

What do family mediators do?

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The principles and frameworks of family mediation were clearly articulated in a previous issue of *Context* (Butlin & Elliot, 2001). What I do, as a mediation researcher-practitioner, is try and understand what mediators are doing to practice these principles and fulfil these frameworks. I have been conducting nation-wide research into mediation practice over the last two years, which has included a postal questionnaire to mediators all over the UK and observations of practice. This article presents preliminary findings from the survey.

The questionnaire used in the survey was a lengthy instrument that supplied a great deal of detailed information about mediation practice and the issues, strategies and models relating to mediation practice. In the section of the questionnaire I will be primarily focusing on in this paper, mediators were provided with a list of 43 strategies, techniques and interventions that have been identified as important to or used in the practice of mediation. They were asked to choose three from the list that they found most useful and effective during five defined stages of mediation and in certain situations that can arise during mediation sessions.

The questionnaire employed a five-stage model of mediation: screening and orienting (intake/assessment), before working on dispute (clarifying the issues), while working on issues but before generating options, ending (generating options and securing agreements), and follow-up. There were also six situations pertaining to client and dispute characteristics that may arise during mediation: inability to come to terms with termination of the marriage, high conflict, spousal abuse, child abuse, involvement of children in mediation sessions and working with culturally diverse clients.

Mediators were also asked about practice models in which they may have been trained or have encountered, which they have incorporated in their mediation practice. These models included: structured negotiation, therapeutic,

feminist practice, multigenerational, and culturally-specific. Combining the strategies, techniques, interventions and models of practice meant that the survey data provided a framework for understanding the micro-processes that occur within mediation sessions.

the mediation process

The individual stages of mediation had particular strategies, techniques, and interventions associated with them. A picture of the mediation process, according to the stages, can be seen in Table 1 (see overleaf). The percentages beside the techniques indicate the percentage of mediators who selected the technique for that stage.

In the table you will notice that there is high deal of agreement amongst mediators as to the techniques, strategies, and interventions that they find generally most useful and effective at each stage in the mediation process, except 'during negotiation'. Some of this may have been a problem with condensing the complicated nature of the negotiation component of the process into one section. I received comments written on the questionnaire and verbally from mediators who had completed it about their difficulty in narrowing down such a complicated process because 'every situation is different'. Despite the comments about difficulties, there was a relatively high level of agreement about the use of strategies and techniques throughout most stages in the process. The scenario of 'every situation is different' seems to be the

most relevant to the 'during negotiation' stage where there is the least agreement on a specific strategy. It is important to note that the majority of mediators (63%) did not include a 'follow-up' stage, therefore the number of respondents was not the same total of 283 as in the other groups.

use of techniques associated with client and dispute characteristics

There are certain frequently occurring situations arising during mediation that may require the use of a different set of skills and interventions to the normative mediation process. Table 2 shows the strategies, techniques, and interventions selected by mediators as most useful and effective in cases of specific client and dispute characteristics.

Inability to come to terms with end of marriage and high conflict couples are not uncommon occurrences in mediation, especially since some clients are still confused about the difference between mediation, reconciliation and marriage counselling. There was a certain amount of agreement amongst mediators as to the strategies they find useful in these circumstances, which may be due to the numerous articles that have been written by experienced mediators about how to deal with high conflict couples.

Mediators include a screening procedure to detect cases in which there is a history of domestic violence and where there is a risk of harm to children. Although there

21st century UK family statistics

- 10% of all British children lives with one birth parent and a step parent.
- Over 50% of children who live in two different households take a positive view of their 'divided lives'.
- 6% of all families with children are stepfamilies.
- 40% of marriages in the UK end in divorce.
- 40% of all marriages are re-marriages.
- 70% of fathers who don't live with their children have contact with them.
- Between 33 and 50% of children will spend some time in a one-parent family – the lone-parent stage in a family's life cycle lasts on average 5½ years.
- 25% children have experienced their parents' divorce. Over 50% of them will find themselves members of a stepfamily when their mothers and fathers go on to find new partners.
- 50% of these stepfamilies will have a new child belonging to the step couple.

Sources ONS, Parentline Plus & Roseph Rowntree Foundation
as reported in *The Observer Magazine*, 6.10.2002

what do family mediators do? a lo and models

are ongoing debates amongst professionals about these issues, mediation can continue in cases of domestic abuse as long as both parties agree that they feel comfortable and not intimidated by their former partner in the presence of the mediator. About 15% of mediators in this sample said they did not mediate in cases of spousal abuse, but most of those that do, seem to agree on the primary strategies they use. Over 40% of mediators in this sample said they would not work in cases where child harm was an issue. The majority of mediators who would work in cases where child harm is an issue said they would discuss this relationship with the parent and/or refer to another agency. The latter is probably because mediators are obliged to report any known incidents of child abuse or threat or harm to children. Because of the sensitive nature and importance of these topics a great deal of literature, training, and policy exists around them, therefore taking some of the decision-making out of the hands of the mediator. The majority of mediators indicated that they do not include children directly in mediation sessions. This may in part be because special training is required for direct consultation with children.

