



# Breaking up is hard to do

Assisting families to navigate family relationship support before, during, and after separation

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# About the author

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## Acknowledgements

We are very grateful to the Department for Work and Pensions for funding this project.

The author would like to particularly thank Kate Jopling, Prof Jan Walker, and Chris Sherwood for their invaluable support and guidance with this work.

We would also like to thank all of those who kindly gave their time to be interviewed or to attend a focus group or roundtable discussion to input into this work:

Adrienne Burgess, Joint CEO, Fatherhood Institute  
Anne Chilton, Head of Counselling, Relationships Scotland  
Anthony Douglas, Chief Executive, Cafcass  
Carole Goodman, Senior Head of Service, National Commissioning Team, Cafcass  
Dr Carole Kaplan, Transformation Programme Director, Northumberland Tyne and Wear NHS Trust  
Cat Houlston, Senior Research Officer, One Plus One  
Charlene Kelly, Child Contact Centre Development Officer, Relationships Scotland  
Dr Claire Ralfs, Deputy CEO, Relationships Australia (South Australia)  
Colin Jones, CEO, Resolution  
David Norgrove, Chairman, Family Justice Board and Chair, Low Pay Commission  
Elizabeth Coe, CEO, National Association of Child Contact Centres  
Ewan Malcolm, CEO, Relate London North West  
The Family Justice Young People's Board  
Fiona Weir, Chief Executive, Gingerbread  
Helen Savage, Mediation Now and Chief Executive, Southampton and Community Family Trust  
His Honor Judge Altman, Senior Circuit Judge, Central Family Court  
Ida Forster, Family Matters Project Manager, Resolution  
Isobel Bilsland, Centre Manager, Relationships Scotland Borders service  
Jackie Roberts, Mediator, Changing Futures North East  
Prof Jan Walker, Newcastle University  
Prof Janet Reibstein, University of Exeter  
Jane Robey, Chief Executive, National Family Mediation  
Jenn Lynch, Family Justice Young People's Board Co-ordinator, Cafcass  
Kate Shiner, Senior Policy Advisor, Ministry of Justice  
Laura Dowson, Head of Innovation and Development, Relate  
Mark Molden, Chief Executive, Marriage Care  
Martin Todd, Deputy CEO, Changing Futures North East  
Mary Shaw, Family and Collaborative Lawyer and Family Mediator, David Gray Solicitors  
Mike Coote, National Commissioning & Partnerships Development Manager, Cafcass  
Penny Mansfield, Chief Executive, One Plus One  
Prof Anne Barlow, University of Exeter  
Rachel Jones, Operations Manager, Central Family Court  
Rita Suglani, Royal Courts of Justice Advice Bureau  
Rosanne Cubitt, Joint Head of Professional Practice, Relationships Scotland  
Ruth Maisey, Senior Research and Policy Manager, Nuffield Foundation

Dr Samantha Callan, Associate Director for Families and Mental Health, Centre for Social Justice  
Simone Milani, Head of Family Policy, Department for Work and Pensions  
Stuart Valentine, Chief Executive, Relationships Scotland  
Sue Burridge, Head of Policy and Reporting, Marriage Care  
Sue Nicolaou, Assistant Director Services and Innovation, Family Action  
Susanna Abse, Chief Executive, Tavistock Centre for Couple Relationships  
Virginia Leeuwenburg, Practice Manager Dispute Resolution and Post Separation Services, Relationships Australia  
(South Australia)  
As well as others who wished to remain anonymous.

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# Foreword: Chris Sherwood, CEO, Relate

We plan comprehensively for our weddings, but we don't plan for separation. Yet 42% of marriages break down, and a significant proportion of cohabiting couples with children also separate. Most families manage separation by themselves without negative long-term impacts, but for a minority of families the hurt, anger and emotional turmoil of separation can lead to intractable conflict – with damaging impacts on children, as well as wider impacts on the public purse.

Government has increasingly recognised the importance of relationships for children's wellbeing, and government investment in relationship support is welcome – although much more is needed. Many more families could be supported to stay together and improve the quality of their relationships with more investment in support as well as culture change to normalise help-seeking.

However, recognising that some relationships will always break down, it is also crucial to prevent parental relationship breakdown from leading to ongoing conflict and bitterness which are so damaging to children, as well as to parents' own emotional health and wellbeing. Breaking up – as this report's title says – is hard to do, and most parents are totally unprepared for what they encounter. It is therefore essential that policies are designed to support parents and children to manage the consequences of separation, and to focus on reducing risk factors which are associated with detrimental outcomes for children, such as poverty, parental conflict, and multiple family transitions.

Our vision is of a holistic, wraparound system of support for family relationships before, during, and beyond separation which places the customer, not the agencies which provide support, at the centre. We want families to have the information and tools they need to make informed decisions and to navigate the available support. We want to see an easily understandable, coordinated system of support, which assists families from the earliest possible point to be able to find their own pathways, moving seamlessly between services and receiving multi-disciplinary and holistic support which brings together agencies offering interventions with better cross-referrals. This will give families the best possible chance of reaching a secure and stable arrangement for their future and assist as many as possible to find their own solutions – rather than falling into costly statutory systems.

This report points to the way forward for achieving this vision. The importance of the task should be apparent, and we hope this report will help to bring it about. What is now required is a bold, concerted and joined-up focus in policy on supporting family relationships before, during, and after separation.

# Summary

The evidence is clear: good quality relationships are critically important for the wellbeing of children and adults. Consequently, policy makers have focused increasing attention on the levels of relationship breakdown and, in particular, on the negative consequences of unresolved conflict and enduring chronic disputes. While most parents manage their separation with little support from professionals, those who are unable to do so often face a range of complex issues, including domestic violence and abuse, mental health problems, and addictions, and may well end up in lengthy and cyclical court battles. The emotional, social and economic costs of highly conflicted family relationships are immense.

Furthermore, in an era of continuing financial restraint, pressures on statutory support systems such as the Child Maintenance Service and the courts are increasingly becoming unsustainable, and policy makers are looking at ways of re-directing demand away from costly statutory routes. Key to this, it is recognised, is ensuring an effective and coordinated system of support for family relationships before, during, and after separation, which ensures families know what is available and where to go for the support that is right for them.

This report explores the current provision of support before, during and after separation and the extent to which it is currently coordinated. What it identifies is a support system comprised of high-quality services with highly-skilled practitioners, but which are too often distinct from each other. Families lack an obvious, visible and authoritative place to go to for information and support relating to family relationship problems, and the vast majority of the information out there is generic, not tailored. Support is difficult to navigate and there are few clear entry points or triage mechanisms to provide holistic assessments of need and support appropriate referrals. Demand for support is expressed late on, often when difficulties have reached crisis point – which can skew provision on the supply side towards crisis intervention. Support is often fragmented, siloed, and single-issue, with gaps between different forms of support, and limited inter-agency and inter-professional awareness or communication. Finally, children's and young people's voices are often absent, and support for parents is often not joined up with support for children and young people affected by parental separation.

Based on the extensive evidence considered, we draw out recommendations for policy makers which point to the way forwards towards a more coordinated and effective system of support. Many of the issues we identify and the solutions we propose have been debated before; but the costs now necessitate action.

Underlying these policy recommendations is a vision of a support system which:

- Places families who access support – not agencies which provide it – at the centre and designs support around their needs;
- Empowers families wherever possible to assume responsibility to manage their own resolutions and outcomes;
- Resolves problems as early as possible;
- Promotes collaboration; and
- Integrates and coordinates multi-disciplinary provision.

## Summary of recommendations

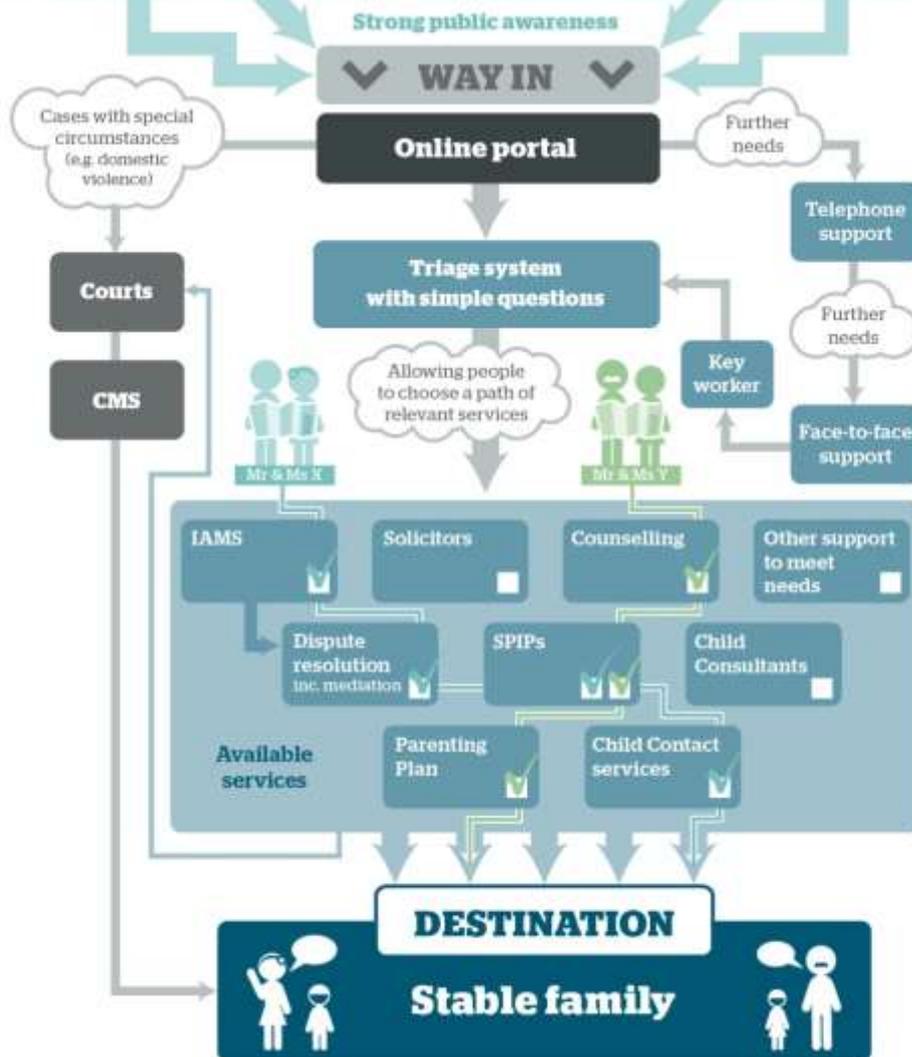
To move towards a more coordinated system of support for family relationships before, during, and after separation, we recommend:

- 1.** Increased investment in support for relationships through the life course, and particularly prior to separation, to empower people with the emotional and practical tools to be able to move forward, either together or apart.
- 2.** A single point of access for information and support for all families before, during, and after separation, with the primary route of access via an online interactive portal.
- 3.** A single telephone support helpline providing additional support for those whose needs cannot be met through an online portal.
- 4.** The coordination of existing community-based support and dispute resolution services within Family Relationship Centres to provide multi-disciplinary support before, during, and after separation. This could be piloted as part of the Department for Work and Pensions' (DWP) Local Family Offer or through a specific initiative led by the Ministry of Justice (MoJ).
- 5.** The piloting of networks to foster inter-professional understanding and relationships locally across family relationship support and family dispute resolution services through information-sharing, cross-professional development and joint training.
- 6.** More integrated support for children and young people affected by separation.
- 7.** Increased coordination across government with a minister with clear responsibility for family justice and relationship support across both MoJ and DWP. This Minister could also have lead responsibility for wider family policy across government.
- 8.** Redesigning Mediation Information and Assessment Meetings (MIAMs) to become Information and Assessment Meetings (IAMs), and exploring multi-channel delivery (such as online as well as face-to-face).
- 9.** Offering Separated Parents Information Programmes (SPIPs) free to parents if combined with IAMs prior to court applications and at a cost for court-directed parents, and exploring multi-channel delivery.
- 10.** Legal Aid for a broader range of dispute resolution options and Legal Aid contracts which incentivise providers to work together.
- 11.** A dispute resolution innovation fund to stimulate wraparound support for vulnerable groups and foster greater collaboration between different agencies.
- 12.** The promotion and marketing of family relationship support before, during and after separation to drive culture change.
- 13.** A What Works Centre for relationship support to refresh and extend the evidence base.

# The current system: The journey facing parents towards a stable family relationship beyond separation



**Our vision:  
The route planner for stable family  
relationships beyond separation**



graphic is illustrative and not exhaustive

# 1. Vision: What do we want to achieve?

Few would deny that good quality, safe, stable and nurturing relationships are indispensable to a strong society. The evidence is clear that relationships are central to the wellbeing of adults and children. Successive governments have begun to recognise the importance of providing support to families, to prevent relationship breakdown where possible, but also to support enduring stable, good quality family relationships where separation occurs.

In this report we explore: the current provision of support before, during and after separation; the challenges people face in accessing and moving through support; and the challenges to improving the linkages between different parts of the system to develop a more coordinated system of support. We set out recommendations, based on the evidence we have examined, on how support could be improved in future in order to support stable and nurturing family relationships whether parents are together or not.

The ambition is to identify the way forwards toward a more effective system of support for family relationships, with more competent services, which supports families to have more competent, good quality relationships which children need – whether parents are together or separated. Joining up family relationship support will enable us to take full advantage of the high-quality yet currently distinct and often disconnected parts of the system, ensuring that every contact families have with services is as productive as possible by drawing the elements together into a more coordinated system of support.

Achieving a more joined-up support system has two underlying and related purposes.

1. It will be clearer for customers to navigate, and enable families to move through support more seamlessly and follow coherent pathways appropriate to their circumstances. Rather than being passed around the system, or left to try to find a path in a confusing maze of provision, customers would be able to identify clear starting points as well as logical next steps and know where to go for the support they might need.
2. A more coordinated and customer-centred system may also enable and encourage families to access support earlier, which in turn will help reduce demand at the acute end of the ‘pyramid of need’, reducing the pressures on statutory services. Ultimately, if we can achieve the desired shift in ‘normalising’ help-seeking behaviour among couples considering separation and ensure access to support at this point, we may also be able to promote sufficiently early access to support to enable more relationships to be saved, as well as more co-parenting relationships following separation to be more cooperative and harmonious, with better outcomes for children.

## 1.1. Why does this matter?

There is strong evidence to support government interest in relationship quality in itself. A significant body of research documents the benefits of good quality, stable, supportive relationships across the life course for mental and physical health.<sup>1</sup> Studies point to links

between relationship distress and alcohol misuse,<sup>2</sup> depression,<sup>3</sup> and poor health: a major evidence review found an ‘unequivocal association’ between relationship breakdown and general adult ill health as well as more specific conditions such as coronary heart disease and raised blood pressure.<sup>4</sup> Similarly, the impact of relationship breakdown on adults can include ill health, depression, stress, financial difficulties, and unemployment.<sup>5</sup>

However, in recent years, an even stronger driver of action to address the experience of couples going through relationship difficulties has been the growing evidence base on the impact on children. Poor quality relationships and fractious separations have detrimental impacts on children’s wellbeing, which in some cases can last long term.

