howarth J (2006) *Finding the right support: A review of issues and positive practice in supporting parents with learning difficulties and their children*. The Baring Foundation

Tarleton, B and Ward, L (2007) 'Parenting with support': The views and experiences of parents with intellectual disabilities, *Journal of Policy and Practice in Intellectual Disabilities*, 4, 3, 194 – 202

Thiara, R.K. (2009) 'Continuing control: child contact and post-separation violence' in Thiara, R.K. and Gill, A. (2009) (eds) *Violence Against Women in South Asian Communities: Issues for Policy and Practice*. Jessica Kingsley Publishers.

Trinder, L., Beek, M. and Connolly, J. (2002) *Making Contact. How parents and children negotiate and experience contact after divorce*. York, Joseph Rowntree Foundation.

Trinder, L., Connolly, J., Kellett, J., Notley, C. and Swift, L. (2006a) *Making Contact happen or making contact work? The process and outcomes of in-court conciliation*. DCA Research Series 3/06

Trinder, L., Kellett, J., Connelly, J. and Natley, C. (2006b) *Evaluation of the Family Resolutions Pilot Project*, Department for Education and Skills, Research Report No 720.

Trinder, L. and Kellett, J. (2007) *The longer term outcomes of in-court conciliation*. MOJ Research Series 15/07

Trinder L and Stone N (1998) 'FAO's – professional aspiration and party frustration'. *Child and Family Law Quarterly*, 3(10) 291-305

Walker, W., McCarthy, P., Finch, S., Coombes, M., Richards, M. and Bridge, C. with Laing, K., Melville, A., Kitchen, S., Wood, N., Raybould, S., Wren, C., Day- Sclater, S. and Webber, P. (2007) *The Family Advice and Information Service: A Changing Role for Family Lawyers in England and Wales? Final Evaluation Report*. Newcastle Centre for Family Studies.

Watson, A.N. (1995) *A Study of West Midlands Family Court Welfare Service and Ethnic minority consumers view of service/practice*. MA dissertation, University of Central England in Birmingham.

Wright, K, (2006) 'The divorce process: a view from the other side of the desk'. *Child and Family Law Quarterly*, 18, 1, 93-111

Women's National Commission (2003): *Unlocking the Secret: Women open the door on domestic violence. Finding from consultation with survivors*. Women's National Commission.

Appendix A: The parts of the family justice system covered by each study

Research studies	Court	Cafcass	In-court conciliation	Solicitors
Aris et al, 2002	X	-	-	-
Ashley et al, 2006	X	X	-	-
Bailey-Harris et al, 1999	X	-	-	-
BMRB Social, 2004	X	X	-	-
Booth & Booth 2004; 2005	X	X	-	X
Brophy et al, 2005	X	-	-	X
Buchanan et al, 2001	X	X	-	X
Charlton et al, 1998	X	-	-	X
Corlyon, 2009	X	X	-	X
Craig et al, 2001	-	-	-	X
Davis, 1988	-	-	-	X
Davis et al, 2000	X	X	-	X
Douglas et al, 2006	X	X	-	-
Families Need Fathers, 2008	X	X		X
Freeman & Hunt, 1998	X	X		X
Genn, 1999	-	-	-	X
Greenfields, 2002	X	X	-	X
Harne, 2004	X	-	-	X
Hester and Radford, 1996	X	X	-	X
Humphreys and Thiara. 2002	X	X	X	X
Lindley, 1994	X	X	-	X
Lindley et al, 2001	-	-	-	X
Mantle, 2001	X	X	X	-
Mason and Selman, 1997	X	-	-	X
Moorhead et al, 2004	-	-	-	X
Morgan, 1996	X	-	X	-
Painter, 2002	X	X	X	X
Perry and Rainey, 2006	X	X	-	-
Peacey and Hunt, 2009	X	-	-	X
Pickford, 1999	X	-	-	X
Pleasance et al, 2004	-	-	-	X
Prevatt-Goldstein, 2008	-	X	-	-
Prosser, 1992	X	X	-	-
Radford et al, 1999	X	X	-	X
Ryburn, 1994	X	-	-	-
Sefton. 2009	-	-	-	X
Simpson et al, 1995	-	-	-	X
Smart and Neale, 1999	-	-	-	X
Smart et al, 2005	X	X	-	-
Smith, 2007	-	X	-	-
Stark and Birmingham, 2001	-	-	-	X
Tarleton et al, 2006	X	-	-	-
Thiara, 2009	X	X	-	X
Trinder et al, 2002	X	-	-	-
Trinder et al, 2006a	X	-	X	X
Trinder et al, 2006b	-	-	X	-
Trinder and Kellett, 2007	X	-	X	-
Walker et al, 2007	-	-	-	X
Watson, 1995	-	X	-	-
Women's Royal Commission, 2003	X	-	-	-
Wright, 2006	-	-	-	X

