

## 5 Promoting Continuing Relationships between Parents and Children

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

The sense of urgency which led the previous government to put forward its proposals for divorce reform was fuelled, in part, by widespread concern about the consequences of divorce for children. There was a belief in Parliament that the law has a responsibility to ensure that the best interests of children are paramount in the decision-making process, and that their needs, wishes and feelings are taken into account.

The vast majority of parents care deeply about the impact of the breakdown of family life on their children, but it is not always easy for them to focus on their children's needs at a time when they are having to disentangle their marital relationship. Divorce has a profound effect on parenting, and parents, particularly those who no longer live with their children on a daily basis, frequently have to surmount major obstacles in their endeavour to share parental responsibilities when mutual trust and respect may be limited. Maintaining good continuing relationships between themselves and their children requires considerable commitment from both parents, and an ability to put their children's needs before their own. Furthermore, the relationships between parents and children after divorce are shaped and redefined in the context of other critical relationships, most specifically by the emergence of step-parents.

Divorcing parents and their children are rarely prepared for the fundamental emotional, psychological and practical changes which have to be accommodated during and beyond the separation and divorce process. The Family Law Act seeks to support parents and children by providing information both for parents and for children, and by encouraging parents to settle disputes amicably.

### *The Needs of Children*

Most children and young people feel powerless in situations of family change. They find themselves in situations which they are forced to accept and yet they feel they have had no say in them ... children and young people want to be consulted in the decisions that affect them; they want to be listened to, not to have the ultimate responsibility, however, for decision-making.<sup>2</sup>

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

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

<sup>2</sup> Stepfamily Association, Children and Young People Project, National Stepfamily Association (1999).

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

## **Addressing the Needs of Children and their Parents**

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

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

## ***Giving Information to Parents***

We must not overlook the fact that adults who are preoccupied by problems within their own relationships may well have difficulty in dealing with the needs of their children.<sup>5</sup>

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

1. That parents should continue to share responsibility for their children even though their marriage may be over.
2. That children do best if their parents can co-operate and discuss arrangements with each other and with their children.

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<sup>4</sup> Murch, M., Douglas, G., Scanlan, L. *et al.*, *Safeguarding Children's Welfare in Uncontentious Divorce*, Lord Chancellor's Department research series No 7/99 (1999).

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

3. That children need to know what is happening and that their parents should take account of their feelings and wishes.
4. That conflict between parents, especially if it involves children, may be damaging to children.

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

### **Reactions to the Information**

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

It sort of confirmed what we were doing, of putting the kids first. It reinforced that and we had already agreed that we are doing things and thinking about the kids. I think that's why we're not sort of rushing into anything. (mother of children aged 12 and 13)

It made me realise that you have to be careful not to involve children in the blame between two parents. The information I got from the meeting was well worth listening to. It made me realise sometimes you do things and you don't even realise you're doing them. (father of child aged 16 and twins aged 19)

Quite a bit of it helped me look at it from the child's point of view, because you don't realise how children look at it. They do blame themselves but you don't realise that. The leaflets were the best things I got, from my own personal point of view. It has had an effect – it tells you the telltale signs to look for and I've been looking for them. I arranged for him [his son] to be counselled because I knew there was something wrong, and I knew he had to speak to somebody that wasn't me or his mum. (father of children aged 11 and 14)

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

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

## **The Challenge of Post-divorce Parenting**

It is clear that parenting arrangements will be subject to a constant process of negotiation and renegotiation, which is dependent on parents being able to communicate despite living at physical and emotional distances from each other. The experiences of many parents who attended an information meeting indicated that maintaining channels of communication after separation is not an easy task. Findings from our time-slice survey reveal that more than a year after attending an information meeting, 21 per cent of parents who were separated described the quality of their communication about children as poor, and 19 per cent described it as non-existent. The following remarks illustrate the continued problems that separated parents experience, although these parents had been advised of the importance of maintaining communication when they attended an information meeting:

He won't have anything to do with me. (resident mother of child aged 17)

We communicate by note form. He refuses to discuss anything. (resident mother of children aged 5 and 9)

The communication is adequate when the boyfriend is not on the scene. It is non-existent when boyfriend is on the scene. (father with shared residence arrangements for children aged 8 and 12)

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

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

## ***Giving Information to Children***

The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.<sup>6</sup>

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

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

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

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

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

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

Generally this kind of subject makes you feel very very guilty. Probably this is the one area I've not done very well [in] because it's going to raise subjects they just don't want to raise. We need a national education programme because the guilt puts you off mentioning it. (mother of children aged 8, 10, 13 and 15)

It [the information] highlighted another awful aspect of what we were doing. (father of children aged 1, 5 and 7)

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

### **Children's Views about the Leaflets**

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

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

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

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

### *Developing and Using a Parenting Plan*

We already had arrangements made but it made us think about the big issues we hadn't really thought about like Christmas, holidays and grandparents. Very good, thought it was excellent, exactly what we needed. (mother of twins aged 4)

It was all there and I could fill it in and it recorded everything I should be thinking about for the children's welfare. (father of children aged 2 and 6)

A parenting plan was introduced in the context of information meetings to encourage parents to focus on the needs of their children and to plan for their future in practical everyday ways. The plan is an A4 booklet in which parents can enter arrangements for their children under nine broad headings including living arrangements, schooling, health, special days and staying in contact with the wider family.

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

My wife and I sat down and talked about all the considerations in the plan. We also agreed to review it every year ... we've been able to plan ahead using the plan. Easy to follow and asked lots of sensible, practical questions, most of which we hadn't thought of. (father of children aged 10, 13 and 15)

[I] sat down with [my] partner and went through it but stopped at [the] 'school' [section] because we couldn't agree. I don't see why he would want to be so involved in their school afterwards when he isn't now. I want the children to be with me for stability and he agrees with that. But when it came to school arrangements we couldn't agree and stopped filling it in. (mother of children aged 11 and 13)

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

### **Influencing Factors**

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

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