- It is now well-established that, although most children whose parents separate or divorce adjust fairly well to change, poor outcomes such as behavioural difficulties are about twice as likely among these children as they are for children whose parents remain together.<sup>6</sup>
- Evidence also shows associations between parental relationship breakdown and child poverty, behavioural problems, distress and unhappiness, poorer educational achievement, substance misuse, physical and emotional health problems, teenage pregnancy, and increased risk of children’s own relationships breaking down.<sup>7</sup>

However, evidence shows important mediating factors which explain why some children are negatively affected while most are not.

- Poverty and the quality of the relationships surrounding the child are crucial.<sup>8</sup>
- The negative impacts on children of parental relationship dissolution are predominantly rooted not simply in the stress of family re-organisation, but in the compounding conflict surrounding separation.<sup>9</sup>
- Children growing up with parents who have low parental conflict – whether they are couples or separated<sup>10</sup> – enjoy better physical and mental health,<sup>11</sup> better emotional wellbeing,<sup>12</sup> higher academic attainment,<sup>13</sup> and a lower likelihood of engaging in risky behaviours.<sup>14</sup>
- Parental conflict can affect children’s and adolescents’ wellbeing and adjustment and emotional and mental development<sup>15</sup> – resulting in increased anxiety, depression, aggression, hostility and antisocial behaviour and criminality.<sup>16</sup>
- Children’s exposure to frequent, intense and poorly resolved conflict may have a more significant impact than divorce or separation in itself.<sup>17</sup>

The quality of the co-parental relationship is also associated with the level of parents’ engagement with their children,<sup>18</sup> with a number of studies suggesting that the association with fathers’ engagement is stronger than that with mothers’ engagement.<sup>19</sup> It has also been linked to fathers’ sense of efficacy, with fathers who are involved in shared decision making about their children more likely to feel more competent and confident as parents.<sup>20</sup>

The evidence is clear that the way in which the family functions before, during and after separation is crucial, and there are steps separating and separated parents can take to mitigate relationship breakdown and produce more positive outcomes for children.<sup>21</sup> It must be a policy priority, then, to support relationships to be as collaborative and harmonious as possible where separation does occur, to enable parents to provide stable environments for children, whether they are in a relationship together or not.

## 2. The current context

Increasing attention is being paid to the importance of family relationships for children's wellbeing and the impact of conflict; to the wider economic costs (not least to the high costs to the state of statutory systems such as the Child Maintenance Service and the courts); and to how policy can encourage and support more families who separate to reach their own arrangements without recourse to court. Alongside the importance of relationships for children's life chances, recognition of the economic cost of relationship breakdown – estimated at £47 billion in 2015 by the Relationships Foundation<sup>22</sup> – has also been an important policy driver. In an era of continued austerity, there is increasing pressure to reduce demand on statutory services.

The current context of relationship breakdown makes this a priority. Today in England and Wales, 42% of marriages lead to divorce.<sup>23</sup> But, as the marriage rates have fallen over the years, increasingly family separation is about what happens to cohabiting couples with children who separate, as well as to those who divorce. Just over two per cent of people in couples are likely to experience a separation over the course of a year.<sup>24</sup> It is estimated that there are around 2.5 million separated families with dependent children (including 16-20-year-olds in education) in Britain.<sup>25</sup> Other studies have estimated that a quarter of the 12 million children in the UK have experienced parental separation during their childhood and that between 200,000 and 250,000 parents separate every year.<sup>26</sup>

As previous reports have noted,<sup>27</sup> figures on the paths followed by separating families are not gathered consistently. However, studies suggest most families find their own routes to resolution around childcare issues, and only one-in-ten children with non-resident parents have contact arrangements ordered through court.<sup>28</sup> Similarly, research suggests almost half of all couples who separate or divorce are likely to resolve matters for themselves: between 1996 and 2011, 47% of separating or divorcing couples sought no legal advice about their situation.<sup>29</sup> Furthermore where parents agree arrangements themselves, parent-child contact is typically more frequent, and parents are more satisfied than when going through court.<sup>30</sup> Litigating cases score poorly on a wide range of measures of parental relationship quality, communication, decision-making, support for the relationship between the child and the other parent, and levels of parent and child wellbeing.<sup>31</sup>

### 2.1. Policy context and drivers

Government policy in the area of separation is centred on supporting families to take responsibility for their own arrangements, and is driven primarily by two key concerns: a focus on children's wellbeing, and the financial cost to the state of statutory systems, including a desire to streamline support and achieve a more joined-up approach to commissioning to avoid 'double-handling'.

If we consider the caseload of couples who are separating or separated as akin to a river flowing towards heavy-end statutory systems such as the family courts and child maintenance systems – current policy can be seen as attempting to stem this flow in two ways:

1. On one hand, the Department for Work and Pensions' (DWP) Help and Support for Separated Families (HSSF) initiative to integrate support and increase knowledge

of what is available to help separated families work together, and the Ministry of Justice's (MoJ) promotion of mediation, are both attempts at carving out new routes for the flow, away from statutory systems.

2. On the other hand, the reforms to child maintenance and Legal Aid may be seen as putting up dams in front of statutory routes to divert people towards family-based arrangements. The problem with this approach, as we will see from the evidence, is that too many families can be left adrift, struggling to find support, if the former approach does not sufficiently open up alternative currents.

The focus of this report is to consider how we might widen and deepen the new channels available to families facing separation, by exploring the current state of pre-, during- and post- separation support, and the potential for improving current routes through the system.

### **2.1.1. Government support for relationships to improve children's life chances**

The importance of relationships has gradually achieved greater prominence in policy over recent years. The Social Justice Strategy highlighted the importance of family relationships for social justice, recognising strong and stable families provide children with the best start in life,<sup>32</sup> and introduced a government measure of relationship quality and family breakdown. The current Government is pursuing this agenda further, in its 'life-chances' approach to poverty and commitment to "develop a range of [...] measures and indicators of root causes of poverty, including family breakdown".<sup>33</sup>

In recognition of the role of relationships in children's life chances, government has:

- Invested £30 million for relationship support over 2011-15 to encourage stable couple relationships, improve relationship quality, and help couples whose relationships were breaking down;
- Invested £20 million to integrate existing support services and provide information and support to help separated families work together in the best interests of their children;
- Financed 17 varied pilot services across Britain (through the Innovation Fund for Help and Support for Separated Families) to test different support services to help parents resolve conflict and work together when going through separation, including digital solutions, mediation-based and therapeutic interventions, counselling and legal advice – which DWP is evaluating to inform future strategy for families facing separation;
- Introduced a 'Family Test' requiring all new policies across Whitehall to consider the impact they might have on family relationships;<sup>34</sup>
- Committed to at least £7.5 million for relationship support per annum<sup>35</sup> (repeated as a manifesto commitment)<sup>36</sup> as well as pilots of relationship support within antenatal classes, and guidance for Health Visitors;<sup>37</sup> and
- Commenced work on piloting a local joined-up 'family offer', working with select local authorities to integrate services, see what works locally, and spread best practice.

### 2.1.2. Reducing pressures on the family justice system: promoting dispute resolution out of court

Besides government investment in relationship support to prevent relationship breakdown and support more collaborative co-parenting relationships post-separation, the reforms to the family justice system provide much of the relevant backdrop to this report, attempting both to divert families away from court, and to simplify the system for those who go to court. The Family Justice Review highlighted that too many families ended up in court, there was little awareness of alternatives, the court system was hard to navigate, and many parents did not know where to go to get the information and support they needed.<sup>38</sup> The Review led to wide-ranging family justice reform which saw the creation of a single family court, 'child arrangement orders' replacing 'contact' and 'residence' orders,<sup>39</sup> and a statutory presumption that the involvement of both parents in children's lives post-separation will further children's welfare, unless the contrary is shown.<sup>40</sup>

However, efforts to support more families to find their way to their own arrangements were undermined by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) which significantly reduced access to Legal Aid. Legal Aid remains available for mediation – although the criteria were tightened – but otherwise applications to the family court concerning children or finances are only eligible for Legal Aid for victims of or those at risk of domestic violence, or where a child who is the subject of an order is at risk. The unintended corollary was that publicly-funded mediation fell by over a third as the major source of referrals into mediation – family lawyers – disappeared for many families. The Legal Aid Agency had planned for an increase of £10 million in spending on publicly-funded mediation, whereas it saw a spending fall of £8 million a year after 2012.<sup>41</sup> The fall in numbers led to a £16.8 million underspend by the MoJ on family mediation in 2013/14.<sup>42</sup>

The counterpart has been the rise of litigants-in-person, the proportion of whom in private law cases rose from less than 15% at the beginning of 2013 to 30% by January-March 2015 – while the proportion of cases where both parties were represented fell from over 40% to 24%.<sup>43</sup> Research has shown that litigants-in-person struggle to represent themselves – even those with high levels of education or professional experience – and have considerable support needs.<sup>44</sup>

In April 2014 the Children and Families Act 2014 made Mediation Information and Assessment Meetings (MIAMs) a statutory requirement for all applicants to court for private family law matters unless an exemption applies. MIAMs are meetings with a mediator to discuss the case and find out about mediation and other out-of-court dispute resolution options to see if this could be a way to resolve difficulties instead of going directly to court, and these are intended to support the flow into mediation. The mediator will explain the options, explain what mediation is and how it works, the benefits of this route over alternative ways of resolving disputes, the likely costs, and they will also explain whether the client is eligible for Legal Aid. MIAMs are also open to Legal Aid, and if one party is publicly-funded, the cost is covered for both parties. Only the applicant is required to attend, but there is an expectation for the other party to attend also. Where only one party attends, the case cannot convert into mediation. Research indicates an overall conversion rate of MIAMs into mediation of 66-76%, and shows conversion is less likely when couples attend separate MIAMs (and the majority are conducted separately).<sup>45</sup>

Following the recommendation of the Mediation Task Force, in November 2014 public

funding was extended to the first session of mediation, in addition to the MIAM, for *both* parties where at least one is legally-aided. MoJ has been running a marketing campaign to increase awareness of mediation,<sup>46</sup> which reportedly showed a 340% increase in traffic to the Family Mediation Council website.<sup>47</sup> This focus on mediation appears to have stemmed the fall post-LASPO: there was a 19% increase in the number of publicly-funded MIAMs over 2014-15 compared to 2013-14 and there were around 15,000 publicly-funded MIAMs over 2014-15.<sup>48</sup> Similarly, after the initial fall, the number of mediation starts is also increasing, with figures for the last quarter of 2014-15 up by 33% on January-March 2014 and a total of 8,035 publicly-funded mediation starts over 2014-15.<sup>49</sup> While data are available for publicly-funded MIAMs and mediations, there are no national data available for privately-funded cases.

Government policy on family justice is focused on encouraging the use of out-of-court resolution services such as family mediation, and encouraging families to take responsibility for their own disputes by improving the availability of information and improving access.<sup>50</sup> A new Parenting Plan to provide a clear focus on children throughout the dispute resolution process and help parents to communicate better was launched in March 2014.<sup>51</sup> However, recognising some people will need to go to court, government is also concerned to ensure that the family justice system supports those who cannot afford representation to avoid what the Lord Chancellor and Secretary of State for Justice has termed a ‘two-nation’ justice system.<sup>52</sup>

### **2.1.3. Child maintenance reform**

The reforms to child maintenance also provide an important part of the policy backdrop. Reform in this area has been driven by the ambition of more families reaching their own arrangements and the Child Maintenance Options service is funded by government to provide free and impartial information and support to achieve this.

The consultation paper on Child Maintenance reform highlighted that only one-in-five parents made their own arrangements and, despite government spending almost half a billion pounds per annum on child maintenance, only half of children in separated families benefited from effective arrangements.<sup>53</sup> In June 2014, a £20 application fee was introduced for making an application to the Child Maintenance Service, intended to encourage separated parents to work together in children’s interests and remove the perception of the statutory service as the ‘default option’<sup>54</sup> (victims of domestic violence and abuse are exempt from this fee, as are applicants aged under 19). Additional charges apply – to both payee and payer – if they opt to use the ‘Collect & Pay’ option rather than the Direct Pay option. These charges are intended to act both as an incentive for couples to avoid the statutory system, and to defray its costs as, reducing cost was also a significant driver of reform – given that the total cost of the child maintenance system was £503 million in 2012-13.<sup>55</sup>

The consultation paper set out the Government’s vision for the new child maintenance landscape where collaborative family-based arrangements between separated families are the main focus, and committed to “better co-ordinated support services for separating and separated families across Great Britain”, and to pursuing a programme “to enable better co-ordination and signposting of existing support services”. This work included a new quality mark for services to support collaborative parenting post-separation as well as the ‘Sorting out Separation’ website, intended as a one-stop shop for parents to navigate their way through separation.<sup>56</sup> The latter was also a response to

the Family Justice Review, which had recommended an online hub to achieve a more coherent process for dispute resolution.

#### **2.1.4. Voices of children and young people**

The final piece of the policy context is the growing recognition of the importance of – but also the absence of – the voices of children and young people. A large body of research demonstrates that children and young people want to be given clear information about what is happening during separation, and many want to be engaged in decision-making.<sup>57</sup> Research also indicates significant beneficial outcomes, including improved parental relationship, more developmentally-sensitive agreements, improved father-child relationships and improved attachment, as well as children showing lower anxiety, fewer fears and fewer depressive symptoms.<sup>58</sup>

However, recent research has found the voice of the child to be notably absent across family dispute resolution processes,<sup>59</sup> and that despite many mediators having been trained to work directly with children, child-inclusive practice remains an “adjunct to mainstream mediation practice”.<sup>60</sup>

The Family Justice Review highlighted children and young people need age-appropriate information to explain what is happening, and recommended that they should be supported as early as possible to be able to make their views known. Cafcass set up the Family Justice Young People’s Board<sup>61</sup> to promote child-inclusive practice, and in July 2014 then Minister of State for Justice and Civil Liberties Rt. Hon. Simon Hughes MP outlined the Government’s commitment to children having a greater voice in the family justice system<sup>62</sup> – re-affirmed by the new Minister Caroline Dinenage MP in 2015.<sup>63</sup> The Voice of the Child Dispute Resolution Advisory Group was also formed to lead on promoting child-inclusive practice. The DWP’s Innovation Fund (Help and Support for Separated Families) tested the effectiveness of two projects which put children’s feelings and voices at the heart of the service they provided to help parents resolve conflict and work together during separation. Results of evaluation of this activity will be used to inform future strategy.

Given this increasing recognition of the importance of hearing the voices of children and young people when parents are in dispute, it is important that joining-up support for families before, during, and after separation also includes a focus on how children and young people’s voices are at the centre of this.

## 3. What are the challenges?

The rationale for a more coordinated and joined-up approach to support which is ultimately more customer-focused is clear: we want to support families more effectively, in ways that put families who use services at the centre, to enable users to access support earlier, make informed choices, and self-navigate through support to find their own arrangements wherever possible. This will reduce demands on costly statutory services and support more people to achieve more harmonious family relationships – with better outcomes for children.

However, if this is the vision of where we want to be, we will need to overcome several challenges in order to get there. This chapter sets out the nature of these challenges.

### 3.1. Information is uncoordinated and confusing

If customers are to be empowered to find their way to support that is right for them, they need access to good quality, trusted information about the available options and how they might be put together. A push towards family autonomy and families resolving issues themselves depends on giving families the information they need: people need a holistic ‘route map and compass’ to know where to start and navigate their journey.

