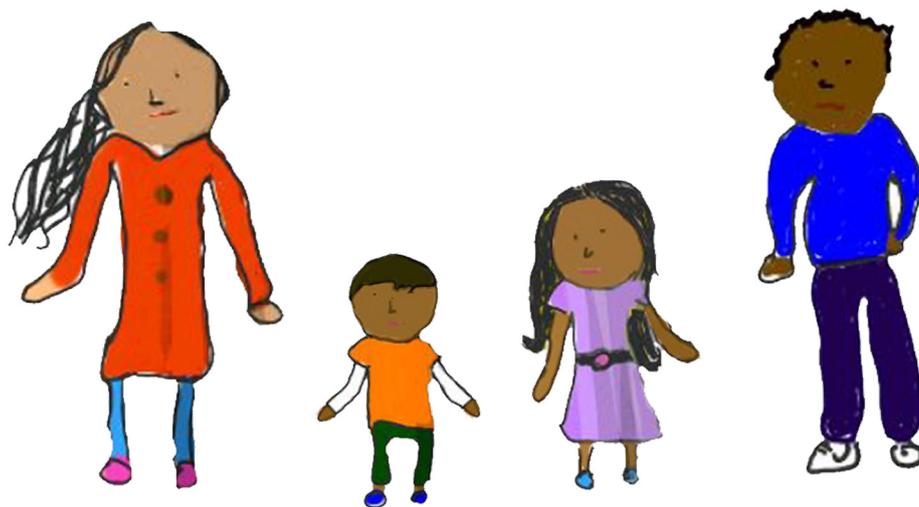




Guiding parents through separation:  
Family Matters - an innovative support  
service from Resolution

**Christine Skinner and Ida Forster**



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**The views and opinions in this report belong entirely to the authors and do not represent those of Resolution or Family Matters.**

**Resolution has printed the report.**

# Executive summary

## Background

Resolution developed an innovative new service called Family Matters. It aimed to help separated parents collaborate more effectively in the best interests of their children and involved the services of a new type of practitioner – a ‘Family Matters Guide’. Family Matters Guides are highly trained professional lawyers or mediators who combine their legal know-how and conflict resolution skills to:

- work with separated parents together as couples or as individuals
- provide legal information (not legal advice)
- guide parents to reach their own agreements
- deal with parents’ legal, emotional and practical difficulties in a holistic way.

The Family Matters service operated in specific cities in three areas in England, with two Family Matters Guides in each area. Free to users, it was targeted at low income families. It was hosted by local law firms whose staff were active members of Resolution and the Family Matters Guides mostly operated from those premises. Family Matters was one of 17 projects funded by the Department for Work and Pensions (DWP) under their ‘Help and Support for Separated Families’ (HSSF) initiative. The DWP is currently evaluating the impact and effectiveness of all 17 projects in the HSSF fund and will report in 2016. Independently from the DWP evaluation, this research study involved a partnership between Resolution and Dr Christine Skinner from the University of York. They won a bid for a ‘co-production of knowledge project’ funded by the Economic and Social Research Council (ESRC). Though the study reported here is entirely independent from the DWP evaluation, the findings from both studies should complement each other.

This study specifically explores the Guides’ experience in practice to address the following questions:

- What was unique about the role of being a Family Matters Guide?
- What challenges did Family Matters Guides face in practice?
- How did Family Matters Guides think their role was perceived by parents?
- How did the Family Matters Guide service fit within the local legal landscape?

The research involved in-depth interviews with all six Family Matters Guides, one Family Matters project manager and a leading member of Resolution's Board, who was involved in the design of Family Matters. Four Guides were also involved later in a focus group discussion. The main aim of the study was to understand Guides' experience of delivering this innovative service and consider the implications for future professional practice in the field of family dispute resolution.