Inspections, feedback and court surveys	Courts	Cafcass	In-court conciliation	Solicitors
Cafcass, 2008a	-	x	-	-
Guy and Cockayne, 2009	-	x	x	-
HMCS, 2006	X	-		
HMCS, 2007	X	-		
HMICA, 2005	X	X		
HMICA, 2006a	-	X		
HMICA, 2007	-	X		
HMICA, 2008	X	-	-	-
HMIP, 1997	-	X		
MCSI, 2002a	X	X	X	
MCSI, 2002b	-	X		
MCSI, 2002c	-	X		
MCSI, 2003a	-	X		
MCSI, 2003b	-	X		
MCSI, 2003c	-	X		
MCSI, 2003d	-	X		
MCSI, 2003f	-	-	X	-
MCSI, 2004a	-	X		
MCSI, 2004b	-	X		
MCSI, 2004c	-	X		
Ofsted, 2008a	-	X		
Ofsted, 2008b	-	X		
Ofsted, 2009a	-	X		
Ofsted, 2009b	-	X		

Appendix B: Details of the studies

Table 1: Studies including information on parental perspectives on the courts

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
Aris et al, 2002	2	Mothers using contact centres	128	Numbers not given but 62% of all cases had court-ordered contact	6 contact centres in 2 family proceedings court areas.	Just over 50% fathers; 97% mothers.	Under-rep of fathers especially NRFs.	Self completion questionnaire plus telephone interviews
Ashley et al, 2006	1	Young parents & fathers in contact with Social Services	41	No data	One LA area and FRG helpline	No data	No data	Focus groups (28) Interviews (13)
Bailey-Harris et al, 1999	2	S8 contact and residence disputes	59	All	4 county courts in SW. All parents in observed hearings approached	45%	Over-represented fathers and applicants	Face to face interviews
BMRB Social, 2004	2	Private and public law disputes where Cafcass report prepared	330 (303 private law)	All	National survey	No data	No data	Telephone survey
Booth & Booth 2004; 2005	15	Care proceedings; Parents with learning difficulties	32 (25 parents + partners)	All	6 LA's; recruited thru agencies.	Not given.	No data	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
Brophy et al, 2005	13	Care proceedings; BME parents	12	All	3 court areas. Recruited through courts & professionals.	NA. Initial plan to interview stratified sample via cafacss not possible.	No data	Face to face interviews
Buchanan et al, 2001	38	S8 proceedings; Parents subject to welfare report from family court welfare service	100	All	Three court welfare services. Those subject to welfare report over 6 month period. 7% refused Stratified to match profile of sample	25% of those eligible. 7% refusal rate.	Well matched on everything except proportion with serious child protection concerns.	Face to face interviews
Charlton et al, 1998	6	Parents whose children had been adopted, only a few compulsorily	100	All	2 adoption support projects	No data	No data	No data
Corlyon, 2009	7	Non-resident parents; half had used the courts	34	17	7 LA areas	NA recruited sample.	Low income parents in deprived wards; mix of high and low conflict families.	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
Davis et al, 2000	9	Private law disputes, those referred to mediation & their ex-partners; those exempt from mediation referral.	965 parents; 733 with child-related disputes	47% of those with child-related dispute (c345)	Mainly intake forms from mediation services across the country (825 cases) plus those exempted from mediation ided through Legal Services Commission	No data	Constructed, not random sample; not representative. Disproportionally middle class in composition; findings weighted to correct for under-representation of men.	Telephone interviews
Douglas et al, 2006	7	S8 disputes where child 7+ & separately represented under rule 9.5	22	All		4 courts.	No data	No data