The first significant challenge, however, is that information is uncoordinated and confusing. Awareness and understanding of the options is often low, and many people do not receive the support they need. DWP data from 2012 showed that more than half of separated parents (52%) found it hard to access the support they needed and 39% did not access any professional support.<sup>64</sup>

The following are crucial elements to the provision of effective information:

- Users need to be able to identify trusted information – ideally from an authoritative go-to place from which to start looking.
- Information needs to be tailored (or tailorable) and not simply generic. Information needs to cater for parents’ different experiences of, and needs for support with, separation.
- However easy we make it to navigate information, some people will always need supported access: interviewees pointed to the importance of someone to ‘hand-hold’ families through the system.

#### 3.1.1. Information can be overwhelming, with few clear entry points

*“The information is relatively easy to find, but navigating it is difficult and it starts to overwhelm most people.” – A district judge*

Because family separation can be an emotionally fraught time, the volume of information can add to families’ difficulties in finding accurate information. There is a plethora of sources of information and advice online relating to family relationships before, during and after separation, from voluntary sector organisations, commercial divorce businesses, government websites, online peer advice communities, etc. The Mediation Task Force noted that the online space is crowded and confusing,<sup>65</sup> and research in

Canada has similarly shown that a surfeit of information which is uncoordinated is overwhelming and unhelpful.<sup>66</sup>

Participants in research have expressed how they felt confused and bombarded with information that they were not able to process.<sup>67</sup> One recent study found a general sense of being overwhelmed and not knowing where to look was a barrier to accessing support. Participants often felt overwhelmed by the range of information available, with one participant describing it as “You feel like you’re drowning at the time”.<sup>68</sup>

*“There’s loads of information out there, but it’s still really difficult, it’s not clear where to go to get it or how reliable it is.” – Rosanne Cubitt, Joint Head of Professional Practice, Relationships Scotland*

Finding authoritative and *trusted* information can be a particular challenge. Evidence shows many people find it difficult to distinguish high quality information from poorer quality information,<sup>69</sup> and many interviewees noted the sheer difficulty of knowing where to start in a digital world saturated with information.

This lack of a clear go-to place from which to start navigating the information applies also to children and young people affected by separation. The Voice of the Child Dispute Resolution Advisory Group has found that many children and young people do not know where they might go to get support and information, and concluded there is currently no complete suite of information that meets children’s needs.<sup>70</sup>

This was echoed in our discussions with the Family Justice Young People’s Board (FJYPB) who spoke of how children and young people do not know what is available to support them. Childline is often the first point of access, and in 2012/13, Childline reported a 122 % increase in children and young people making contact about parental separation.<sup>71</sup> Besides Childline, the FJYPB members identified Child and Adolescent Mental Health Services (CAMHS), Young Minds, school counselling, Samaritans, and the Kids in the Middle website as places to go for support. The Cafcass website provides information for children whose parents are involved in court proceedings, and Childline, Young Minds, One Plus One and Relate provide information for children on their websites, but the only dedicated website created for and by young people experiencing separation is [kidsinthemiddle.org.uk](http://kidsinthemiddle.org.uk). The FJYPB spoke about how schools, libraries, and health services for children and young people could all play a much greater role in provision of information on what support is available.

### **3.1.2. Information is generic, not tailored**

There are myriad sources of generic information, online, in popular magazines and columns in newspapers, in self-help books, etc. However, people need to be able to understand and apply generic information to their particular situation. Researchers have expressed concern about the proliferation of generic online information,<sup>72</sup> and many of our interviewees noted the absence of tailored information.

*“There’s information and there’s information. Most information that people can easily find isn’t tailored.” – Mary Shaw, David Gray Solicitors*

It is unsurprising that research shows more intricate and entangled relationships may

need more support: cohabiters in rented accommodation on the whole needed less support than those with shared mortgages, who were married, and those with children.<sup>73</sup>

*“We need to go beyond a simple ‘buffet’ of information for parents to pick from – people want and need tailored support that is personalised and right for them.” – Ewan Malcolm, CEO, Relate London North West*

The evidence also indicates that people typically access information and support around family separation in a ‘silo’ fashion – seeking specific answers to specific questions,<sup>74</sup> for example, housing, child maintenance, debt, or money advice. This suggests that information needs to allow people to dart about between issues as necessary.

### 3.1.3. Some people need more ‘hand-holding’

Some people will also need more supported access to information on their options (e.g. due to different levels of computer literacy). Research also shows people want professional support to be *personalised*.<sup>75</sup> Many people have a preference for solicitors over other forms of support, precisely because of the personalised support they offer: research shows higher satisfaction with lawyer-led dispute resolution than for mediation because the clients felt supported in this personal way.<sup>76</sup> Prior to LASPO, lawyers provided tailored information applied specifically to a families’ individual situation. In the wake of LASPO, for people who cannot afford to self-fund support from a lawyer, there are very limited opportunities for tailored and personalised information and there are often no obvious starting points from which to orientate themselves and begin finding their way around the morass of information and support out there.

*“There is a lot of information out there, but what’s needed is a clearer route through it that joins it all up. Getting people to accurate information and helping them through it is important. When there was Legal Aid and people went to a lawyer, they were managed and supported through the process; now they’re largely on their own.” – Prof Anne Barlow*

A particular challenge can be identifying *local* support. Searching online may return millions of results, but finding information on where to go locally can be more difficult.

*“There’s information out there on what support there is – and people do search online and self-refer – but finding local support is more challenging.” – Martin Todd, Deputy CEO, Changing Futures North East*

### 3.1.4. Sorting out Separation

Recognition of the difficulties many families face in navigating information, and the lack of a clear, single point of entry prompted the Government to launch the website, ‘Sorting out Separation’. This was “intended to be a one-stop shop for all parents – including the harder to reach – to help them find the support that is right for them”.<sup>77</sup> This is available from a dedicated web page and is also hosted on other websites, including Child Maintenance Options, Mumsnet, and Families Need Fathers. The Family Justice Review had recommended an online information hub to provide a single point of access for information, legal documents, and applications for family-related issues to the courts, including guidance about parents’ responsibilities; information and advice about services available to support families; information and advice to resolve conflicts; advice about

dispute resolution options; information about court resolution; support for couples to agree child maintenance arrangements; guidance on the division of assets; and what to do when there are serious child welfare concerns.<sup>78</sup> It also highlighted that this hub should include support and information for children and young people.

Sorting out Separation provides a central place for coordinating information which may be useful to separating and separated families, and the evaluation showed it to be considered a valuable resource for a range of separated and separating individuals.<sup>79</sup> However, many interviewees expressed their disappointment about what was perceived to be a missed opportunity, and some, including individuals in the formal family justice system, had not even heard of it.

*“Sorting out Separation was a brave attempt, but it clearly hasn’t worked – it’s not well-rated by professionals, it’s very little used and it hasn’t gained the authority that it needs to have ... it’s been a failure” – David Norgrove*

The evaluation commissioned by the Government also found it contained too little detail on issues, with users feeling there wasn’t enough direct or adequately detailed information, especially for more complex topics like benefits, the legal aspects of separation, and specific housing issues, which led to a feeling of being ‘passed off’ – calling into question the extent to which Sorting out Separation really is a one-stop shop.<sup>80</sup> The range of information was not clear, and the evaluation also highlighted the lack of a ‘human’ element and opportunity to interact with others and include stories or testimonials from previous users. It has also been argued that the videos on the site may minimize the problems that occur for separated families and that it lacks individualised support: “A video can give limited emotional support to someone in considerable distress.”<sup>81</sup>

*“The Sorting out Separation information hub was a brilliant idea but it hasn’t really taken off yet in terms of being the first port of call for everyone to go to, and isn’t well-marketed. The judges locally only know about it because we told them about it.” – A family mediator*

According to the most recent available data (31<sup>st</sup> May 2014), there were 180,000 visitors to Sorting out Separation,<sup>82</sup> and the DWP’s Analysis of Management Information reported in May 2014 that Sorting out Separation was averaging 6,000 unique visitors per month. Since then, DWP has focused energy on increasing traffic, working on search engine optimisation (resulting in the site now being among the top five results on Google for ‘separation’) as well as a range of design enhancements to make it easier for users to navigate the site and find the information they need. The site has also been promoted through social media, Jobcentres, local authorities and other external stakeholders and partners.

### **3.1.5. Limited awareness of dispute resolution**

An unfortunate consequence of the above information issues is very limited awareness of dispute resolution options. The Mediation Task Force highlighted a general lack of understanding among the public of mediation.<sup>83</sup> Recent research also shows little awareness of the full range of dispute resolution options, and almost half of the respondents in a national survey had not heard of *any* of the forms of dispute resolution.<sup>84</sup> In the confusing array of sources of information and advice, if families cannot easily

access information and advice which promotes collaboration as the default, they may be led down more combative routes focused more on parents' rights than on responsibilities to work together for children.

With limited awareness among the public of alternative dispute resolution options, there remains a culture of litigation as the primary means of resolving disputes – leaving those unable to take this route often at a loss as to where to go for support. Between 1996 and 2011, less than one per cent of separating or divorcing couples went directly to mediation.<sup>85</sup>

*“In terms of public awareness, the court is where you hammer things out: if you're in dispute with someone, the default is to resolve it at court ... And there's often not a viable community-based alternative” – Anthony Douglas, Chief Executive, Cafcass*

## 3.2. Navigating support is difficult

As a consequence of the vast and confusing provision of information, there are few obvious places to start. People may turn to friends, family, and search online, but there are few clear entry points. Family and friends are typically important informal sources of relationship advice and support and are often the first people we turn to when experiencing relationship difficulties – but however supportive friends and family might be, research shows most people prefer to talk to a professional to resolve more serious problems.<sup>86</sup> The question is where to begin. Research has shown that the first port of call for relationship problems is often the GP: a recent report by Citizens Advice found personal relationship problems were the biggest driver of non-health demand on GPs' time and more than nine-out-of-ten (92%) GPs reported patients had raised issues about personal relationship problems with them over the last month.<sup>87</sup> However, health professionals are not widely supported to talk to patients about their relationships, and given increasing pressures on time as well as the lack of profile relationships have in policy, relationships are not prioritised.<sup>88</sup> Many do not know what services are available or who to refer people to, and responses tend to vary between signposting to counselling services and simply prescribing medication.<sup>89</sup>

While in an ideal world it might be preferable for families to access other forms of support first (such as counselling) before rushing to begin a legal process, solicitors have traditionally been people's first port of call when facing family breakdown.<sup>90</sup> It is estimated that approximately 80% of people with a family relationship problem go first to a lawyer.<sup>91</sup> However this route is now largely inaccessible for those unable to self-fund legal support. Finding one's way around the system of support is therefore a real challenge. Furthermore, since historically solicitors provided the main source of referrals into out-of-court dispute resolution options, in the wake of LASPO, there are now additional barriers to uptake of mediation.

*“The dispute resolution pathway needs to be equally automatic to the in-court pathway, which is relentlessly automatic: a screening process, a safeguarding letter, a first hearing appointment, etc. One thing follows another and everybody is engaged in a prescribed way. It's a processing pathway. The out-of-court pathway, however, is very higgledy-piggledy and often families will end up in a particular place and are not sure where to go from there.” – Anthony Douglas, CEO, Cafcass*

### 3.2.1. A confusing dispute resolution marketplace

For those who do find out about out-of-court dispute resolution options, they are faced with a confusing marketplace, with myriad providers and little way to tell which will be most appropriate. 'Dispute resolution' comprises a variety of different approaches, including mediation, collaborative law, solicitor negotiation, and arbitration. At present only mediation is eligible for Legal Aid. Different disciplines are often not well-understood by the public – it is not always clear what is on offer, how they might benefit separating and separated couples, how they differ, and also what the costs will be.

*“It is not easy for clients to navigate the dispute resolution marketplace. Many clients don’t understand the difference between mediation and counselling/marriage guidance, and counselling is often understood to be about reconciliation and getting couples back together rather than supporting them through a relationship breakdown process and into a changed family. Some family lawyers don’t understand the mediation process.” – Mary Shaw, David Gray Solicitors*

The array of different agencies working in the dispute resolution space can add to the confusion. The Mediation Task Force noted the roughly 40% increase in Legal-Aid-Authority-approved mediation organisations over the five years up to 2014. In 2014 there were 257 providers operating out of 1759 locations, and the Task Force concluded that this was a market “saturated with providers.”<sup>92</sup> Interviewees similarly highlighted how difficult this can be for consumers to navigate.

*“The dispute resolution marketplace is a mess. Provision is highly variable, and the provision of mediation depends entirely on where the mediator comes from and their background. As a customer, it’s nearly impossible to know what you’re going to get.” – David Norgrove*

Research also indicates that MIAMs are not currently working particularly well in terms of informing attendees about the full range of the alternatives open to them, noting a potential conflict of interest created by the fact that the person providing the MIAM has a stake in the user’s choice of dispute resolution options, as referral to an option other than mediation would involve loss of business.<sup>93</sup>

The variability of mediation can also impede customers' ability to make an informed choice. Family mediation “is a shorthand term for a varied and somewhat fragmented approach to dispute resolution”,<sup>94</sup> and is offered by a number of professionals from a variety of disciplines using a range of models, across voluntary, private and statutory sectors.<sup>95</sup> Research shows clients are not aware of the variations in approaches to mediation or how mediation is conducted.<sup>96</sup>

The Task Force highlighted the absence of a single, recognisable body behind mediation as an obstacle to awareness and understanding: there are currently six different membership structures for mediators, which can add to confusion and inhibit a coherent approach to promotion. Mediators in research have highlighted their perception that service users did not know how to best choose a mediation provider that meets their needs.<sup>97</sup> Similarly, many of those we interviewed spoke about the variability and under-regulation of mediation.

*“The family dispute resolution marketplace is complex - whether you're a client or*

*practitioner. It's hard to know where to start. The mediation sector has been a muddle for 20 years, with competing organisations claiming different things.” – Ewan Malcolm, CEO, Relate London North West*

The Family Mediation Council is now working to achieve a more joined-up approach, and has a 'find a mediator' search facility on its website, as well as a standards board and framework, and since January 2015 there has been one compulsory accreditation scheme and new professional standards which all mediators must work toward in order to obtain FMC accreditation.<sup>98</sup> The mediation workforce is highly-skilled, but it requires appropriate resources put into coordination to be harnessed most effectively – and some interviewees told us that the FMC is currently under-resourced. Several interviewees also highlighted that it remains difficult for customers to make an informed choice of mediator.

*“It’s enormously difficult to navigate information about dispute resolution. It’s a substantially random process who you end up with, mostly determined by a friend recommending someone. The FMC list of mediators is the first consolidated list of mediators, but you still wouldn’t easily know what you were going to get with the different mediators in your area.” – David Norgrove*

### **3.2.2. The Help and Support for Separated Families Quality Mark**

Due to the number of different organisations and providers operating within the space of support for separating and separated families, it can also be difficult for both customers and other agencies to assess the quality of wider support.