## Key findings

There were three key sets of findings:

1. The uniqueness of the Family Matters Guide role
2. Operational challenges
3. Implications for professional practice

***The unique aspects*** of the role as originally designed were believed to have been delivered in practice. They were identified as:

- providing a 'holistic' and flexible service that allowed parents to go at their 'own pace' and 'dip in and out' when needed
- maintaining an impartiality and thereby helping to keep parental relationships on an 'even keel' until they were ready to communicate together and reach agreements
- 'listening properly' to parents to help them 'unpick' the layer of problems that frequently lay under the main presenting issue, thereby rendering it more amenable to resolution
- providing 'tailored information' and delivering it to both parents
- minimising conflict – or at least not exacerbating it further
- signposting parents to other specialist agencies to help them resolve complex health, financial and other practical problems (housing for example)
- responding quickly to parental distress and also to moments of crisis related to the early stages of separation
- enabling parents to become 'mediation ready' by removing practical and attitudinal barriers to formal mediation

- combining their skills as qualified lawyers alongside mediator skills was seen as a unique and vital aspect of the Family Matters Guide role; what some called a 'hybrid role'.

**Operational challenges** were also evident in embedding this new service locally. Consequently, some aspects of the model were not so key as first envisaged. For example, the Guides tended to find it more difficult than expected to:

- build extensive and stable local networks with other specialist providers (such as housing services, debt advice, Women's Aid, Citizens Advice Bureaux) in order to signpost parents effectively
- receive the predicted number of referrals, at least in the early days of the service
- engage the non-presenting parent
- explain the service to parents and override their misconceptions about the Family Matters Guide role.

Indeed, two main operational challenges were the lack of familiarity with the Family Matters Guide role and hosting the service within local law firms. As one Guide said, the location was both a 'curse and a blessing'.

The location was a disadvantage because it generated fears that the Family Matters service created a competitive benefit for the host firms. In turn, this negatively affected referrals. It was also said to have confused the parents because they were more familiar with the lawyer brand so were unsure about what the Family Matters Guide could offer.

It was an advantage because being located in a local firm gave credibility and a quality mark to the Family Matters service. It was a workable and cost effective business model and a pleasant environment for parents as it reassured them they were going to a 'proper place'.

Yet, despite attempts to deal with the disadvantages (developing transparent referral guidelines to reassure local firms) they were not always successful, at least in the time available to build up the Family Matters service. It could take as long as two years to 'get known' and become 'trusted locally' to the point of being 'recommended by word of mouth'. The Guides tried a range of outreach approaches to embed themselves further in the local community and increase their referral numbers, but with varied success.

**Implications for professional practice** were raised by two important findings: first, the distinction between giving legal information and legal advice and second, the

identification of a possible early pre-mediation or pre-litigation stage in the separation journey of parents.

### **Legal information – not legal advice**

Surprisingly perhaps, it was much easier for some of the Guides to deliver legal information and not legal advice than they imagined. However, it was still a complex activity, involving processes of transition, neutralisation and suppression. These processes show how the Guides adjusted their professional identities from lawyer or mediator to becoming a Family Matters Guide (transition), a Guide who had to remain impartial in order to help both parents. Some achieved this transition by neutralising any legal advice they may have given as lawyers into legal information.

Maintaining impartiality to engage the non-presenting parent was particularly tricky. The difficulties of engaging the non-presenting parent appeared to be wrapped up with practical challenges (such as making judgements about whether, when and how best to make first contact), but also with the Guides' professional identities and moral codes as lawyers. For example, sometimes it was difficult to maintain impartiality if they felt the circumstances of the presenting parent was particularly unjust. In this situation the Guides had to suppress the desire to take one parent's side of the story and risk losing their impartiality, but this could be an easier option in practice.

So, while Family Matters Guides had to fight against the strong and trusted brand of lawyer embedded in parents' minds, it seemed that sometimes at least, they also had to face an internal struggle to suppress the desire to focus on just one party's interest.