Families Need Fathers, 2008	2	Litigated S8 Contact & residence disputes	61	All	On-line survey of members	Not applicable	No data	On-line survey
Freeman & Hunt, 1998	41	Care proceedings	35	All	Parents subject to care pgs, 3 LA's 1991-3.	30%.	Under-represented families not previously known to Social Services & those with the most serious social problems.	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
Greenfields, 2002	6	Parents from travelling communities in s8 disputes	23	8	No data	No data	No data	Face to face interviews
Harne, 2004	5	S8 court proceedings; Mothers with experience of domestic violence.	10	All	2 support networks for women survivors of domestic violence	No data	No data	Face to face interviews
Hester and Radford, 1996	4	Post separation contact Mothers with experience of domestic violence	53	No data	3 areas. Recruited through professionals.	No data	No data	Face to face. Repeat interviews.
HMCS 2006		Public users of the family courts (sub-sample of civil and family court users)	6,442 public users of the civil & family courts, of which only 3% family cases	All	National survey	18.8 response rate of all public users; no separate data on family cases	Whole sample judged to be highly representative	Postal survey
HMCS, 2007	14	Public users of the family courts (sub-sample of all court users)	Numbers (713) only given for all users of the family courts, including professionals	All	National survey of all courts	Overall response rate 47% but no data on family court users.	No data	Postal survey

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
HMICA, 2005	9	Mothers with experience of domestic violence with Cafcass involvement	92 (30 in focus groups; 62 survey)	All	Focus groups through women's Aid; survey respondents through 3 Cafcass areas	18% response to survey	No data	Focus groups Postal survey
HMICA, 2008	14	Family litigants in private and public cases (14 public, 30 adoption; 34 divorce; 38 private law)	116 adults	All	FPC & county court in one town	26%	No data	Postal survey
Humphreys and Thiera. 2002	4	Separated women who had used Women's Aid outreach services	161 surveyed 20 interviews	No data	14 Women's Aid outreach projects	80% to survey	No data	Postal survey + face to face interviews
Lindley, 1994	20	Care proceedings	48 adults 39 parents	All	Recruited through 25 LA's & FRG helpline	No data	No data	Face to face interviews
Mantle, 2001	4	Parents with s8 dispute reaching full agreement in-court conciliation	345	All	One family court welfare service	48%	No data	Postal survey

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
Mason and Selman, 1997	5	Birth parents who did not consent to adoption	21 parents, 18 cases	All	Parents in contact with Adoption support agency in Manchester.	No data	No data	Face to face interviews
MCSI, 2002a	2	Parents in private law cases with Cafcass involvement	45 in survey 13 face to face 24 participating in in-court conciliation	All	One Cafcass area covering many courts In-court conciliation group drawn from one court.	15% to survey	No data	Postal survey Face to face interviews
Morgan, 1996	1	Parents with s8 dispute participating in in-court conciliation	71	All	One family court welfare area	65%	No data	Postal survey
Painter, 2002	11	S8 proceedings; mothers with experience of domestic violence in contact with Cafcass	14	All	Identified through one Cafcass team,	16%	No data	Face to face interviews
Perry and Rainey, 2006	18	Contact and residence disputes	60	All	5 courts	17%	Considered to be representative	Postal survey or face to face