*“A lot of organisations contact the Central Family Court offering their services, it’s very difficult to tell whether they are suitable or are offering good quality advice. If there was some accreditation scheme for support services it would be helpful for us to be able to assess which providers of support we should be joined-up with.” – Rachel Jones, Operations Manager, Central Family Court*

In an attempt to facilitate better parental understanding to navigate support and inform choice, the DWP launched the HSSF quality mark, intended to signify that accredited organisations have been independently assessed and deemed to meet a set of standards and to enable parents to choose with confidence. Organisations need to show they actively work to help parents collaborate constructively for their children.<sup>99</sup> The quality mark has also been marketed to organisations on the basis that they will gain from belonging to a network of similarly-accredited organisations, and the mark may facilitate greater coordination between agencies.<sup>100</sup> However, several interviewees expressed concern about the light-touch quality assurance which leaves it to umbrella organisations to sign up their members without individual assessment. The umbrella organisations themselves are subject to assessment by DWP and, as part of that assessment process, are asked about their internal procedures for assessing potential members’ suitability; they may, for example, be required to possess certain professional qualifications, adhere to a professional Code of Conduct or other prescribed standards in order to be accepted or continue to be a member of the relevant umbrella organisation. It has also been noted that the criteria omit reference to the accuracy of information provided.<sup>101</sup>

*“The HSSF quality mark is a great idea which the DWP is continuing to promote. My preference would be that we stick to the original assessment procedure in order to obtain the mark. The assessment procedure was very robust and really made us look at how we work to put children first as an organisation. I think this would keep the quality of the mark high.” – A family mediator*

While this idea certainly has potential to help customers identify good-quality support, many interviewees expressed concern that the mark has not been marketed enough to fully grasp the opportunity. Several interviewees – including some prominent in the family justice system had not even heard of it, and most said clients did not know what it was.

### **3.2.3. Limited triage or holistic needs assessments**

Limited triage opportunities to steer people towards the most appropriate support pathways compound the difficulties many face in navigating support. Support is often single-issue – while families’ needs may not be. As Professor Patrick Parkinson has observed, “people going through separation usually don’t just have problems about the parenting arrangements and legal issues arising from the separation”,<sup>102</sup> and research shows people going through separation may need advice on a range of issues, such as benefit entitlements, debt management and housing needs.<sup>103</sup>

However, there are often separate systems around different issues which separating families may experience. For instance, for families in need of support to arrange child maintenance where they cannot agree themselves, the Child Maintenance Service has its own Child Maintenance Options website and telephone support service (and families must speak to Child Maintenance Options before making an application to the Child Maintenance Service online gateway). While there is currently a lack of data to confirm this, it may be a safe presumption that many of the families in the cohort who use the Child Maintenance Service (or Child Support Agency – which still manages many statutory arrangements set up before December 2013) may also be in the cohort of families who go to court to resolve child arrangements such as contact or residence: if families are unable to agree financial arrangements, it is quite likely that many will not be able to agree living arrangements, etc., and vice versa. However, there is a completely different system for court applications over children issues, with different telephone support helplines (Child Maintenance Options and Cafcass), for example.

Support is often restricted to particular siloes. So lawyers provide legal advice, mediators provide mediation, SPIP providers provide SPIPs, contact centres provide contact, etc., but there is little integration or coordination across. Similarly, other professionals with whom separating families come into contact for support (benefits, housing, debt or financial advice, doctors – for depression, for instance – etc.) are not always prepared to identify relationship problems or make referrals and direct people to the appropriate family relationship support, and few people see the issue holistically, as essentially a multi-faceted family *relationship* issue.

However, research indicates that multi-disciplinary support and holistic assessments of needs are crucial, since separated parents with chronic disputes about children are very likely to also have a range of other issues, including family violence, mental health problems, and addictions.<sup>104</sup> In Australia, longitudinal research has found just over half of separated fathers and nearly two-thirds of mothers reported some form of emotional or

physical abuse had occurred in the relationship before or during separation, and half the mothers and a third of fathers said that mental health issues and/or the use of drugs or alcohol and gambling were evident before separation.<sup>105</sup>

*“Support is often single-issue. We need more holistic assessments of need – including where relationship issues may feature behind presenting issues. This is key to joining up support.” – Martin Todd, Deputy CEO, Changing Futures North East*

In particular, interviewees noted that the current separation of money and children issues in dispute resolution is not a very customer-centred approach, and is not how many people think about separation.

*“The statutory separation of money and children is probably not where people are at. To have some integrated first-step responses to money, care and housing and other issues around separation – and from children’s point of view, continuity of education and care – is quite important.” – Anthony Douglas, Chief Executive, Cafcass*

A related challenge to a more coordinated and integrated system of support here is the lack of data on families’ needs. The starting point for a support system which places the customer at the centre must be an assessment of customers’ needs. However, while there is research on the support needs of particular populations such as litigants-in-person, we lack data on support needs – particularly for the many people who are no longer in any formal system. Our current lack of knowledge about how people use the system – including, for example, what proportion of court caseloads is taken up by families who come back to court time and again – impedes the development of approaches which are sensitive to the specific needs and circumstances of different types of user.

*“It looks as though [post-LASPO] a lot of people have just disappeared off the radar...and are sorting out their problems – or not – without going anywhere near any kind of professional service. That may or may not be a good thing; we don’t know...We have a lack of knowledge about what actually is happening since the changes: how are people managing their problems? How well are they managing them?...A perennial problem is the lack of information about the different characteristics of people who are touching the system in one way or another...We don’t know enough about what’s actually happening.” – David Norgrove*

Research from elsewhere may give a proxy indication in lieu of hard data: in Australia, research found that 60% of parents were able to self-manage separation (a few might become stuck and benefit from relationship-focused interventions or relatively short mediation, but most cases should be fairly straightforward); 20% were described as ‘distant’ (including many who reported a history of domestic abuse, and who could benefit from a range of supportive interventions including parenting support and dispute resolution); and 12% reported highly conflicted relationships, while five per cent were ‘fearful’. For these more complex relationships, services need to be able to address a range of complex needs and situations.<sup>106</sup>

Additionally, screening processes are highly variable across the support system. Research has found worrying evidence of cases of mediation, for instance, where screening appeared not to have occurred or to have been responded to inappropriately, with MIAMs

not always separate and mediation sometimes recommended where there had been domestic violence.<sup>107</sup> Similarly, the evaluation of the SPIPs in the UK found that “screening was far from universal or systematic”.<sup>108</sup> Evidence suggests this is a common issue internationally, with limited systematic approaches to screening. A study in Australia found dispute resolution practitioners reported that family lawyers sometimes made inappropriate referrals – and lawyers, for their part, said dispute resolution practitioners sometimes proceeded with cases which lawyers believed were not appropriate.<sup>109</sup>

This lack of clear entry points for effective information, advice, triage or holistic assessments of need, systematic screening, and effective referral inhibits a more joined-up pathway through support for the customer.

The lack of entry points is not just an issue for families at the beginning of their separation journeys. Many families who are able to initially separate relatively peaceably find themselves locked in dispute further down the line, as circumstances change and the vicissitudes of life – such as one parent moving into a new relationship – jeopardise previously-agreed co-parenting agreements. Family cases may be ongoing long after the event of separation, because parental responsibility requires the maintenance of long term relationships.<sup>110</sup> This is confirmed by Australian research which shows changing family circumstances can often become more complex after separation, and access to support may be essential to avoid (re)litigation. Similarly, research shows many private child maintenance arrangements break down in the years after separation: around 50% of the 40% of single parents with private arrangements reported that arrangements broke down,<sup>111</sup> indicating that many separated families need long-term support throughout the maintenance period, not only around the point of separation. Likewise, studies show parents may use mediation more than once during the first few years after separation to support ongoing negotiations over parenting.<sup>112</sup>

### 3.3. Relationship support is a crisis response

The difficulties many face in finding where to go for support are compounded by the fact that demand for family relationship support is predominantly expressed as an emergency response. In an ideal world, couples would seek relationship support at the earliest sign of relationship difficulties. However, at present, if families access support before separation – and many do not – this is often not before difficulties have become deep-set. And many families do not appear until even later – when, following separation, they find themselves in dispute and reaching for the courts to resolve conflicts.

There are many more people who could benefit from formal relationship support (e.g. counselling) than currently access it.<sup>113</sup> At present, people are more likely to talk to their GP about relationship problems than to counsellor.<sup>114</sup> Those who do access counselling tend to do so as a last resort – by which time problems can have become entrenched.<sup>115</sup> It has been estimated that the average couple (in the US) endures six years of relationship distress before seeking support.<sup>116</sup> UK research similarly indicates most people who have accessed counselling believe they left it too late.<sup>117</sup> Similar lessons were learned from the piloted information meetings and meetings with counsellors introduced with the 1996 Family Law Act to encourage steps to save marriages but also promote a more conciliatory approach to divorce,<sup>118</sup> by ensuring separating parents had full information about the steps they would take and their options.<sup>119</sup> While the information meetings were effective, with 90% glad they attended, the evaluation noted that unless people could be encouraged to access information earlier, the emphasis on marital support would be

irrelevant to many.<sup>120</sup>

Currently, therefore, an opportunity is being missed to provide support to relationships in difficulty which may be salvageable. Research indicates the potential for preventing a significant proportion of relationships from breaking down. In one study, 60% of separated parents had wanted to save their relationships, while only 23% had not – and a quarter of those planning to separate at the time still wanted to save them.<sup>121</sup> People who had separated said, in hindsight, they wanted an opportunity to stop and reflect with someone who could tell them about the things they would need to think about and the issues they would face. They speculated that, had such an opportunity existed, they perhaps may have thought again and would have been slower to move into a legal process.<sup>122</sup>

Similarly, many people whose relationships ended reflected that it need not have necessarily done so: 57% of those who had separated thought that they could have dealt with problems earlier than they did, and almost half those planning to separate thought they could have spotted problems earlier. Further, 66% of separated people and 62% of those planning to separate said they had not found any helpful ways of dealing with relationship difficulties.<sup>123</sup> A US study found about one-in-four individuals in the divorce process indicated some belief that their marriage could still be saved,<sup>124</sup> consistent with previous research findings.<sup>125</sup>

The problem of late or non-presentation at relationship support services has its roots in the significant cultural reticence around talking about relationships. Relationships are still seen as private spaces, with people expected to address any issues themselves.<sup>126</sup> Research indicates a widespread belief that talking about relationship difficulties is not the ‘done thing’<sup>127</sup> and can be held to signify failure and disloyalty.<sup>128</sup> There is increasing demand for online services because of the anonymity they offer.<sup>129</sup> The potential gains of breaking down these barriers to access could be significant in terms of the potential to not only improve the experience of separation for many couples, but also to help more families to work to salvage their relationships.

## 3.4. A fragmented and siloed system with gaps

For those who have already reached the decision to separate, support is predominantly fragmented and siloed. Professionals and organisations often do not know what each other are doing, which inhibits effective cross-referral processes. The primary challenge to a more effective, better coordinated system of support is that at present the different parts of the system and the way they interrelate are currently too often structured around organisations and systems – not around the families who they are ultimately for.

*“One of the biggest barriers to greater join-up is we have a very disparate set of services. There are separate organisations, with separate funding streams. They’re all offering services for families, but they have different queues – you might be on a waiting list for one service, then get referred to another where there’s another separate queue. It’s a complicated process and many people don’t know where to begin.” – Jackie Roberts, Mediator, Changing Futures North East*

### 3.4.1. Gaps between pre-separation counselling and support during separation

Even when counselling does not prevent relationship breakdown, it can play a role in supporting people to come to terms with their situation and move into a new life feeling better able to cope. Research shows many people who access relationship counselling actually want other things besides marriage-saving, such as support with coming to terms with end of the relationship, dealing with the emotional trauma of relationship breakdown, and developing self-understanding.<sup>130</sup> In one study, a third of people who attended relationship counselling knew their marriage was over, and went to counselling because hoped it would help them deal with the consequences.<sup>131</sup> The Family Advice and Information Service piloted in 2003 also showed information meetings could help people at the end of their relationships to take stock, re-evaluate and become more focused, knowledgeable and positive,<sup>132</sup> and meetings with counsellors have proved effective at moving people on – whether onto relationship-saving or going into divorce more certain of what they wanted to do.<sup>133</sup>

There is therefore a potential opportunity for greater coordination between support prior to the point of separation and afterwards. If counselling does not prevent a relationship from ending, counselling may nonetheless assist people going through separation to be more informed and to work together more collaboratively. But research indicates a very mixed picture of the transition.<sup>134</sup>

For many couples coming out of counselling, the next logical step may well be mediation. However, this transition can be a complex one to navigate, complicated by stress, emotional upheaval and difficulty coming to terms with the loss of the relationship. One significant factor which can get in the way of a smooth transition into mediation is simply not being in the right frame of mind emotionally: people simply don't feel ready.<sup>135</sup> Most parents are unprepared for the emotional rollercoaster they encounter in the process of separation.<sup>136</sup> This is generally a time of severe stress and emotional difficulty,<sup>137</sup> and parents have characterised it as a complicated process with ambiguity and doubt, experienced as 'in flux', messy and protracted.<sup>138</sup> It commonly involves heightened anger and conflict, anxiety, diminished communication, and sadness or depression for one or both partners – often accelerated by the adversarial nature of the divorce process.<sup>139</sup> The effect for some can be protracted conflict born of hurt, grief and anger. Although most parents' conflict significantly diminishes following divorce, between 8% and 15% continue to engage in conflict in the years after,<sup>140</sup> leaving them unable to settle child-related disputes.

Unfortunately the impact of stress on the take-up of mediation is not always fully acknowledged.<sup>141</sup> Even if one partner wants to go to mediation, the other might not: several of the people interviewed for this report spoke about the different points ex-partners can be on their emotional journey.

*“Couples tend not to conclude that their relationship has ended at the same point – one party is often ‘behind the curve’ so it is more difficult to engage that person in a voluntary process like mediation.” – Ewan Malcolm, CEO, Relate London North West*

This is precisely where counselling and therapeutic support may help people to move on, develop self-understanding and come to terms with their situation. Research suggests that where people are given more therapeutic and emotional support to deal with their emotional situations, this aids a successful process of mediation.<sup>142</sup>

“Anecdotally, people going for individual, post-separation counselling can help people move into mediation. Where the services are joined together, this can be a smoother transition if it’s in the same location and doesn’t require them to go elsewhere to a whole new agency.” – Stuart Valentine, Chief Executive, Relationships Scotland

Yet existing coordination between counselling and dispute resolution is limited.

*“Most people in the dispute resolution process [in the Mapping Paths research]<sup>143</sup> were not getting any sort of counselling alongside this. Yet many were depressed and had been to the GP, especially if they hadn’t expected the relationship to break down, and were struggling to cope. The emotional journey can be very difficult. Counselling or other emotional or therapeutic support could help people to come to terms with their situation – which may also improve the success rate for mediation.”* – Prof Anne Barlow

There are programmes developed explicitly to address this gap. In Australia, Relationships Australia, Family Mediation Centre and Centacare have developed a Conjoint Mediation and Therapy (CoMeT) service, which involves a dispute resolution practitioner and counsellor working together with parents to address unresolved emotional factors and ‘wounding’ which may cause them to be ‘stuck’ and inhibit their ability to develop a working co-parenting relationship post-separation.<sup>144</sup> Research in the UK has also recommended greater coordination between counselling and dispute resolution to bridge the gap and enhance families’ capacity to reach agreement,<sup>145</sup> and previous Relate research found mediators and mediation service managers wanted to see better coordination between agencies offering dispute resolution and counselling.<sup>146</sup> However, too often customers can get lost in the gap between these services.