### **Early pre-mediation or pre-litigation stage**

The evidence also suggests the Guides may have uncovered an identifiable early stage in the separation and/or dispute journey (a pre-mediation or pre-litigation stage). This became evident in the Guides practice of helping parents become mediation ready and in their outreach work in courts with litigants in person.

This important finding relates to the uniqueness of the Family Matters service whereby the flexible, extensive and intensive support offered by the Guides helped parents take the time to reflect on their next course of action with guidance from a 'neutral voice' on their situation. This echoes with the work of Barlow et al (2014) in their *Pathways to justice* report, which explored alternative approaches to family dispute resolution (FDR). They highlighted the importance of the 'emotional readiness' of parents for their capacity to both absorb legal information and their resilience to undergo processes of mediation or litigation. Conceivably, the Family

Matters Guides were supporting parents to do just that, to become emotionally ready for the next stage of mediation or litigation.

The findings from this study raise important policy and practice implications. Clearly there is a need for:

- understanding more about the processes involved in changing practice – such as making transitions, neutralising advice, and maintaining impartiality
- understanding more about the external obstacles and internal inhibitions (regarding professional identity and the process of suppression) that make it difficult to engage both parents
- professional marketing of the new service and educating people about new ‘models’ of practice
- creating a strong brand for any new model
- better awareness and sensitivity to the local business context
- testing the feasibility of different locations for the service.

Overall, this study suggests that if the direction of future practice is to work more collaboratively with parents, then adopting a professional principle of impartiality might be a good idea to help engage both parents to assist them in resolving disputes. But the evidence from Family Matters Guides’ experiences show that working collaboratively would require a greater understanding of what might be involved for practitioners as well as for parents. Also, if there is a distinguishable early stage in family separation and family disputes, then parents might benefit from a non-traditional approach in the first instance. The Family Matters Guides have the skills of both lawyers and mediators, but the freedom and flexibility to operate without the constraints of either. Such an approach would, however, involve making a cultural change that breaks down and reconfigures the traditional professional boundaries and modes of operation.

# Introduction

Family Matters is a free support service for separating parents on a low income. The service is managed by Resolution, a membership body of 6,500 family lawyers and other professionals committed to the constructive resolution of family disputes. Funded through the Department for Work and Pensions' (DWP's) Help and Support for Separated Families (HSSF) Innovation Fund, the service is delivered from legal practices in Crewe, Oxford and Newcastle-upon-Tyne.

Family Matters Guides are trained lawyers and mediators who combine their legal knowledge and mediation skills in order to:

- work with both parents together or as individuals
- provide legal information (not legal advice)
- guide parents to reach their own agreements
- deal with parents' legal, emotional and practical difficulties in a holistic way, helping them to access relevant local sources of support through an action-planning approach.

As an experimental model of professional practice, Resolution felt it was important to understand what it was like for Family Matters Guides to deliver this new service as well as assess the implications for policy and practice for the future.

Although the DWP is undertaking its own, programme-wide evaluation assessing the effectiveness of the project, Resolution was keen that independent research was carried out specifically to focus on the implications for professional practice.

Resolution worked in partnership with Dr Christine Skinner from the University of York on a 'co-production of knowledge project', funded by the Economic and Social Research Council (ESRC) (under their Impact and Acceleration Account held by the University of York). This funding was designed to support the research and share knowledge between the University of York and Resolution with a view to feeding the results of the research through to professional practice.

Resolution and Dr Skinner worked jointly to design the research study to address the following questions:

- What was unique about the role of being a Family Matters Guide?
- What challenges did Family Matters Guides face in practice?

- How did Family Matters Guides think their role was perceived by parents?
- How did the Family Matters Guide service fit within the local legal landscape?

The research fieldwork and analysis was conducted independently by Dr Skinner and was ethically approved by the University of York following the standard ethical guidelines used in social science research. The study used qualitative methods. In-depth interviews were conducted with all the Family Matters Guides, the Family Matters project manager and a leading Board member of Resolution who was closely involved in the original design of Family Matters. The interviews were followed up with a focus group with the Family Matters Guides.