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
Pickford, 1999	6	Fathers applying for PRO or registering PRA	65	33	Through 11 courts	No data	No data	interview
Prosser, 1992	5	Parents falsely accused of child abuse	30	Not clear	Through PAIN (Parents against injustice).	Selection of 15% of cases on organisation's files	Selected by PAIN to represent a range of cases	Face to face interviews
Radford et al, 1999	3	Parents with experience of domestic violence	130	121	Volunteer sample drawn from several vol DV orgs	25%	No data	Postal survey
Ryburn, 1994	3	Parents who had contested adoption	13	All	National adoption agency	No data	No data	Face to face
Smart et al, 2005	30	Contact and residence disputes	112 postal survey 61 sub-sample in-depth interviews	All	3 county courts; identified from court files	9% for postal survey 6% for interviews.	More contact cases, more respondents & mothers. In-depth sample over-represented higher conflict cases.	Postal survey & Face to face interviews
Tarleton et al, 2006; Tarleton and Ward, 2007	7	Parents with learning difficulties	30	No numbers given; almost all had had children 'taken' into care	17 recruited from one area; remainder across the country	No data	No data	Group and individual meetings

Study	Number of substantive references	Target group	Total sample size	Numbers using the court	Selection	Response rate	Representativeness	Method
Thiara, 2009	3	Divorced/ separated South Asian mothers with experience of domestic violence	12	7	No data	No data	No data	Face to face interviews
Trinder et al, 2002	7	Separated parents where contact was taking place	61 families	No data	One area	No data	No data	Face to face interviews
Trinder et al, 2006a	1	Parents in s8 contact disputes who used in-court conciliation	250	All	8 courts (county & PFRD, 3 areas. Recruited at conciliation.	67%	Described as highly representative of those going through conciliation; excluded those needing interpreters	Telephone interviews
Trinder and Kellett, 2007 (a follow-up study to Trinder et al, 2006a	13	Parents in s8 contact disputes who had used in-court conciliation	117	All	8 courts (county & PFRD, 3 areas. Recruited at conciliation.	47% of baseline sample; 31% of sampling pool	Highly representative except under-represented non-resident mothers.	Telephone interviews
Women's Royal Commission, 2003	3	Women with experience of domestic violence	100	No data	Recruited through domestic violence organisations	No data	No data	Focus groups

Table 2: Studies including data on parental experiences of Cafcass's investigative and reporting function

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
Ashley et al, 2006	2	Young parents & fathers in contact with Social Services	41	No data	One LA area and FRG helpline	No data	No data	Focus groups (28) Interviews (13)
BMRB Social, 2004	29	Private and public law disputes where Cafcass report prepared	330 (303 private law)	All	National survey	No data	No data	Telephone survey
Booth & Booth 2004; 2005	2	Care proceedings; Parents with learning difficulties	32 (25 parents + partners)	Not known, but all had been to court in care pgs	6 LA's; recruited thru agencies.	Not given.	No data	Face to face interviews
Buchanan et al, 2001	37	S8 proceedings; Parents subject to welfare report from family court welfare service	100	All	Three court welfare services. Those subject to welfare report over 6 month period. 7% refused Stratified to match profile of sample	25% of those eligible. 7% refusal rate.	Well matched on everything except proportion with serious child protection concerns.	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
Cafcass, 2008a	1	Cafcass users in private law cases (early dispute resolution & those with experience of domestic violence)	13	All	3 Cafcass areas	No data	No data	4 focus groups
Corlyon, 2009	7	Non-resident parents; half had used the courts	34	Not known, but 17 had been to court	7 LA areas	NA recruited sample.	Low income parents in deprived wards; mix of high and low conflict families.	Face to face interviews
Davis et al, 2000	2	Private law disputes, those referred to mediation & their ex-partners; those exempt from mediation referral.	965 parents; 733 with child-related disputes	Not known but 345 had been to court w child-related dispute	Mainly intake forms from mediation services across the country (825 cases) plus those exempted from mediation ided through Legal Services Commission	No data	Constructed, not random sample; not representative. Disproportionally middle class in composition; findings weighted to correct for under-representation of men.	Telephone interviews