*“Couples often go into ‘limbo-land’ where they’re just about to start mediation to work out post-separation arrangements, but they might also need a bit of counselling alongside that around loss and change. There can be a grey area and overlap between counselling and mediation...If you’ve gone to counselling to save your relationship and your partner didn’t, going to mediation can be like crossing the Rubicon, signalling that the relationship has ended and there’s no going back, which can be very difficult emotionally for some people.”* – Anne Chilton, Head of Counselling, Relationships Scotland

### **3.4.2. Gaps between mediation and legal support**

Mediation is an important step on the private family law pathway, since attendance at a MIAM (which aims to encourage the parties into mediation) is mandatory before applying to court. This does not mean, however, that mediation and legal support are necessarily joined-up. Recent research has highlighted that some people who had been to mediation found the lack of a legal context difficult, either because the mediator came from a counselling rather than legal background, or because the mediator, being neutral, could not give legal advice.<sup>147</sup>

Solicitors have a role supporting clients through mediation, both in providing accurate legal advice and in converting (non-legally-binding) agreements into consent orders. However, publicly-funded legal advice is no longer available (except under the Help with Family Mediation scheme), and while solicitors provide varying amounts of pro bono work, for many people tailored legal advice is inaccessible. Legal Aid does cover Help with

Family Mediation which allows for payments to solicitors to provide legal advice and assistance in support of mediation, once the process has begun and specifically to issue proceedings to turn the agreement reached into a consent order. Nonetheless, one district judge told us:

*“Surprisingly few mediation cases come back to courts for a consent order following reaching agreement in mediation: I suspect that, having reached agreement, the parents are reluctant to return to court, and few solicitors – if any – would ask a court to turn an agreement into a consent order without the parties attending.”* – A district judge

Research also shows the non-binding nature of mediation agreements frustrates many people.<sup>148</sup> Mediators have highlighted the importance of involving lawyers earlier and not just at the end of the process, so that when a memorandum of understanding is drafted, it is not then unpicked by solicitors.<sup>149</sup> Pre-LASPO, mediation usually ran alongside legal support: in 2004, 90% of those who attended mediation had also consulted a solicitor – leading the researchers to conclude that “mediation and legal advice go hand in hand”.<sup>150</sup> Post-LASPO, there are as yet unanswered questions about how to fill this gap for those who are unable to privately fund legal support.

*“If you don’t get legal advice at all, you go into mediation blind. This is particularly problematic around finances, where you need to know what your position is and what the law is in order to reach a fair agreement.”* – Prof Anne Barlow

There are also limited connections between mediation and wider support. While collaborative law can often involve bringing wider expertise in to provide support on specific issues such as financial advice, links between dispute resolution and wider support are patchy. Research shows, for example, that mediators can be frustrated at the lack of inter-referral between mediation and services such as domestic abuse services and supported child contact.<sup>151</sup>

The lack of coordination between wider support and mediation is thrown into sharper relief when we consider that caseloads of family mediators are becoming more complex. Clients presenting in MIAMs are becoming more diverse, posing greater challenges, including being less knowledgeable as well as having greater variations of emotional stages.<sup>152</sup>

### **3.4.3. Gaps between separated parents’ educational programmes and mediation**

It is a similar story for the relation between mediation and educational programmes for separated parents. Programmes which equip parents with the knowledge, awareness, and skills to manage conflict constructively and maintain collaborative co-parenting relationships provide an important arm of support for separating and separated families. In England, Separated Parents Information Programmes (SPIPs) are available to separated or separating parents to help them become clear about what their children need from them and to learn the basic principles of how to manage conflict and difficulties, as well as signposting support outside of court. The SPIP also includes links to skills training through an online programme developed by One Plus One, Getting it Right for Children,<sup>153</sup> which uses short videos modelling real-life situations and uses Behaviour Modelling Training (an evidence-based way of learning) to help parents recognise how

children can be caught in the middle of conflict, learn communication skills, and work together. (In Wales there is an equivalent programme, Working Together for Children, and in Scotland there is Parenting Apart.) Many parents are ordered or directed by courts to attend (in which case, it is always free), but SPIPs are also available (at a cost) to parents who are not in court but want help to sort out their arrangements themselves, and local providers are listed on the Cafcass website.

The evidence indicates such courses can be effective. An international study of the effectiveness of such programs found they contribute to improvements in co-parenting, including reducing parental conflict, reducing the amount children view conflict, and increasing parental cooperation, as well as improvements in child outcomes.<sup>154</sup> In England, parents who attended SPIPs reported higher rates of contact between children and the other parent, and 38% of parents thought it had improved their ability to discuss issues with their ex-partner.<sup>155</sup> Research from Canada also indicates that separated parent education programmes can enhance parental awareness of family justice matters, legal options, and resources available, as well as the importance of addressing children's needs when developing agreements: over 80% indicated that the information received was central to their being able to reach agreement.<sup>156</sup>

SPIPs are now supposed to be a key part of the dispute resolution pathway and one of the main routes into skills training for parents highlighted in the Parenting Plan,<sup>157</sup> and the Child Arrangements Programme lists SPIPs alongside mediation as a precursor to applications to court.<sup>158</sup> However, the picture of provision and use of SPIPs by the courts is not always consistent.

*“Judges are not routinely directing parents to SPIPs – these are still quite patchy around the country” – David Norgrove*

Furthermore, there are currently few pathways to other support beyond SPIPs (for example, mediation rather than litigation). One of the stated aims of the course is to encourage parents into mediation. However, uptake is low: “currently, the model of [S]PIP followed by mediation does not exist”.<sup>159</sup>

This may be because participants in SPIPs predominantly come in from court rather than finding their own route in before getting into litigation. It would seem that, as a court-referred programme, SPIPs may be too late: once parents are in court, they are unlikely to turn back. Post-SPIP, parents typically meet in court having had little or no communication between hearings and having made little progress towards working together constructively.<sup>160</sup> SPIPs are predominantly used *in addition* to court processes, rather than as an alternative,<sup>161</sup> and the evaluation concluded that “for many [parents] an opportunity is being missed to build upon and integrate the [S]PIP learning”.<sup>162</sup> Cafcass has since piloted ‘SPIP Plus’ in some areas, which adds an additional hour where both parents attend together with a mediator and the findings will be important for considering how SPIPs might be more integrated with wider support.

The evaluation found almost every professional and more than half (56%) of parents wanted the SPIP earlier,<sup>163</sup> and many interviewees we spoke to said SPIPs needed to be available earlier. The Voice of the Child Dispute Resolution Advisory Group also found young people wanted all parents to be required or encouraged to attend a SPIP and believed that doing so much earlier might encourage parents to mediate.<sup>164</sup>

Furthermore, evidence suggests a still unmet need for support for co-parental relationships: while positively rated by all and effective at improving contact rates, SPIPs do not seem to have any significant impact on the quality of the ex-partners' co-parental relationships.<sup>165</sup> This suggests there may be a need for some additional support to follow or alongside the SPIP, focused on supporting co-parenting relationships and communication, in order to prevent participants simply circling back to court. In the evaluation, both parents and professionals agreed the SPIP could be usefully followed-up with something to help bridge the gap between the course and communicating with ex-partners about child arrangements. In order to be fully effective, it would appear that SPIPs need to be available to all much earlier, and also more integrated into a pathway of support which leads participants towards resolution and more cooperative relationships rather than litigation.

*“SPIPs work best when they’re followed up quickly with another level of service – on their own they make some sort of breakthrough, but it doesn’t seem to be a complete breakthrough unless it’s backed up with either case work or some sort of support afterwards.” – Anthony Douglas, CEO, Cafcass*

#### **3.4.4. Gaps between child contact centres and other support**

Child contact centres support parents and children to establish safe and beneficial contact, when this is difficult to do on their own. Centres may provide supervised contact – which is usually court-ordered because there may be serious safety concerns or risks – or supported contact – where there are no safety concerns, but parents are not able to arrange contact themselves. Supervised contact centres are run by social workers, who report to court. Supported contact centres are largely volunteer-run, and simply provide a warm and supportive environment to facilitate contact and encourage a relationship between a parent and child, while reducing children’s exposure to conflict, by facilitating handovers, for example enabling parents not to meet. Contact centres are a vital part of the private family law framework, providing a valued resource for families and agencies, and evidence shows that the judiciary and legal profession saw the potential very early: for some centres the relationship with the judiciary and wider partners has been one of mutual respect, with lawyers and judges sitting on management committees.<sup>166</sup>

*“Some of the Member Services have family lawyers and sheriffs (judges) on their management boards. Some solicitors have been trained by the Service to do supervised contact within the centre.” – Charlene Kelly, Child Contact Centre Development Officer, Relationships Scotland*

However, contact centres, like many of the services available for separated parents, are quite variable in terms of the service offered. Research has indicated previously that only around eight per cent of contact centres offered a range of additional services to support parents and children, including mediation, counselling and play therapy.<sup>167</sup> Internationally, there is movement towards coordinating contact centres with complementary services such as counselling, education (e.g. SPIPs), and therapeutic supervision to improve the parental relationship and parent-child interaction.<sup>168</sup> An evaluation in Australia also recommended that to improve the current service offered, other services could be added to their remit – including counselling for parents or children, parenting classes, and mediation – and proposed an ‘integrated social services model’. Perhaps unsurprisingly, government funding was crucial – centres without were

restricted to a ‘contact only’ model of service.<sup>169</sup> Similarly, several interviewees highlighted the potential for joining-up child contact centres with wider support to provide a more holistic service for separated families.

*“Contact centres need to be providing much more – they are in such a great position because they’ve got both parents coming to the centre (separately) so they’re in the position to be able to provide SPIP courses, mediation, MIAMs, to get solicitors in doing pro bono work to give clients free legal advice, peer groups for older children who may not want to be going to contact centres but who want to talk to each other about their experiences, etc.” – Elizabeth Coe, CEO, National Association of Child Contact Centres*

In Scotland contact centres are run by Relationships Scotland (who also run relationship counselling and mediation services), and as a result of these merged services, some centres are able to provide a coordinated approach with other services such as mediation and also SPIPs to support parents. This has also led to greater uptake of mediation:

*“Some child contact centre clients move into mediation, and are more able to manage their own arrangements as a result. Almost a quarter of child contact centre clients went on to have family mediation, and another quarter reported that they were considering it.” – Charlene Kelly, Child Contact Centre Development Officer, Relationships Scotland*

Similarly, there are initiatives in contact centres in England which show a more integrated and expanded service offer.

*“One centre in Cheltenham offers a coaching course called ‘Resolve’ because they have a member of staff who is a trained counsellor. But it depends on the skills and qualifications of the staff at the centre. Different centres may have different things they can offer depending on staff skills, but it needs to be more widespread. It would be fantastic to get more counselling and other wider support into centres – but funding is an issue.” – Elizabeth Coe, CEO, National Association of Child Contact Centres*

However, current join-up between contact centres and wider services is limited.

### **3.4.5. Gaps in inter-agency communication and inter-professional relationships**

A common issue underlying many of the above gaps in existing provision is the dearth of inter-agency communication. Because there are so many disparate organisations with their own ways of working and structures, cross-agency communication can be difficult. It can be hard for different organisations and professionals to know what wider support is available locally, resulting in poor cross-referrals.

*“Lack of communication between professional organisations can be a barrier. If professionals are aware of what other local support services are available, they can refer clients on, but sometimes that awareness is lacking due to a breakdown in information sharing...Parents often don’t have a lot of spare time either, or the know-how to search for what’s available locally.” – Charlene Kelly, Child Contact Centre Development Officer, Relationships Scotland*

These issues have long been understood. Similar issues befell the Family Advice and Information Services, piloted in 2003, which saw family solicitors expected to provide a more holistic service and gateway to other support, including counsellors, mediators, and CAMHS as well as legal advice. These meetings were expected to provide tailored information to both parents and children, with the ultimate purpose of minimising distress of separation and promoting ongoing family relationships, as well as providing tailored information and support for those wishing to reconcile. However, solicitors were not necessarily aware of the other services available, and the majority of family solicitors preferred to avoid getting too involved in discussions about wider issues and more emotional concerns, and there was no evidence that the pilot had impacted on the propensity of solicitors to arrange for clients to attend other services or to advise them to use other services – and mediation referrals even actually fell.<sup>170</sup>

*“Provision of support around separated families is fairly disparate. The local authority has a number of initiatives, but if they market them, they don’t market them through the court, and there is no body that acts as coordinator. No one takes the initiative to contact the court to inform us that these things are available...Cafcass officers will sometimes say they can do something in court and it’s the first I’ve ever heard of it...The same goes for child contact centres – they are a vital facility, but they either spring up or close down without the court knowing about it. People have good initiatives, good ideas, but getting to know about them is quite hard.” – A district judge*

Even where communication between different agencies happens, there may still be significant challenges, due to different organisational cultures and ways of working. Research shows inter-professional relationships within legal settings “can be fraught with tension and misunderstanding, role conflict and role confusion”,<sup>171</sup> and has highlighted the problems which have arisen when lawyers and social workers in child protection cases did not clearly understand or respect each other’s responsibilities and role boundaries. Successful collaboration requires practitioners from either side to understand the ways in which the others think, the priorities they have to balance, and ways in which they reach decisions.

*“Services also often have their own ethos, their own ways of working, and their own funding”*  
– Isobel Bilsland, Centre Manager, Relationships Scotland Borders

Studies show tensions can arise where practitioners have conflicting conceptions of client needs stemming from different training backgrounds or professional cultures.<sup>172</sup> For example, social workers have been critical of the legal profession’s rights-orientated approach as opposed to their own welfare-based approach to assessments of children’s needs.<sup>173</sup> Research in Australia identified significant misunderstandings and tensions between family lawyers and dispute resolution service providers.<sup>174</sup> Where relationships were not as collaborative, dispute resolution practitioners did not have a good understanding of or respect for client advocacy which they perceived as ‘adversarialism’, in contrast to their own impartiality.<sup>175</sup> Lawyers, on the other hand, complained dispute resolution practitioners had sometimes given clients misleading or incorrect advice about legal entitlements. The lawyers were also more focused on settlement of disputes, and did not understand the nature and purpose of relationship programmes to address conflict.<sup>176</sup> Some interviewees similarly identified misconceptions as barriers to greater coordination.

*“Not knowing or understanding each other’s ways of working can be a barrier. There can be pre-conceived ideas about the ‘other’ and different approaches or ways of working. Counsellors, typically, are much more therapeutic and delving into the history of the relationship and working on the relationship itself, whereas mediators are typically more pragmatic and future-orientated. Organisational cultures can be a barrier.” – Rosanne Cubitt, Joint Head of Professional Practice, Relationships Scotland*

There may be significant training needs for practitioners to improve understanding of each other’s ways of working and how their services may complement one another to the benefit of customers.