This report provides the analysis of that study. It is divided into broad sections:

- the background to the study and how the innovative Family Matters service fits within current practice
- the research methods for the study
- a detailed report of the findings
- a discussion of the implications for professional practice
- a final conclusion.

## Background

### HSSF government initiative

The 2012 green paper on child maintenance policy, *Supporting separated families; securing children's futures*, recognises the importance of co-ordinating the range of support available to separating families. It sets the scene for 'the development of interventions that promote collaboration and reduce conflict between separating and separated parents, in the best interests of their children'. This led to the Help and Support for Separated Families (HSSF) Innovation Fund, which earmarked £20 million to test and evaluate innovative interventions to help separated parents collaborate in the best interests of their children.

The HSSF initiative was launched in November 2012 under the Conservative-Liberal Democrat Coalition to co-ordinate and join up support services for separating and

separated families. The aim was to minimise the impact of separation on children. Specifically, it sought to support and strengthen family life by making it the norm for separated families to seek and understand the support options available to them and by enabling access to services that provide this support, especially for the most vulnerable families. Family Matters was one of the 17 pilot projects selected through a tender process under this fund. The HSSF is currently being evaluated by the DWP and it will report findings on the effectiveness of all 17 projects in 2016.

## Design of the Family Matters model

The HSSF Innovation Fund was timely for Resolution as it was specifically designed to test new and innovative service models and so, in their bid, Resolution created the Family Matters model from the amalgamation of new ideas from within the dispute resolution (DR) field. Specifically, the model created a new type of practitioner called 'Guides' who were legal experts with experience of working with couples in conflict.

Their role was designed to be highly proactive and involved, not only giving parents legal information and using their mediation skills, but also included the job of actively signposting parents to other local services to help them receive support across a range of complex needs, including housing, debt and health.

Given that legal aid was being severely restricted under the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO), the model aimed to provide an alternative way of working with parents, the majority of whom could no longer access legal aid. The Family Matters service was targeted at low-income families who may face multiple complex problems and who now, in a 'post LASPO world', would have nowhere else to go for support with their family separation issues. In essence, the Family Matters model involved three key features within an action planning framework:

- providing legal information
- offering holistic support (and signposting)
- offering support with coming to joint agreements.

The design of the Family Matters model did not arise out of any existing concept, but was created from a set of ideas being formulated in Resolution at the time. These ideas emerged from, among other things, a Resolution initiative for separated parents called 'Parenting after Parting'.

Parenting after Parting combined workshops for separating parents with a booklet that Resolution's members could use to support their clients to minimise the

potential damage of their relationship break-up on their children. It acknowledged the wider elements of the role of the legal practitioner in supporting couples through separation, with a focus on the importance of 'soft skills' in achieving a positive outcome for their families. At the same time, new developments were emerging within the family dispute resolution field more generally, including good practice emerging from the Australian Family Relationship Centres.

## Rationale for the Family Matters model

Resolution developed the Family Matters model in response to a number of factors:

1. Developments in the family justice system
2. Complex needs of low-income separating couples
3. New developments in the field of DR.

### **1. Developments in the family justice system**

The key development in the family justice system relate to the implementation of the LASPO Act (2012) on 1 April 2013. Since then, in private family law cases, legal aid is only available for those cases which contain a 'qualifying trigger' of domestic violence, child abuse or abduction.

There is funding available via the Exceptional Case Funding (ECF) mechanism for cases that don't meet legal aid criteria, but whose outcome may impinge on an individual's human rights or European Union rights.

Before the Act was introduced, it was estimated that 200,000 fewer families would be eligible for legal aid, with around 33,000 no longer qualifying for legal representation. The impact assessment also stated 'legal aid recipients are amongst the most disadvantaged in society'.