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
Douglas et al, 2006	19	S8 disputes where child 7+ & separately represented under rule 9.5	22	All		4 courts.	No data	No data
Families Need Fathers, 2007	1	Litigated S8 Contact & residence disputes	61	56	On-line survey of members	Not applicable	No data	On-line survey
Freeman & Hunt, 1998	5	Care proceedings	35	All	Parents subject to care pgs, 3 LA's 1991-3.	30%.	Under-represented families not previously known to Social Services & those with the most serious social problems.	Face to face interviews
Greenfields, 2002	2	Parents from travelling communities in s8 disputes	23	Not known but 8 had been to court	No data	No data	No data	Face to face interviews
Guy & Cockayne, 2009	15	Cafcass users in private & public law cases	433 adults	All	National	No data	Profile reported to be closely matched to demographic and case data profile of service users	Online survey

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
Hester and Radford, 1996	2	Post separation contact Mothers with experience of domestic violence	53	No data	3 areas. Recruited through professionals.	No data	No data	Face to face. Repeat interviews.
HMICA, 2005	10	Mothers with experience of domestic violence with Cafcass involvement	92 (30 in focus groups; 62 survey)	All	Focus groups through women's Aid; survey respondents through 3 Cafcass areas	18% response to survey	No data	Focus groups Postal survey
HMICA, 2006a	8	Cafcass Cymru service users' public & private law	74	All	Through Cafcass Cymru	No data	No data	Postal survey
HMICA, 2007	6	Families subject to Family Assistance Order	49 postal survey 20 in depth	All	Cafcass files	23%	No data	Postal survey; face to face or telephone interview
HMIP, 1997	9	Parties in private law cases where welfare report from FCWS	224	All	Through FCWS in 10 areas	37%	No data	Postal survey
Lindley, 1994	4	Care proceedings	48 adults 39 parents	All	Recruited through 25 LA's & FRG helpline	No data	No data	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
MCSI, 2002a	29	Cafcass service users. private law cases, including 13 with prolonged s8 pgs & 24 using in-ct conciliation	45 surveyed; 27 interviews	All	Cafcass Greater London; 24 ided through PRFD in-court conciliation	15% for postal survey	No data	Postal survey Face to face interviews
MCSI, 2002b	6	Private law; members of FNF with experience of Cafcass.	Not known	All	Cafcass Eastern Region	NA	No data but all members of a pressure group, Families Need Fathers.	Focus groups
MCSI, 2002c	8	Cafcass service users; public and private law	41	All	Cafcass Cymru	68%	No data	Postal questionnaire
MCSI, 2003a	19	Cafcass service users, public & private	48	All	Cafcass East Midlands Region	35%	No data	Postal survey
MCSI, 2003b	11	Cafcass service users, public & private	45	All	Cafcass North-East Region	Around 20%	No data	Postal survey 4 face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
MCSI, 2003c	3	Cafcass service users, public & private	33	All	Cafcass South-East Region	15%	No data	Postal survey
MCSI, 2003d	12	Cafcass service users, private law cases only	75	All	Cafcass North-West Region	No data	No data	Postal survey
MCSI, 2004a	5	Cafcass service users, public & private	47	All	Cafcass West Midlands Region	20%	No data	Postal survey; 3 telephone interviews
MCSI, 2004b	22	Cafcass service users, public & private	64	All	Cafcass Yorkshire & Humberside Region	No data	No data	Postal; 6 telephone interviews
MCSI, 2004c	12	Cafcass service users, private law cases only	105	All	Cafcass South-West Region	21%	No data	Postal survey and some telephone interviews
Ofsted, 2008a	23	Cafcass service users, public & private	89	All	Cafcass East Midlands	No data	No data	Postal survey
Ofsted, 2008b	17	Cafcass service users, public & private	198	All	Cafcass South-East	No data	No data	Postal questionnaire