### 3.5. Children and young people’s voices are often absent

Finally, support for separating and separated families is also often not joined-up for the families themselves, in that while there are services to support children and young people affected by separation or family conflict (such as CAMHS and counselling in schools), research indicates children's voices can be largely absent from dispute resolution.<sup>177</sup> The Mediation Task Force reported that “hearing children’s voices directly is a minority activity”, with few mediators including children, for various reasons, including inadequate training, supervision or resource; uncertainty about Legal Aid for child-inclusive work; out-of-date standards/protocols; concerns about confidentiality; and polarised views about efficacy and purpose of involving children.<sup>178</sup>

But the evidence is clear that children and young people want the opportunity to be heard, and this can promote more durable outcomes, reduce parental conflict, and enhance parental relationships and relationship between children and parents.<sup>179</sup> Studies show that children do not witness parental separation passively, but are involved, creative and resourceful participants,<sup>180</sup> and children wish to be included in some aspects of decision-making post-separation and have views taken into account.<sup>181</sup>

However, while children generally wish to be kept informed about what is happening, they are often kept unaware by parents who may wish to protect children.<sup>182</sup> One survey found a third of children had not been told by anyone about their parents’ separation. The majority of children reported that no one had explained to them what parental separation might mean for them, and almost 60% were not consulted about the decision of their residence.<sup>183</sup> Research also shows relatively few parents explained what was happening or consulted with children in advance of separation. Many believed their children had been unaware because they were too young, or because parents had concealed disagreements, but many were also not inclined to talk to their children for various reasons – exigency, emotional frailty, or simply not knowing how.<sup>184</sup> Parents have reported divorce was a new, uncharted and stressful experience, and they had not been sure of what to say to children or how to say it; they did not know what was happening themselves and did not know what to tell children.<sup>185</sup> Additionally, some parents’ understandings about their children’s experiences through separation are quite limited – in one study, the majority expressed the view that children were not affected by separation because they were ‘too young’.<sup>186</sup>

However, research shows that even very young children can be significantly affected by

parents' separation for some years following actual event.<sup>187</sup> In one survey, while an overwhelming number of parents agreed with the *general* principle that children should be involved, all but four added an unprompted qualification that, while they agreed with the principle, their own children should not be involved.<sup>188</sup> Interviewees we spoke to also identified parent's reluctance as a barrier to child-inclusive practice.

*"Parents can sometimes be resistant to children attending confidential workshops because they may have concerns about what children might say"* – Jackie Roberts, Mediator, Changing Futures North East

Besides the need to increase substantially the levels of child-inclusive dispute resolution,<sup>189</sup> the FJYPB also spoke about how younger children need more interactive support (including art, music, and light therapy), and also of how schools could be more involved, providing pastoral support, and bringing in support from CAMHS, for instance. They added that this needs to be done discreetly and available out of classroom hours, as taking children out of class to see a counsellor can be stigmatising and put additional pressure on them.

### 3.6 Summary: A supply-led rather than demand-led market

The current market for support for couples going through relationship difficulties is clearly not working to their advantage. The relatively low-levels of overall demand, and the dearth of good quality information to enable customers to exercise choice and control in the market place, has led to a *supply-led* market, structured around organisations and agencies rather than the customer, which is no longer fit for purpose.

**Figure 1: A supply-driven marketplace**



The unintended consequence of the morass of out-of-court provision as compared to the highly-structured in-court pathway is that customers find it easier to understand and access the most expensive forms of support. The customers' journey through support is too often like navigating a maze, with routes that loop back, dead-ends and a lack of any overall sense of direction.

Without action to hand power back to the demand-side and empower consumers to exercise choice, creating a clear and open market place for support, we cannot hope to stem the tide of cases reaching the acute end of the system, nor to address the costly implications of those who remain adrift.

*“Too often agencies are operating on what works well for the agency, and not what works best for the client. We need to try to ensure that there are as few blocks as possible in the way of clients getting the support they need. We need a bolder approach, to view everything from the clients' perspective.” – Stuart Valentine, Chief Executive, Relationships Scotland*

## 4. **Achieving the vision: Recommendations for action**

We have seen that the key challenges are:

- The confusing mass of information but lack of a single, authoritative place to go to identify trusted information and advice tailorable to a specific family's situation;
- The difficulties navigating support and lack of clear entry points or triage;
- The late presentation for support, with family relationship support a distress purchase;
- The fragmented and siloed provision with gaps between different forms of support, with limited inter-agency and inter-professional awareness of communication; and
- The absence of children's and young people's voices.

If these are the challenges, how might they be overcome, in order to achieve the vision of a more coordinated, integrated, and customer-centred system of support for family relationships?

We know that every family is different, so joining-up support will never be about creating a single prescribed pathway or process. Instead, support needs to be flexible, tailored, and holistic. We need to ensure that wherever people first enter the system they are given a 'map and compass' to plot and navigate the rest of their journey and that the gaps between one service and the next are bridged by clear pathways, supported by professional awareness, simple referral processes and clear information. In a customer-centred support system, families would have the information and tools to be able to make informed choice and exercise consumer power. There would be a clear and authoritative starting point for families to know where to go, and from which they could not only identify first steps, but also see coherent pathways through provision to support their family situation throughout their journey.

The over-arching principles behind our recommendations, derived from the evidence, are as follows:

- Customer-centred – support is designed around the needs and journeys of families that use it, rather than for the agencies which provide it.
- Autonomy – families are empowered to be responsible for their own outcomes and resolutions as far as possible.
- Support as early as possible – information and services are available early on so family relationship problems may be resolved as quickly as possible.
- Collaboration – all services promote collaboration and cooperative relationships.
- Joined-up – support is coordinated, integrated and multi-disciplinary.

Below we set out our recommendations to help move in the direction of such a system.

## Summary of recommendations:

1. Increased investment in support for relationships through the life course, and particularly prior to separation, to empower people with the emotional and practical tools to be able to move forward, either together or apart.
2. A single point of access for information and support for all families before, during, and after separation, with the primary route of access via an online interactive portal.
3. A single telephone support helpline providing additional support for those whose needs cannot be met through an online portal.
4. The coordination of existing community-based support and dispute resolution services within Family Relationship Centres to provide multi-disciplinary support before, during, and after separation. This could be piloted as part of DWP's Local Family Offer or through a specific initiative led by MoJ.
5. The piloting of networks to foster inter-professional understanding and relationships locally across family relationship support and dispute resolution services through information-sharing, cross-professional development and joint training.
6. More integrated support for children and young people affected by separation.
7. Increased coordination across government via a minister with clear responsibility for family justice and relationship support across both MoJ and DWP. This Minister could also have lead responsibility for wider family policy across government.
8. Redesigning MIAMs to become Information and Assessment Meetings (IAMs), and explore multi-channel delivery (such as online as well as face-to-face).
9. Offering SPIPs free to parents if combined with IAMs prior to court applications and at a cost for court-directed parents, and exploring multi-channel delivery.
10. Legal Aid for a broader range of dispute resolution options and Legal Aid contracts which incentivise providers to work together.
11. A dispute resolution innovation fund to stimulate wraparound support for vulnerable groups and foster greater collaboration between different agencies.
12. The promotion and marketing of family relationship support before, during, and after separation to drive culture change.
13. A What Works Centre for relationship support to refresh and extend the evidence base.

### **1. Increased investment in support for relationships through the life course, and particularly prior to separation, to empower people with the emotional and practical tools to move forward, either together or apart**

Beginning with pre-separation support, given the evidence (in 3.3. above) that many people who have separated wanted to save their relationships, we are currently missing opportunities to give people the support they need to sustain their relationships and prevent relationship breakdown. Given the clear evidence of the importance of relationships for children's and adults' health and wellbeing, there is a strong case for greater investment in relationship support throughout the life course to enable many more families to access support and strengthen their relationships, leading to lower rates

of relationship breakdown in the first place. In particular, investment in support at the point at which people are considering separation may help to prevent relationship breakdown, as well as to facilitate a smoother pathway for those families who do separate.

Since 60% of separated parents in UK research said that they had wanted to save their relationship and a quarter of those separating at the time wanted to save them,<sup>190</sup> there is a strong and pressing case for investment in support at this point. A US study also found three-in-ten individuals involved in the divorce process indicated potential interest in a reconciliation service.<sup>191</sup> There are particular interventions designed to support couples in uncertainty. In the US, for instance, ‘discernment counselling’ has been developed for couples where separation is a real possibility, but where, while one partner may be ambivalent, to assist both partners to gain greater clarity and confidence about a direction.<sup>192</sup> Relationship counselling has also been shown to be effective in improving relationship quality, relationship satisfaction, conflict resolution skills, and wellbeing and mental health.<sup>193</sup> The recent evaluation for government found couple counselling resulted in positive changes in individuals’ relationship quality, wellbeing and communication.<sup>194</sup> The challenge lies in encouraging people to access this support – addressing barriers around stigma, and also cost for those on low incomes.

The information meeting and counsellor meeting provisions of the 1996 Family Law Act showed that support for people immediately before separation may help couples to become clearer about the way forward: these supported participants who were uncertain to become more focused and knowledgeable, and to move forward either to work on saving their relationship or going into divorce more open-eyed.<sup>195</sup> With investment in greater provision of such support – including exploring the potential of doing this online to scale-up – alongside the necessary marketing campaign and signposting, many families could benefit from the opportunity to pause, reflect, and move forwards in a more informed and positive way, with benefits for adults and children.

## **2. A single point of access for information and support for all families before, during, and after separation, with the primary route of access via an online interactive portal**

People seeking support before, during and after separation are currently faced with a confusing morass of different providers, offering distinct forms of support for specific issues. Many of these would be helpful for many families – but without a clear and authoritative source of information about what is out there, or any clear sense of how to assemble the pieces into a logical and coherent journey – many people end up lost in the system, and too many fall through the gaps. Currently, as we have seen, there are many possible starting points, and a sometimes overwhelming volume of information.

A single, universal point of access for quality-assured information and support for anybody going through or considering separation would help to overcome the current maze of information and support, giving customers a ‘map and compass’ to be able to orientate themselves and find a coherent, logical pathway through support to meet their needs.

*“There needs to be something to help people find the right place to go – a service pin-pointing how services can best help clients and let clients know what is out there and help*

*them with the pathway into relationship support, and streamlining as much as possible from the first point of contact onwards, so people have to tell their stories as few times as possible – to bring this into one agency if possible, or have agencies working closely together with the client in mind.” – Stuart Valentine, Chief Executive, Relationships Scotland*

A single point of entry should go beyond simply the provision of information (e.g. Sorting out Separation) on relationship support, dispute resolution, post-separation parenting, child maintenance, Cafcass, the courts system, housing, finance and debt, violence, etc. What is needed is not only an authoritative suite of good quality information across a wide range of issues, but also the tools to personalise and tailor to the particular circumstances of the users, who have a wide variety of needs and follow different paths.

An online portal would be well suited to providing an appropriate access point for the majority of families. The advantage of online provision is the potential to build interactivity and to add in additional tools such as a child maintenance calculator and the online Parenting Plan (<http://www.splittingup-putkidsfirst.org.uk/home>) to allow users to self-navigate through the whole of their journey through support, including, for example:

- Information and advice;
- Self-diagnosis;
- Legal form-filling;
- Dispute resolution (potentially with online mediation), potentially including online separated parents education, and
- Case management capability.

Rather than re-inventing the wheel and developing a rival website,<sup>196</sup> an online portal could bring together existing well-used online information and advice resources, such as Citizens’ Advice, AdviceNow (an independent, not-for-profit website, run by the charity Law for Life: the Foundation for Public Legal Education) and Wikivorce.

There would also be potential to address the gap around an authoritative place to go to for children and young people, as the Voice of the Child Dispute Resolution Advisory Group has highlighted,<sup>197</sup> through the provision of specific child-focused information, developed in consultation with young people. As with the existing resources for adults above, there is again potential for linking into existing resources – particularly <http://kidsinthemiddle.org.uk/>.

An online service could include a range of diagnostic tools to identify the issues of most significance to them. This would put the user in charge and enable them to make their own informed choices about what support is best suited to their situation and needs. Research suggests that many people want to stay in control of the dispute resolution process – a study in Canada found 75% participants who solved their problems themselves would still have done so even if assistance would have been freely available.<sup>198</sup>

There would even be potential to build in capability for those who may be uncertain about whether the relationship is salvageable for pausing for information about separation and even accessing support from a counsellor to discuss options.

Building online tools has already been shown to offer the potential to simplify the process of filling out legal forms.

## CourtNav

CourtNav is an interactive online tool developed by the Royal Courts of Justice Advice Bureau (RCJAB) in partnership with Freshfields Bruckhaus Deringer LLP (who provide pro bono support to the charity). The tool helps litigants-in-person who cannot afford a solicitor to complete court forms such as filing for divorce. It is designed to be very easy to use. The questions asked are simple, often yes/no or multiple choice questions and it only asks questions relevant to an individual's own situation. CourtNav also deals with court fees and is enhanced through complementary public legal education leaflets (including video and audio formats) that cover the procedure. CourtNav also spots inconsistent answers and prompts the user to correct them. Help text is available throughout and users can also email RCJAB solicitors for assistance. RCJAB solicitors check the information provided, and may get back to the user with questions or suggestions. Everything is confidential and the user will be directed to log back into their CourtNav account to view the solicitor's feedback. Once the RCJAB solicitor is satisfied that the forms have been correctly completed, they sign the forms off, enabling the user to download the relevant court documents to be filed at court.<sup>199</sup>

Advances technology-assisted mediation could also be brought to bear in creating online dispute resolution capability, to widen access and facilitate a smoother pathway in.

Research in British Columbia found that technology-assisted mediation improved access to mediation, with around 35% of participants indicating that they would not have accessed support if this had not been available.<sup>200</sup> There is also a growing evidence base that suggests that online, asynchronous communication can be helpful to stimulate reflection, create time to digest information, and avoid negative patterns of interaction,<sup>201</sup> and online mediation can be a viable alternative to offline and other more traditional modes of dispute resolution in divorce.<sup>202</sup> One study also reports high user satisfaction levels with online mediation, with more than 80% users reporting they would use it again for future conflicts and recommend to others, and resolution rates of 75%.<sup>203</sup> The Dutch example of Rechtwijzer provides an illustration.

## Rechtwijzer

Rechtwijzer is an interactive online dispute resolution interface, provided by the Dutch Legal Aid Board and supported by the Netherland Ministry of Security and Justice and developed by Tilburg University and the Hague Institute for the Internationalisation of Law (HiIL), which allows the user to self-manage the process. It is designed to take users on a dynamic and iterative dispute resolution journey and uses guided pathways, questions and model solutions to lead users from diagnosing problems to facilitated negotiation and dispute resolution.

1. **Diagnose and explore** – a series of questions designed to elicit information from users on the situation to identify needs and options on how dispute resolution might help, specific to the user.
2. **Intake** – a series of questions related to the issues which need to be resolved, aimed to stimulate reflection and communication about overall goals.
3. **Involve the other party** – the other party then goes through the same process. Once

both parties have completed this, they can then view each other's responses.

4. **Dialogue and Negotiation** – parties are guided to work through their agreement, indicating the sorts of things they will need to think about. Parties can work on texts for solutions, communicate via a chat function, and there is information and tools to help, for example, calculating child maintenance. Agreements come together to form the separation plan.
5. **Expert support** – parties may ask for mediation (when an online or in-person mediator then works on the texts as well and participates in the chat conversation), or a neutral decision (an adjudicator, or arbiter or judge then becomes the only person able to work on the solution). Users can ask for assistance from a helpdesk or trusted person who can help with working in the interface if required. The experts are all experienced divorce lawyers and mediators.
6. **Neutral Review** – the separation plan can be checked by an expert neutral reviewer lawyer to ensure that it is workable and fair.
7. **Aftercare** – if agreements cease to work, aftercare is available to make new agreements without or with expert help.