An area where lack of experience seems to be problematic for mediators is in dealing with ethnic minority clients. Mediators in this study reported that 93% of their mediation clients were white. However, among those mediators who felt they had sufficient experience or knowledge of culturally diverse clients there was a high degree of agreement concerning the techniques they use, with facilitating communication being the most prominent.

use of theoretical practice models in mediation

A separate section of the questionnaire provided mediators with a list of theoretical models that have been associated with mediation and asked mediators if they used them in different types of cases, child-related, finance and property, and all-issues mediation (AIM). It was in this section that the influence of profession of origin was most apparent. Because mediators come from a variety of different backgrounds (legal, helping professions and court welfare, etc.) it was likely that a number of different perspectives on the process would be

Table 1. Most commonly used strategies, techniques, and interventions used during the mediation process

Stage in process	Techniques
Initial meeting (assessment / intake) N = 283	Assessment / history taking (60%), educating / providing information (47%), defining / clarifying issues in dispute (39%), establishing the ground rules (35%)
Before working on disputes N = 283	Establishing ground rules (52%), defining / clarifying issues in dispute (48%), facilitating communication (30%), identifying interests and needs (23%)
During negotiation N = 283	Maintaining a future focus (29%), evaluating options for settlement (25%), facilitating communication (23%), reframing / positive connotation (23%)
Ending stage N = 283	Summarising (67%), drafting settlement (46%), reality testing (34%), maintaining a future focus (30%)
Follow-up stage N = 109	Maintaining a future focus (34%), summarising (25%), drafting settlement (20%)

Table 2. Most commonly used strategies, techniques and interventions used with specific client and dispute characteristics

Characteristics	Strategies, techniques and interventions
Inability to come to terms with the end of marriage N = 283	Reflecting feelings (42%), exploring marital breakdown (29%), normalising (23%), exploring spousal relationships (21%), reality-testing (21%)
High conflict couple N = 283	Managing conflict (52%), reframing (23%), reflecting feelings (20%), establishing ground rules (19%)
Spousal abuse (verbal, psychological, emotional and physical) N = 283	Establishing ground rules (54%), confrontation (26%), managing conflict (22%), holding to task (21%)
Child abuse or marked neglect N = 164	Exploring parent-child relationships (60%), referral (58%), educating / providing information (21%), establishing ground rules (20%)
Involvement of children directly in mediation session N = 136	Exploring parent-child relationships (39%), facilitating communication (32%), reflecting feelings (26%), normalising (23%)
Culturally diverse clients N = 181	Facilitating communication (36%), defining /clarifying issues in dispute (33%), identifying interests / needs (31%), using questions (30%)

prevalent. Most mediators reported using the structured negotiation model (83%), which is the primary model mediators are trained in specifically for use in mediation. Although structured negotiation was the general rule almost 40% reported using some type of therapeutic model, 18% a multigenerational model, 14% a culturally specific model, and 4% a feminist model.

The influence of training in mental health professions demonstrated a strong influence when mediators were given the opportunity to list other practice models they used in mediation. The most frequently cited 'other' models were solution focused / brief therapy and systemic family therapy / systems theory, both referred to by 5% of mediators. Within the list of models were many that would sound familiar to family therapists and counsellors. It included cognitive behavioural, transactional analysis, narrative, psychodynamic, reality therapy, and Gestalt. All of these were referred to by less than 5% of respondents, but many of them were listed conjointly, for example: solution focused and cognitive behavioural. On the whole, it seems that therapeutic models, especially systemic and solutions focused models, have influenced the mediation community.

emerging implications

The analyses of the process and specific client and dispute characteristics show that more specific mediation situations call for some techniques that would not otherwise be used during the 'typical' process. It is also clear that there is less agreement amongst mediators about the strategies, techniques, and interventions they use in specific client and dispute situations, as compared to the more broadly defined mediation process. However, the agreement about techniques for these specific situations seems to be higher where there are some pre-set rules, procedures (child / spousal abuse and consulting children directly) or specific training devoted to a topic (high conflict couples). It is possible that because strategies and procedures have already been outlined, only in a small proportion is the decision as to which strategy or technique to use left to the discretion of the mediator, thus resulting in the higher levels of agreement observed in the results. The analyses of the theoretical models shows a strong

base in the use of structured negotiation for the majority of mediators, but a definite influence of models from the professions of origin of mediators.

It is worth explaining that following the introduction of public funding for mediation in England and Wales that the Legal Services Commission has instituted a practice assessment portfolio that each mediator must complete before she / he is able to mediate publicly funded cases. This procedure may have helped to standardise the thinking, if not the practices, of these mediators. In addition, a great deal of mediation practice since the introduction of public funding has been centred on intakes / assessment meetings. These are meetings in which a mediator meets with a client, sometimes a couple, to assess their suitability and willingness to proceed to mediation. Mediators who completed the questionnaire allocated an average of about 40% of their practice to intake / assessment meetings. The increased amount of time spent doing assessment meetings may have begun to standardise assessment procedures more than other parts of the process.

This brief look at mediation practice demonstrated that mediators generally agree on the techniques and theoretical model to use during the process, but there was less agreement when it came to specific situations and theories. My research is beginning to uncover some of the diversity in the way that family mediation is practised and conceptualised with regard to factors such as profession of origin,

practice settings, experience and gender. It is important to remember that the data presented here were the strategies, techniques, interventions, and models used by mediators in general; potential differences between types of mediators were not considered. Although I did not examine differences in mediation styles in this article, it is one of the foci of my research.

I believe that a similar questionnaire and research project could be developed to help understand the national trends of practice and important theoretical models within family therapy or any other helping profession with strong skills-based approach. It can become a part of building 'reflective practice', where researchers try to assist in the development of practice by '... help[ing] practitioners discover what they already understand and know how to do' (Schön, 1991, 5). The importance of this approach was illustrated to me by a mediator I have been observing who commented, 'Things [like this questionnaire] are a useful exercise because I rarely take time to consider what I'm doing; I just do it.'



'A gut feeling is an hypothesis - test it, discard it or act on it.'

'When asking for a proposal, ask what is in it for the other person.'

'You cannot make spousal demands on the other's parenting.'

'Sometimes, you need to ask the "So what?" question.'

'Leave the hardest until last.'

John Haynes