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
Ofsted, 2008c	10	Cafcass service users, public & private	115	All	Cafcass South Yorkshire	No data	No data	Postal survey; 26 face to face interviews; Focus group with FNF
Ofsted, 2009a	1	Cafcass service users, public & private	No data	All	Cafcass Near South West	No data	No data	Postal survey; telephone interviews with parties in private law cases; meetings with Women's Aid & FNF
Ofsted, 2009b	3	Cafcass service users, public & private	No data	All	Birmingham and the Black Country	No data	No data	Telephone interviews; meetings with FNF & Women's Aid
Painter, 2002	8	S8 proceedings; mothers with experience of domestic violence in contact with Cafcass	14	All	Identified through one Cafcass team,	16%	No data	Face to face interviews
Perry and Rainey, 2006	11	Contact and residence disputes	60	No data, but all had been to court	5 courts	17%	Considered to be representative	Postal survey or face to face

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
Prevatt-Goldstein, 2008	20	BME parents in contact and residence proceedings with Cafcass report	34	All	Identified through 3 Cafcass teams	Data only available on one area (30%)	No data	Face to face interviews
Prosser, 1992	2	Parents falsely accused of child abuse	30	Not known & proportion who had been to court not known	Through PAIN (Parents against injustice).	Selection of 15% of cases on organisation's files	Selected by PAIN to represent a range of cases	Face to face interviews
Radford et al, 1999	4	Parents with experience of domestic violence	130	Not known, but 121 had been to court	Volunteer sample drawn from several vol DV orgs	25%	No data	Postal survey
Smart et al, 2005	4	Contact and residence disputes	112 postal survey 61 sub-sample in-depth interviews	All	3 county courts; identified from court files	9% for postal survey 6% for interviews.	More contact cases, more respondents & mothers. In-depth sample over-represented higher conflict cases.	Postal survey & Face to face interviews
Smith, 2007	1	Lesbian mothers; private law cases	16	Not known but 5 had been to court	Not known	Not known	Not known	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers with Cafcass involvement	Selection	Response rate	Representativeness	Method
Thiara, 2009	2	Divorced/ separated South Asian mothers with experience of domestic violence	12	Not known; 7 had been to court	No data	No data	No data	Face to face interviews
Watson, 1995	13	BME parents in private law proceedings involved with FCWS	52 in postal survey	All	One FCWS	28%	No data	Postal survey; some interviews

Table 3: Studies including information on parental perspectives on in-court conciliation

Study	Number of substantive references	Target group	Total sample size	Numbers with experience of in-court conciliation	Selection	Response rate	Representativeness	Method
Cafcass, 2008a	1	Cafcass users in private law cases (early dispute resolution & those with experience of domestic violence)	13	Unclear; 2 of the focus groups were on early dispute resolution	Focus groups on EDR drawn from 1 Cafcass area	No data	No data	Focus groups
Mantle, 2001	22	Parents with s8 dispute reaching full agreement in-court conciliation	345	All	One family court welfare service	48%	No data	Postal survey
MCSI, 2002a	2	Cafcass service users. private law cases, including 13 with prolonged s8 pgs & 24 using in-ct conciliation	45 surveyed; 27 interviews	24	Cafcass Greater London; 24 ided through PRFD in-court conciliation	15% for postal survey	No data	Postal survey Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers with experience of in-court conciliation	Selection	Response rate	Representativeness	Method
MCSI, 2003f	12	Parties participating in in-court conciliation schemes	42	All	1 Cafcas scheme	21%	Postal survey	
Morgan, 1996	9	Parents with s8 dispute participating in in-court conciliation	71	All	One family court welfare area	65%	No data	Postal survey
Painter, 2002		S8 proceedings; mothers with experience of domestic violence in contact with Cafcass	14	7 experienced or referred to in-court conciliation	Identified through one Cafcass team	16%	No data	Face to face interviews
Trinder et al, 2006a	24	Parents in s8 contact disputes who used in-court conciliation	250	All	8 courts (county & PFRD, 3 areas. Recruited at conciliation.	67%	Described as highly representative of those going through conciliation; excluded those needing interpreters	Telephone interviews