An independent evaluation found all respondents were positive about Rechtwijzer and were inclined to use it again or recommend to others. Respondents reported feeling better able to deal with their divorce. The findings also showed that most respondents had not yet consulted a third party, suggesting they were in an early stage of their DR process – leading the researchers to conclude it is especially useful in the early stages of conflict when parties are orienting themselves.<sup>204</sup> It has been described by experts in this area as a 'game-changer' due to its dynamic and client-centred approach.<sup>205</sup>

*“A single point of entry would be helpful. The general public find it very hard to work their way around the various helplines, online services to find which is most appropriate to them. We're not helping people by making it intuitive and easy for them to access...People don't want to trawl through lots of information; the front door needs to be an easy one to knock on.”* – Carole Goodman, Senior Head of Service, National Commissioning Team, Cafcass

Another advantage of providing access through a single online portal would be the potential to enable users to dip back in for support as the need arises, without having to re-tell the whole of their stories.

*“It would be beneficial if families could avoid having to tell their stories over and over. If the information could all be online, backed up with an advisor or coordinator role – someone who maintains an ongoing relationship with the client and engage people, providing personal support and signposting/coordinating support – then clients could then take their stories around between different services digitally.”* – Ewan Malcolm, Relate London North West

The creation of an online portal has been recommended by a range of experts including, the Family Justice Review, JUSTICE and the Legal Education Foundation,<sup>206</sup> yet it remains

to be achieved. Sorting out Separation was intended to become a 'one-stop shop' for all separating parents but while it provides useful information, it falls considerably short of a one-stop shop. The information on Sorting out Separation could now be usefully built on to provide a more effective and coordinated support offer.

*“The pathway for separating families has to start with the web – a development of a much better version of Sorting out Separation which integrates both money and children issues. And it needs to be authoritative – only then can you systematically divert people off into the various other options (phone or face-to-face triage, mediation or court). This would drive a more coherent approach.” – David Norgrove*

Finally, given the challenge of the lack of children and young people's voices in dispute resolution, consideration should be given to how child consultants or child-inclusive mediation could be brought in to such a portal. For example, if children and young people could follow a complementary path to parents through the portal from an entrance page which has a door for adults and one for children and young people, through information, advice, into counselling and other therapies as required, they could also be given the opportunity to input their thoughts on post-separation living arrangements etc. either into text boxes or via an online or face-to-face meeting with a child consultant into the system, which, if they wanted to, could also feed into the parents' dispute resolution process.

An important consideration in creating a new point of access for separation support will be the fact that separating individuals tend not to search for information about 'separation', but rather look for information about a specific topic such as housing, child maintenance, or financial support, and often do so in unstructured way.<sup>207</sup> Accordingly, any online portal would need direct marketing from other support sources and links from HMRC, DWP, Child Maintenance Options, local authority housing offices, court websites, solicitors, NHS health practitioners (doctors' surgeries, for instance), and debt/financial advice (e.g. Citizens Advice and the Money Advice Service).

Given the potential for savings through steering people to support earlier to support cooperative relationships post-separation, there would be an argument for government investment in this on an invest-to-save model.

### **3. A single telephone support helpline providing additional support for those whose needs cannot be met through an online portal**

While online provision will work for many families, it will also be important to offer alternatives for those who need them. Therefore any online provision should be backed by second-tier provision through a single, authoritative telephone support service.

There are international precedents for such a system. In New South Wales, LawAccess is a package of services designed to provide a one-stop shop for legal information and self-help assistance. It comprises a state-wide telephone call centre providing free legal advice, an information website and a website designed to support people to represent themselves. In Australia, the 2006 Family Law Reforms which brought about the Family Relationship Centres also provided a national telephone service (the Family Relationship Advice Line)<sup>208</sup> to offer information and advice on parenting post-separation, and legal advice, as well as a Telephone Dispute Resolution Service to offer people dispute

resolution where face-to-face meetings are not appropriate or possible. (In Queensland, Relationships Australia has also developed an online family dispute resolution tool.) The Family Justice Review similarly recommended that any online portal be supplemented with a telephone helpline for those without internet access or who need further information on a specific issue.

Developing a new telephone support service need not necessarily require new resource (and, as with the online information and advice, it should not simply duplicate or rival existing resources). Cafcass and Child Maintenance Options have their own call centres, which could be combined to provide a single support service for all issues relating to separation. There may also be potential to build upon provision by voluntary sector organisations.

However there would be two important considerations in the development of any new telephone support service:

- The need for appropriate funding and incentives, to ensure that telephone support providers were not faced by conflicts of interest with regard to directing clients towards forms of provision which they may supply.
- The need for effective training to ensure first-point-of-contact staff have a wide range of relevant expertise to be able to give accurate and comprehensive advice in relation to the most frequent problems and make referrals.

Cafcass are currently piloting an out-of-court service in some local areas. The single telephone support system should build on the learning from these Cafcass pilots.

#### **Cafcass' 'Supporting separating parents in dispute helpline'<sup>1209</sup>**

Cafcass is piloting a new out-of-court package of support for separating parents. In the pilot areas, separating parents who have been unable to resolve disputes but want to avoid lengthy and expensive court battles and who need support can call a free helpline run by Cafcass. Callers speak to an experienced professional who talks through the difficulties with them, identifies needs and assess what support may be helpful, and offers impartial information and guidance on the most appropriate dispute resolution pathways. They also act as the parent's case worker and single point of contact throughout the whole dispute, and they will put the callers in touch with any relevant local professionals and support services such as mediation, where possible actually making the appointments. The Cafcass professional will also follow-up with the parent to check on progress and provide any further assistance as required. The pilots are being evaluated to determine the best range of services for out-of-court dispute resolution.

#### **4. The coordination of existing community-based support and dispute resolution services within Family Relationship Centres to provide multi-disciplinary support before, during and after separation. This could be piloted as part of DWP's Local Family Offer or through a specific initiative led by MoJ**

While online and telephone support will be sufficient for most families, third tier provision

should include face-to-face support and this would most appropriately be provided at the local level.

The case for more joined up provision for families is already under consideration as part of the review of children's centres. This opportunity should be seized to build in provision for families going through separation. Coordination, co-location or integration of support into a single identifiable local centre, providing facilities in the heart of communities delivering joined-up support for families before, during and after separation, would help to make the support landscape more navigable for families.

*"It would be far easier for people if there were family and relationship support centres where you went to access whatever level of support you needed for your family at that time, with everything under one roof and a seamless journey of support so that people aren't left unsure of where to go – a one-stop shop for everybody."* – Anne Chilton, Head of Counselling, Relationships Scotland

### **Family Relationship Centres**

There are 65 Family Relationship Centres (FRCs) across Australia, funded by the Federal Government but run by a range of providers, staffed by independent, professionally-qualified staff. FRCs are a source of information and confidential assistance for families at all stages, although their primary focus is as on providing information, advice, group sessions and family dispute resolution to support separating families manage the transition to parenting apart. The operational framework requires FRCs to provide outreach services as well. The Centres are supported by a national website which provides information about family relationship issues and what support is available, a telephone Family Relationship Advice Line,<sup>210</sup> and a Telephone Dispute Resolution Service. Centres provide educational programmes for separated parents as well as free or heavily subsidised mediation.<sup>211</sup> One of the key underlying aims was a long-term cultural shift away from litigation to community-based solutions – premised on the concept that "when parents are having difficulty agreeing on the post-separation arrangements, they have a relationship problem, not necessarily a legal one."<sup>212</sup> FRCs expanded access to information, advice and assistance to people after separation which had previously only been available from lawyers.

Furthermore, these FRCs are also a gateway to wider services and provide a triage service for identifying needs and support to meet them and making referrals to existing community-based support services, including relationship counselling, mediation, alcohol or drug addiction support, domestic violence programmes, and financial advice/debt counselling.<sup>213</sup> Centres serve as a coordinating mechanism for referrals to other services for separating and divorcing families.<sup>214</sup>

FRCs have resulted in greater use of relationship services, a decline in filings in the courts in children's cases, and some evidence of a shift away from automatic recourse to legal solutions in response to post-separation relationship difficulties.<sup>215</sup> Applications for final orders in children's matters declined by 22% 2005/6 to 2008/9,<sup>216</sup> and rates of litigation have fallen further since – there has been a 32% reduction from 2005/6 to 2010/11.<sup>217</sup> Use of mediation and counselling services by parents during and after separation also

increased from 67% to 73% 2006-9,<sup>218</sup> and two-thirds of dispute resolution in Australia now takes place in Centres, with over half of all dispute resolution clients participating reporting reaching full or partial agreement.<sup>219</sup>

Family Relationship Centres (FRCs) would coordinate support locally, facilitate relationships between different agencies and organisations (for example, joint training), co-locate or coordinate different sources of support, integrate systems (such as case management), improve referral pathways between all partners, and enhance inter-professional knowledge and awareness through regular joint meetings/training and joint meetings to discuss cases. Since provision of support can be quite varied, it would be for localities to decide themselves what would be coordinated within these centres, but this could include, for example:

- Counselling;
- MIAMs and mediation;
- Legal advice and support for litigants-in-person;
- SPIPs;
- Child consultants;
- Family support work;
- Family violence support; and
- Supported child contact services.

In Australia, this was done on a large scale, with substantial federal government funding. However, the basic concept could be achieved in the UK using existing provision (for example, children's centres or voluntary sector organisations such as Relate centres, Citizens' Advice Bureaus, local Cafcass offices and courts, or dispute resolution providers' offices, either co-locating services together physically or coordinating into one system). Making full use of existing resources in this way would mean investment would be primarily in the brand and outreach rather than infrastructure.

“We need really good cross-referral between agencies, so that if someone comes to a mediator and that isn't quite right and they would benefit from a SPIP, that's quickly and easily done. It's the ability of the system – which is made up of many parts – to understand how they all work together and be able to interrelate. That's quite a challenge – particularly to be ready to forgo some income and sometimes say 'we're not the right service for you, try going here'.” – Mike Coote, National Commissioning & Partnerships Development Manager, Cafcass

This could be achieved through DWP's 'Local Family Offer' pilot – which will “test the feasibility of a wraparound family offer by maximising the role of local authorities in providing family-centred services, with a particular focus on helping to support and strengthen the couple relationship” in 12 local areas,<sup>220</sup> or through a specific initiative led by MoJ. There are already a handful of good examples in the UK where services have been co-located or coordinated, which may offer important lessons on what works well.

### **Relationships Scotland's Merged Services**

Relationships Scotland run a number of merged services, following the merger of Relate

Scotland and Family Mediation Scotland in 2008, combining counselling, mediation and child contact services. Staff spoke about the benefits for clients of co-locating and coordinating these services into a single service:

*“For the merged services that provide a more holistic provision of support, it’s a smoother process for clients to go through – they can be accessing mediation, individual post-separation counselling, child contact centres, all within the one integrated service without the need to go elsewhere and begin from scratch with a new agency...The primary benefit of joining up services is the client experience of coming to one agency that hopefully can address a range of different issues that they may be facing, without having to re-tell their stories from time to time.”* – Stuart Valentine, Chief Executive, Relationships Scotland

*“Relationships Scotland’s Borders service offers a comprehensive service, incorporating family mediation, relationship counselling, counselling for separating couples, family support work, child consultation, child contact services, reports for courts for supervised contact – it’s a holistic, one-stop shop...With a joined-up service, there’s flexibility to seamlessly move back and forward between services.”* – Isobel Bilsland, Centre Manager, Relationships Scotland Borders

### **Family Solutions Court**

The Central Family Court in Holborn has developed an innovative approach to dispute resolution, bringing in the local Citizens Advice Bureau (CAB) to coordinate a suite of support for separated families, combining a supported child contact centre; pro bono legal advice and representation from family solicitors and barristers for litigants-in-person; mediation and MIAMs; the CAB itself, which provides free legal advice from solicitors; SPIPs; and an independent charity, the Personal Support Unit, where volunteers help litigants-in-person, families, friends, witnesses, victims and inexperienced court users to represent themselves by providing emotional and practical support to help people with technical forms, access pro bono advice, etc.

FRCs could also explore the benefits of universal, holistic screening in order to achieve a consistent and comprehensive approach to identifying risks across different organisations and professionals. For example, we have been impressed by the Detection of Overall Risk Screen (DOORS) developed in Australia, which enables practitioners to assess risk not only of domestic violence, but to screen also for addiction, mental health problems, parenting capacity, child wellbeing.<sup>221</sup>

What also came out very strongly from the literature review and particularly from the interviews with practitioners was the importance of a *personal*, tailored approach. A high proportion of interviewees spoke about the benefit of having a ‘key worker’ who remains a constant presence throughout the family’s journey, and this was a feature of many good practice examples, some of which are featured below. Separation is a very difficult, emotionally fraught and stressful time – and some families, and particularly those who are most vulnerable, will need a bit of extra hand-holding, including, for example, support with making appointments with other agencies and encouragement in following up.

*“People need authoritative help and guidance to steady them and get them thinking about*

*the children and to help get them to an emotional state where they can really think about their children and put them first – relationship breakdown is usually a very stressful and frightening time. Straight, factual information about putting children first isn't enough – most people need someone who engages with them, someone who is skilled, trusted and supportive, on their side – for both partners – but also constructively challenging. They need tailored information and support.” – Mary Shaw, David Gray Solicitors*

Research has indicated that people want professional support to be personalised, not a one-size-fits-all approach. Participants in research talked about needing someone who could befriend or mentor them.<sup>222</sup> Personalised support is also key to the success of the Family Relationship Centres in Australia: Professor Parkinson has written that “It was integral to the vision for the Centres that this service should be a personal one [...] To begin to move forward in addressing their difficulties [...] some people need assistance in making links with the appropriate service.”<sup>223</sup>

*“Separation is a chaotic situation, and most people need a little bit of guidance – which usually comes from speaking to someone. Sometimes it's necessary to lead the client by the hand a little, for example phoning to make an external appointment while they're in the office, or bringing another professional into the room.” – Ewan Malcolm, CEO, Relate London North West*

This comes as little surprise (it is one of the key elements of the Troubled Families programme). UK FRCs and other providers of support should therefore give consideration to how a key worker role might enable them to provide more effective and more coordinated support to families. This may not necessarily need to be a new professional; it could also be achieved by training the existing workforce. What matters is there being a professional who is there for the family throughout their journey to provide personalised emotional and practical support. This personalised support can be central to coordinating with other agencies, as the examples below illustrate.

### **Family Matters Guides**

The Family Matters Guides project is run by Resolution and provides support for parents on low incomes who are in dispute. As qualified lawyers, they can provide information on complex legal issues, and also assess where people may be eligible for Legal Aid, and being fully trained in mediation, they also focus parents on their children and work with parents in a non-directive way, maintaining a neutral position.

*“The [Family Matters] Guides engage both parties separately at first and then provide both parties with bespoke legal information on what getting divorced or making an application to court would involve for instance, but not positioning or advising them – the Guide has to be trusted by both parties: they're honest and neutral brokers. Guides emphasise the benefits of out-of-court dispute resolution processes over a confrontational litigation process. They hear both clients' points of view, emphasising areas of common ground...Guides often refer clients in to mediation and help to prepare them with information about what it is and isn't, what the benefits are, and what mediation can/cannot achieve. However and importantly, because Guides are lawyers and have mediation training they can properly safeguard and spot key legal issues to avoid harm being done by working in a process which would not be suitable or safe. One size does not fit all.” – Mary Shaw, David Gray Solicitors*

Family Matters Guides also play an important role as a gateway to wider support, providing a hand-holding role, referring to counselling, drug and alcohol support, debt counselling, housing, etc., helping clients to book appointments.