The declining availability of legal aid has led to a dramatic rise in the number of litigants in person: those who represent themselves in court.

There was a 57% rise in litigants in person between April and December 2013 compared to the same period in 2012. In the family courts specifically, there has been a marked drop in the numbers of cases in which both parties are represented. For example, the amount of private law children's cases in which both parties were represented fell from 38% in January 2011 to 24% in

December 2014 (Byron, 2014). This is widely acknowledged to have put further pressure on the court system.

Family Matters was designed to work with those who had been eligible for legal aid as well as those who just fell outside traditional financial eligibility. This group includes those on income-related benefits, those who have no income or benefits because they have just separated and those on a low income. It aims to meet the needs of those who are vulnerable or disadvantaged at a particularly traumatic time in their lives. Since the introduction of LASPO, people on a low income have fewer places to turn for support with their separation. Although not specifically designed to work with litigants in person, Family Matters did, in some cases, find itself working with the courts to support separating parents.

## **2. Complex needs of low-income separating couples**

Evidence that separating couples on low income or those with complex needs require additional support with their separation came from the English and Welsh Civil and Social Justice Panel Survey 2012. The survey shows that respondents eligible for legal aid had a greater number of problems than other respondents and problems associated with poverty were particularly pronounced in this group. They were also more likely to do nothing to resolve their problems than the general population, despite more frequently reporting negative consequences stemming from them.

People may feel temporarily vulnerable when a relationship ends. They are likely to feel grief, fear for the future, confusion, anger, isolation and mistrust. If, however, the person concerned suddenly finds themselves a single parent, is separated from their children, has debt problems, is at risk of homelessness or is worried about their children's distress and behaviour, and has to deal with a raft of problems faced as a result of disadvantage, then their vulnerability is likely to be more severe, longer lasting and sometimes crippling. Recovery is likely to take significantly longer. These parents therefore need the support of a number of agencies to help things get better.

The aim of Family Matters was to achieve better outcomes for low-income parents and their children. The intention with the Family Matters model was to embed Guides in local legal practices rooted in their communities. This was based on evidence at the time the Family Matters service was designed which demonstrated a reliance on local solicitors. Evidence highlighted how legal advice was highly valued and that 24% of people seeking advice on civil justice issues went to a solicitor first (more than any other individual source of advice) and 88% of people felt they knew something about solicitors, a higher

proportion than any other group of advisors, bar Citizens Advice (English and Welsh Civil and Social Justice Panel Survey 2012). In addition, *Breaking Up Is Never Easy* (Citizens Advice Bureau 2011) found over half of the clients with family legal problems who made enquiries to Citizens Advice Bureaux about divorce, separation or family dissolution had to be referred to family lawyers.

Even so, in times of emotional distress it can be difficult to navigate, interpret and access the vast amount of – sometimes excellent – information and guidance available. Moorhead et al (2006) identified 'referral fatigue' as a significant problem to signposting and referral during emotionally challenging times. When parents present a problem to an agency that doesn't specialise in that area they are often referred or signposted to another. Each time this occurs the parent becomes increasingly unlikely to attend, limiting successful outcomes. Family Matters aims to prevent this type of fatigue by guiding the people it supports through the help available. The intention with the Family Matters model was for Guides to develop an understanding of the information and support available to parents, and to build a strong relationship with the network of community organisations providing this support, thus ensuring parents can access the right services, in the right place, at the right time. This was felt to be crucial to the success of the Family Matters project.

### **3. New developments in the field of family dispute resolution**

Over the last 30 years in the UK, there has been an increasing desire to try out new ways of working on the part of some legal professionals and to incorporate out-of-court DR processes into the Family Justice System. Trying to settle or negotiate out of court has always been a feature of the legal process, and cases are often resolved by the parties coming to a compromise by themselves or their solicitors negotiating with one another. The great majority of cases are settled in this way. To improve the chances of a couple being able to resolve their case without recourse to the court, various DR processes have developed. The most established DR process is mediation, in which the couple meet with an impartial mediator who helps them to work out their issues for themselves. While it has been in use since the early 1980s, it has recently been bolstered by increases to public funding for mediation and changes to the law.