Study	Number of substantive references	Target group	Total sample size	Numbers with experience of in-court conciliation	Selection	Response rate	Representativeness	Method
Trinder et al, 2006b	NA	Parents participating in the Family Resolutions Pilot	67	NA All experienced out of court conciliation).	Three courts	54%		Self completion questionnaire and tel interview.
Trinder and Kellett, 2007 (a follow-up study to Trinder et al, 2006a	6	Parents in s8 contact disputes who had used in-court conciliation	117	All	8 courts (county & PFRD, 3 areas. Recruited at conciliation.	47% of baseline sample; 31% of sampling pool	Highly representative except under-represented non-resident mothers.	Telephone interviews

Table 4: Studies including information about parental perspectives on their legal advisors

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Booth & Booth 2004; 2005	13	Care proceedings; Parents with learning difficulties	32 (25 parents + partners)	No data	6 LA's; recruited thru agencies.	Not given.	No data	Face to face interviews
Brophy et al, 2005	2	Care proceedings; BME parents	12	All	3 court areas. Recruited through courts & professionals.	NA. Initial plan to interview stratified sample via cafacss not possible.	No data	Face to face interviews
Buchanan et al, 2001	1	S8 proceedings; Parents subject to welfare report	100	No data	Three court welfare services. Those subject to welfare report over 6 month period. 7% refused Stratified to match profile of sample	25% of those eligible. 7% refusal rate.	Well matched on everything except proportion with serious child protection concerns.	Face to face interviews
Charlton et al, 1998	4	Parents whose children had been adopted, only a few compulsorily	100	No data	2 adoption support projects	No data	No data	No data

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Corlyon, 2009	8	Non-resident parents; half had used the courts	34	No data	7 LA areas	NA recruited sample.	Low income parents in deprived wards; mix of high and low conflict families.	Face to face interviews
Craig et al, 2001	4	Non-business clients using solicitors; 12% family cases	1500 including 12% (c180) family cases, not necessarily parents or children's issues	All	National sample of adults who had sought advice from solicitor over 12 month period & wk completed.	Not given	Nationally representative sample	Telephone interviews
Davis, 1988	26	Court-based sample of recently divorced couples in dispute over divorce or children	299	297	2 county courts, identified from court lists	37% of the sampling pool; 50% of those approached	No data but researchers consider likely to be representative.	Face to face interviews
Davis et al, 2000	5	Private law disputes, those referred to mediation & their ex-partners; those exempt from mediation referral.	965 parents; 733 with child-related disputes	577	Mainly intake forms from mediation services across the country (825 cases) plus those exempted from mediation ided through Legal Services Commission	No data	Constructed, not random sample; not representative. Disproportionally middle class in composition; findings weighted to correct for under-representation of men.	Telephone interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Families Need Fathers, 2008	1	Litigated S8 Contact & residence disputes	61 responses overall 44 lawyers	44 responses referring to lawyers	On-line survey of members	Not applicable	No data	On-line survey
Freeman & Hunt, 1998	27	Care proceedings	35	All	Parents subject to care pgs, 3 LA's 1991-3.	30%.	Under-represented families not previously known to Social Services & those with the most serious social problems.	Face to face interviews
Genn, 1999		Divorced/separated adults. Sub-sample of adults with justiciable problems	Total sample 1134. 16% contact dispute	No data	National sample	91%	Representative	Face to face
Greenfields, 2002	9	Parents from travelling communities in s8 disputes	23	10	No data	No data	No data	Face to face interviews
Harne, 2004	1	S8 court proceedings; Mothers with experience of domestic violence.	10	No data	2 support networks for women survivors of domestic violence	No data	No data	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Hester and Radford, 1996	1	Post separation contact Mothers with experience of domestic violence	53	Not specified but at least 6	3 areas. Recruited through professionals.	No data	No data	Face to face. Repeat interviews.
Lindley, 1994	16	Care proceedings	48 adults 39 parents	All but 2 of the total	Recruited through 25 LA's & FRG helpline	No data	No data	Face to face interviews
Lindley et al, 2001.	1	Parents subject to s47 child protection procedures using solicitors or specialist advocacy services	39 parents, 4 other relatives	Not specified but at least 9	Parents who had used advocates following cp investigation. Recruited through solicitors or advocacy schemes.	No data	No data	Face to face interviews
Mason and Selman, 1997	2	Birth parents who did not consent to adoption	21 parents, 18 cases	No data	Parents in contact with Adoption support agency in Manchester.	No data	No data	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Moorhead et al, 2004	5	Resident parents seeking advice from lone parent helpline	200 resident parents	119	Callers to OPF helpline	No data	Stratified by previous marital status, proportion of resident fathers boosted.	Telephone survey Plus 5 focus groups
Painter, 2002	2	S8 proceedings; mothers with experience of domestic violence in contact with Cafcass	14	12	Identified through one Cafcass team,	16%	No data	Face to face interviews
Peacey and Hunt, 2009	1	Parents reporting problems over post-separation contact	41	20	Drawn from national community sample of separated parents	National sample 64%; interview sample 15% of those eligible	No data	Face to face interviews
Pickford, 1999	1	Fathers applying for PRO or registering PRA	65	All	Through 11 courts	No data	No data	interview