### **Changing Future North East: ‘Moving On’**

The Moving On project is for separated parents trapped in high conflict. The service uses a Mentalisation-Based approach, and the entire workforce was trained in Mentalisation-Based Techniques to support the delivery of all of CFNE’s separation services, of which ‘Moving On’ was the largest. Families are allocated to a family support worker, who engages the parents separately, completes an assessment, and identifies any potential risk. Assessment tools also measure inter-parent conflict levels and the level of cooperation. The family support worker then stays with that family throughout their journey, which includes more specific support from practitioners (including social workers, counsellors, mediators, and family therapists), who work with both parents together. The team work closely and professionals discuss cases and have group supervision, which fosters professional conversations about what approaches may be helpful for a family.

*“The family support worker, as a constant presence throughout a family’s journey which supports their engagement and helps see them right the way through, can effectively join up with wider support locally such as housing or debt support. Where things can become quite fragmented is where people are just signposted, and then they have to go and make that introduction to a new service that they don’t know. This can be a barrier for some parents. The family support workers provide more of a hand-holding rather than a signpost – they will sometimes go with parents to a first appointment just to make that introduction – especially for more vulnerable families. This has made us more effective at joining up with other services.”* – Martin Todd, Deputy CEO, CFNE

### **Relationships Scotland Merged Borders Service**

Relationships Scotland’s merged services similarly have key worker roles which provide extra, personal support:

*“Some of our Member Services have employed a Family Support Worker, funded by the Big Lottery fund, to give additional support to child contact centre clients when they’re having difficulty agreeing on what is best for their child. (The child contact centre Coordinator or Manager can’t give this extra support because they have to remain neutral with each of the parents.) The Support Worker meets separately with each of the parents and their child/children to help identify positive next steps. This extra support has been very helpful in reducing parental conflict and it often helps to get the parents to consider mediation a little more quickly.”* – Charlene Kelly, Child Contact Centre Development Officer, RS

*“The family support workers provide emotional and physical support pre-, during and post-separation. People with contact problems usually have a myriad of other issues behind this. The family support workers also provide a little bit of extra hand-holding, e.g. going with a*

client to an appointment to see a Housing Officer.” – Isobel Bilsland, Centre Manager, RS Borders

## 5. The piloting of networks to foster inter-professional understanding and relationships locally across family relationship support and dispute resolution services through information-sharing, cross-professional development and joint training

Since poor/lack of inter-professional relationships are a key challenge to joining up support and achieving better referrals and partnership working, in addition to bringing-together of existing resources into FRCs supported by an online and telephone single access point, we recommend government pilots networks dedicated to facilitating and embedding join-up across support before, during, and after separation in a local authority area, through (for example):

- Networking;
- Improving inter-agency and inter-professional understanding;
- Information-sharing;
- Cross-sector joint training; and
- Cross-professional development.

This would underpin and support inter-agency and inter-professional relationships and achieve more seamless referrals and inter-disciplinary working for families. There are some good examples of inter-professional working – but they are localised and lack a coherent framework to support or extend them more widely.

### Portsmouth mediators in court to assess cases

In the Portsmouth family court, mediators now attend court to help assess which cases may be suitable for mediation:

*“Once a week when the court is dealing with new private family law matters (the First Hearing Directions Appointments), at that meeting we have Cafcass and a mediator who come in and we run through the cases and make an assessment of what the problems are and where the case might well need to go and what can be done to facilitate it...Having everybody in at the start means that as the day goes on and we progress through the list, everybody knows not quite what the outcome is going to be, but there is joined-up thinking regarding what is probably the best way forward – and if cases are going to get sent off to do something else such as a SPIP or the Changing Lives programme [run by Mediation Now], then we can raise it there and then.” – District Judge Ackroyd*

### Family Law Pathways Networks

The Australian Federal Government fund Family Law Pathways Networks across the country comprised of professionals operating within the family law system focusing on

information-sharing and networking opportunities locally as well as developing cross-sector training to build stronger relationships across the system – with the aim that separating and separated families may promptly and seamlessly access legal services and human services.<sup>224</sup> Membership typically includes the family court, Legal Aid Commissions, community legal centres, domestic violence prevention, legal services, family relationship services (FRCs, child contact services, dispute resolution services, post-separation parenting support services, counselling services, etc.), the Child Support Agency, and the Family Relationship Advice Line. These networks support the maintenance of referral mechanisms between different organisations, the development of a shared understanding of roles among network members, and the development of greater awareness of services and training available to network members.

*“Because these networks draw people together, we’ve built really strong relationships and collaborations between workers and organisations where we can escalate acute cases really quickly and get support where needed. We rarely have matters which are siloed because somebody is going to know about it – particularly where there’s a safety risk... There is a shared focus and collective responsibility; we can respond in a joined-up way. The network coordinators are also responsible for inter-sector professional development between community support and family lawyers.”* – Claire Ralfs, Deputy CEO, RASA

An independent review found these networks “undoubtedly increased practitioner knowledge and understanding of the complexities of the family law system and of the needs of children and families”; training and professional development help build stronger working relationships; agencies and practitioners are sharing information and promoting role understanding; and there is considerable evidence that families and children benefit from the streamlining of referrals.<sup>225</sup> Additionally, research into cooperation between the legal sector and family relationships sector concluded that since the 2006 reforms, “nothing short of a revolution has occurred with respect to cross-sector cooperative engagement between family lawyers and family relationship practitioners.”<sup>226</sup>

Research in Australia has shown that successful collaborative inter-professional or inter-agency relationships had the following features: practitioners viewed themselves as complementary service providers, contributing different but equally valid skills; there was mutual understanding and respect for different roles and responsibilities; lawyers were aware of and supported the dispute resolution aims and approach to working with families; practitioners trusted the intake screening and referral practices of other profession; and practitioners treated members of other profession with respect and extended professional courtesies.<sup>227</sup> These relationships, like any relationships, do not just happen. They require work and facilitation. The benefit of a network for coordination would be to foster precisely these productive cross-professional relationships – leading to better referrals and joint working across different agencies.

*“Joining up requires more than just information-sharing protocols between two agencies. There’s an essential human element necessary for genuine integration which can often be missed – a genuinely functional relationship between teams rather than simply referral forms. We need good integrated systems and processes but also to look at how people integrate, and to create capacity in organisations to nurture a culture of integration.”* – Martin Todd, Changing Futures North East

Contact between professionals is key, but not sufficient – contact alone may even

reinforce negative perceptions, and it is the nature of the contact that matters. Two forms stand out as key in the research: working together or communicating on individual cases; and cross-professional development activities.<sup>228</sup> Accordingly, a pilot network could help to embed coordination on a sustainable, long-term footing, building effective relationships between practitioners. This would help to achieve better coordination between disparate agencies for example, between those offering interventions that support couple relationships and those providing dispute resolution services, or between SPIPs and mediation, etc.; to ensure cross referral and the delivery of readily accessible wrap-around services for all families, both during and beyond separation and divorce.

## **6. More integrated support for children and young people affected by family separation**

Since the evidence is overwhelmingly clear that children and young people want to have more of a voice and want to be involved, and that there are clear benefits of doing so, we urge government to act on the recommendations of the Voice of the Child Dispute Resolution Advisory Group. Children's and young people's voices should be central to joining up support for families before, during and after separation – this should run through all of the above recommendations.

In addition, we recommend consideration be given to the role of schools (looking at, for example, training for teachers) in identifying family relationship problems which may be behind children's behavioural problems, and the potential for closer partnership working between counselling for children and young people (in school, or through CAMHS) and family counselling or support for separating and separated parents. Many of the problems children present with in counselling are symptoms of relational problems at home: in a recent survey of over 4,500 children seen by CAMHS services, 'Family Relationships Problems' were the biggest presenting problem.<sup>229</sup>

Research has shown that for children who accessed formal sources of support through parental separation, one-to-one counselling was perceived as the most important source of support. Counselling was perceived to facilitate greater understanding of the separation process, provide opportunities for sharing experiences in the context of peer-support counselling and helped children to communicate feelings and responses to separation more effectively.<sup>230</sup> Greater leadership from across the Department of Health and Department for Education and workforce development such that practitioners feel better equipped to recognise, and address, the parental relationship issues which lie at the heart of much child mental ill health, would help to achieve a more joined-up, whole-family approach to support.

## **7. Increased coordination across government via a minister with clear responsibility for family justice and relationship support across both MoJ and DWP. This Minister could also have lead responsibility for wider family policy across government**

Given the ways in which this agenda cross government department boundaries, it is vital that there is effective ministerial coordination for family relationships sitting across MoJ and DWP to coordinate policy and take a strategic lead on out-of-court dispute resolution and child maintenance, within the context of the wider family stability agenda.

While there is currently a minister sitting in both departments as Parliamentary Under-Secretary of State at DWP as well as Minister for the Courts and Legal Aid and Parliamentary Under Secretary of State in MoJ<sup>231</sup> this Minister does not currently lead on the wider families agenda, and his precise remit within DWP is unclear.

The current dispersal of responsibility for this area across government prevents join-up and leads to policy making in distinct ‘silos’, lacking a coherent strategy. These policy silos make it challenging to apply knowledge and share best practice across different policy areas, and the effect of this dispersion across different departments is that relationships often fall through the gaps. A coordinated approach within government across the two key departments here – DWP and MoJ – would help to drive coordination on the ground.

## **8. Redesigning MIAMs as more general Information and Assessment Meetings (IAMs) and explore multi-channel delivery**

Since research indicates low awareness of the available forms of dispute resolution,<sup>232</sup> we approve the recommendation made from the ‘Mapping Paths to Family Justice’ research that MIAMs be expanded to cover the full range of out-of-court dispute resolution options and offer a genuine range and choice for the customer. We propose re-naming MIAMs as Information and Assessment Meetings (IAMs). We also propose that the possibility of multi-channel delivery be explored, to include, for example, online IAMs, which would be integrated into the single online portal recommended above.

## **9. Offering SPIPs free to parents if combined with IAMs prior to court applications and at a cost for court-directed parents, and exploring multi-channel delivery**

All the evidence suggests, as we have seen, that SPIPs should feature as early as possible in families’ dispute resolution pathways. We recommend that consideration be given to establishing an expectation that SPIPs be combined with IAMs (see above) as precursors to court applications for children issues. Furthermore, at present the cost for voluntary participants may be a barrier to access: the evaluation found that all participants in the SPIPs felt it should be free and most said that they would not be willing to pay.<sup>233</sup> Currently, SPIPs are free if court-referred but can cost £150 per parent for voluntary participants. We recommend that consideration be given to reversing this situation to incentivize parents to attend as early as possible by making voluntary participation free and expected much earlier in the process (the single point of entry would help with this) – alongside Information and Assessment Meetings before any court application is made, for example – while charging court-mandated parents who can afford to pay.

## **10. Legal Aid for a broader range of dispute resolution options and Legal Aid contracts which incentivise providers to work together**

At present, Legal Aid is available for mediation only, and other forms of dispute resolution are few and far between. In order to place the customer at the centre of the system of support, we endorse Resolution’s recommendation that Legal Aid be opened up to a broader spectrum of out-of-court dispute resolution to allow the customer to choose for

themselves which form is most appropriate for them.<sup>234</sup>

Furthermore, currently, a disparate and disconnected mass of providers are competing for the same contracts, with little incentive to collaborate. Funding being one of the primary levers through which government can effect change, we propose that consideration be given to how the Legal Aid contracts might be reformed to incentivise providers to work in consortia, for example.

Legal Aid contracts could also require providers to state more clearly what their distinct offer is – for example, meeting formats; emphasising that agreements are not legally binding unless solicitors are involved to draw them into consent orders; providing clear pricing models; etc. – in order to address current difficulties in navigating the dispute resolution marketplace and understanding the products on offer. Recent research on MIAMs and mediation<sup>235</sup> highlighted the need for mediators to state their offer more clearly, and we propose this could be a factor in decisions awarding Legal Aid contracts.

### **11. A dispute resolution innovation fund to stimulate wraparound support targeting vulnerable groups and foster greater collaboration between different agencies**

The dispute resolution and separation support marketplace is a sector without significant innovation. To encourage innovative approaches to delivering mediation and to expand the market for family mediation, we propose that an innovation fund should be launched to surface and test new ways of working with a focus on coordination and integration of support and encouraging the development of wraparound services for all couples and families before, during and beyond separation and divorce.

Part of the savings to the Legal Aid bill following the implementation of LASPO or the current underspend in the mediation budget could be used to fund this.

### **12. The promotion and marketing of family relationship support before, during and after separation, to drive culture change**

To encourage uptake of support and reduce stigma around accessing support both during and beyond separation and divorce, we recommend investment in promotion and culture change activity to promote the new coordinated system of support and stimulate demand. Since a culture of litigation continues to hold sway, concerted marketing involving partners within government and across the sector (for instance, modelled on the Time to Change campaign)<sup>236</sup> is needed to shift the way in which separation issues feature in the public mind. We need to see family separation problems as *relationship* issues, not predominantly legal issues.

Since we also know that stigma around accessing relationship support can mean demand is often expressed as an emergency response and distress purchase, normalising support as well as increasing knowledge of available support would enormously help to move forwards toward the vision of a joined-up, customer-centred system of family relationship support.

In Australia, Family Relationship Centres were designed to be the first port of call in the public mind when parents are separating,<sup>237</sup> which required them to be highly-visible – in

many communities they are located in shopping centres.<sup>238</sup> Ensuring public awareness was essential to their implementation: there was a national public education programme led by the Federal Attorney-General's Department, and a strong focus on advertising at the local level which was not one-off but long-term (since people not currently going through relationship difficulties were unlikely to pay much attention).<sup>239</sup> In the same way, Government should ensure promotion of new services for separating and separated families focussed on resolution and relationships, and not just disputes to help effect a cultural shift.

### **13. A What Works centre for relationship support to refresh and extend the evidence base**

Finally, we also need to develop the evidence base to improve decision making. A core element of the previous Government's Civil Service Reform Plan was the establishment of a 'What Works' network, to collect together available evidence on the effectiveness and cost-effectiveness of services, translate this into a common standards for comparisons, share the evidence, and promote further evidence by identifying research gaps and advising commissioners. There are currently seven What Works Centres, covering health and social care, outcomes for school-aged children, crime reduction, early intervention, local economic growth, ageing, and wellbeing.<sup>240</sup> A similar approach for relationships would enable evidence-gathering on the effectiveness and cost-effectiveness of support across the life course, to inform and shape public policy and service delivery.

# Methodology

This report explores the provision of support before, during, and after separation; the challenges to access and moving through support; and the challenges to improving links between different parts of the system.

The research included:

- A wide-ranging literature and policy review;
- An initial workshop with selected experts to test the parameters, critically engage with research questions, identify important practice examples and literature;
- 22 interviews with figures in policy, service providers and academics;
- A roundtable discussion with a wide range of experts across the sector to review emerging findings and discuss possible recommendations.

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For further information on the issues raised in this report please email [policyandresearch@relate.org.uk](mailto:policyandresearch@relate.org.uk)

## About Relate

Relate is the UK's leading relationship support organisation, serving more than one million people through information, support and counselling every year. Our vision is a future in which healthy relationships are actively promoted as the basis of a thriving society.

We aim to develop and support healthy relationships by:

- delivering inclusive, high-quality services that are relevant at every stage of life
- helping couples, families and individuals to make relationships work better
- helping both the public and policy makers improve their understanding of relationships and what makes them flourish.

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