The last ten years have also seen the development of two other processes in the UK: collaborative practice and family arbitration.

Collaborative practice was introduced to England and Wales by Resolution, and is a form of face-to-face negotiation supported by solicitors and a range of other family professionals. The lawyers have a vested interest in getting the process to work, as they are prevented from taking on the case and dealing

with it in another way should the collaborative process fail. The advantage of the process is its combination of supportiveness and flexibility: where necessary, professionals such as financial consultants, counsellors and barristers can easily be brought into the process.

Family arbitration has its origins in commercial and employment law. It has only recently been applied to family disputes. The process is a court-like private forum. The parties agree with each other on who to appoint as the 'judge', called an arbitrator. What goes on in arbitration is confidential, and the decisions of an arbitrator are very hard to appeal. The main attraction of arbitration is that it offers a good chance of getting a settlement that is both confidential and binding. Another advantage is the environment: less stressful than court, but with a court-like formality and structure that can be welcome. Finally, arbitration can be extremely useful for couples who have made a range of agreements but one issue stands in their way.

Developments in Australia have also informed current thinking, particularly the ideas behind the development of Family Relationship Centres (FRCs). FRCs were introduced in Australia as a key part of the 2006 family law reform package, which was intended to bring about wide-ranging cultural change in the way separation was managed. The centres were intended to be a highly visible entry point that operated as a doorway to other services and helped families to access these services. The Legal Partnerships Program was announced in June 2009 and represented a policy change intended to 'help separated or separating families by providing access to early and targeted legal information and advice when attending Family Relationship Centres' (Moloney et al, 2011). Overall, the programme was intended to improve the way the family law system responded to clients by facilitating access to legal advice at an early stage and by increasing the levels of cooperation between different parts of the system.

The research into the programme (Moloney et al, 2011) found that, where legal services were provided as part of the interdisciplinary programme, it fulfilled three interrelated needs. First, it assisted with informing parents of their obligations and responsibilities and, importantly, gave most parents a realistic view of where they stood from a legal perspective. Second, legal assistance supported a number of clients in terms of the advocacy role provided through contact with a lawyer. This was a source of empowerment for some clients, particularly some women who reported experiencing domestic violence or men who had been unable to negotiate time with their children. Third, legal advice and assistance services assisted parents to better

understand the DR options available to them and which pathway might best suit them.

Although legal advice was not designed as part of the Family Matters service, the legal information that Guides were intended to provide would also potentially fulfil these three needs.

Most recently, the legal profession in the UK has been exploring the option of one lawyer working with both parties in separation cases (the 'one lawyer, two clients model'), but this is, as yet, an undeveloped model that is not currently on offer to separating couples.

Family Matters in comparison blends traditional legal knowledge with mediation skills, and has elements in common with some of the processes outlined above, but is probably most closely aligned to mediation and the 'one lawyer, two clients' model, although it offers a different and distinct service.

These innovations in practice have also come at a time when the cuts in legal aid are beginning to have a negative impact on the family law profession. Statistics show that family lawyers have taken a cut of around £5,000 to their annual income between 2011 and 2012. They also face a range of changes to their profession and practice and to their traditional business structures. These include:

- the intended growth of mediation as the first port of call (to the potential exclusion of other options)
- the rigid billing structure of the public law outline 26 week case schedule (in legal aid provision), which does not cover certain necessary expenses
- the continuing fall in marriage and divorce rates
- the increasingly common practice of shopping around by legal consumers. In line with expectations of other service providers, there is a rising demand for flexible products that offer consumer choice
- a growing tendency to research online before seeking paid professional advice, which makes customers more likely to assertively limit their professional consultation to only the questions they consider most important
- a plethora of non-traditional entrants to the legal-services market providing routine transactional work at a fraction of the cost of traditional lawyer providers

- a reported growth in professional ‘McKenzie Friends’ – supporters to the litigation process who do not themselves advocate a case. The development of this section of the industry was supported by a recent Legal Services Commission report, and offers an additional non-traditional route for bringing a case to court.