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Pleasance et al, 2004	1	Study of justiciable problems in general population	1,623 Including 124 relationship b/down 122 divorce 108 children's issues 88 domestic violence	No data	National survey	52%	No data	Face to face interviews
Radford et al, 1999	2	Contact after separation; parents with experience of domestic violence; mainly (121) court cases	130	No data	Volunteer sample drawn from several vol DV orgs	25%	No data	Postal survey
Sefton, 2009	2	Divorcing/ separating clients using collaborative law	12	all	Identified through solicitors responding to national survey of Resolution members	No data	No data	Face to face or telephone interview
Simpson et al, 1995	2	Non-resident fathers	Reanalysis of questionnaires from 91 NRF's; 20 interviews	No data	Parents who had participated in earlier research	No data	No data	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Smart and Neale, 1999	7	Separated/divorced parents	60	all	W Yorkshire Recruited through sol; Gingerbread, MATCH, FNF; adverts snowball sampling.	Not applicable	No data	Face to face. Interviewed twice.
Stark and Birmingham, 2001	27	Divorcing couples participating in the information meetings pilot	1838 telephone; c526 postal	All	Sub-sample of participants in information meetings pilot	Not given	No data	Initial telephone, subsequently postal.
Thiara, 2009	2	Divorced/separated South Asian mothers with experience of domestic violence	12	No data	No data	No data	No data	Face to face interviews

Study	Number of substantive references	Target group	Total sample size	Numbers using solicitors	Selection	Response rate	Representativeness	Method
Trinder et al, 2006a	2	Parents litigating contact who used in-court conciliation	250	No data	8 courts (county & PFRD, 3 areas. Recruited at conciliation.	67%	Described as highly representative of those going through conciliation; excluded those needing interpreters	Telephone interviews
Walker et al, 2007)	27	Clients using family lawyer. pre and post FAINS	385 parents in survey; 44 in-depth interviews, all parents.	All	Solicitors' firms in 9 areas.	Phase 1: 78% contactable clients. (31% pool). Phase 2 69% contactable clients.	Study areas described as nationally representative apart from ethnicity.	Telephone interviews plus some face to face
Wright, 2006	11	Divorcing clients	40	All	North of England. Recruited through 10 sols in 4 firms.	No data	No data	Face to face, repeat interviews, some additional telephone