Taken together, these factors equate to a potential shrinkage of the traditional legal advice sector. Without change, it is unclear how many traditional lawyers’ practices will be able to survive in this rapidly changing ‘post LASPO’ world.

Family Matters represents an attempt to explore new service approaches in this context. Thus the Family Matters model has been piloted at a time when there is an appetite in the sector to consider new ways of working and to find different ways of using professional skills in order to adapt to the changing environment.

Since the Family Matters model was set up, some key studies on innovative practice have been published, including the report by Trinder et al (2014) which looked at the information and support needs of litigants in person in the courts, and the study by Barlow et al (2014) *Mapping Paths to Family Justice*, which provides a comparative analysis of the most common forms of out-of-court Family Dispute Resolution processes and evidence of which ones might best fit which types of cases.

Also, the Family Mediation Task Force, which was set up in response to the rapid decline in referrals to mediation following the implementation of the LASPO Act 2012, reported in 2014. While the report considered the immediate implications of the decline in referrals for mediation services, it also gathered international evidence on different approaches to family dispute resolution. We return to some of the findings from these studies in the discussion section at the end of this report. Now however, we turn to describe the Family Matters service in practice and begin by providing some basic statistical information on the referrals and case load before moving onto the qualitative research study that explored the professional practice of the Guides in-depth.

## Family Matters service users

Over the 30 months of the DWP funded service, Family Matters saw a total of 1,570 parents across the three locations.

At the time of writing, not all the management information had been analysed, but the following are a helpful indicator of the profile of service users.

- Of those parents using the service, 21% either had a joint meeting within Family Matters or were both referred to a mediation service.
- 55% of service users were women and 45% men.
- 25% of those who declared their ethnicity were of an ethnic background other than White British.
- The highest referral source for Family Matters was solicitors (28%), with the other parent being the second-highest source (13%).

At the end of August 2015, the following outcomes had been reported for parents using Family Matters:

- 44% experienced improved communication with their ex
- 85% had improved access to information
- 96% found the information and support beneficial
- 78% felt better able to take action
- 69% felt better about their situation
- 86% felt better informed about their situation
- 76% better understood the benefits of making arrangements for their children together.

# Qualitative study: research methods

This section reports on the background to the research; the research aims and objectives; the research design and methods; and the profile of the research participants.

The focus of this qualitative study was to explore the experiences of Family Matters Guides in delivering this innovative service and to consider their reflections on professional practice. In that regard, the study is not, and never was, intended as an evaluation of the effectiveness of Family Matters or about assessing parental satisfaction. This kind of evaluation is already being undertaken by the DWP as part of their assessment of the 17 projects funded under HSSF, of which Family Matters is but one. Therefore, the findings from both studies should be complementary, giving a fuller picture of the Family Matters initiative.

The study reported here is a joint project between Dr Christine Skinner from the Department of Social Policy and Social Work at the University of York and Resolution. It is a 'co-production of knowledge project' funded by the Economic and Social Research Council (ESRC) under their Impact and Acceleration Account. The overall aim of this research was to explore the perspectives of the Family Matters Guides on their experiences of delivering the service. Specific research objectives were to find out:

- what was unique about the Family Matters Guide role
- what were the challenges in delivery and what measures were taken to overcome these
- what were the implications arising from the project for the immediate practice of the Family Matters Guides
- what were the broader implications for national policy and practice?

The Family Matters service is small, with a total of six Family Matters Guide posts delivering the service in three locations in England. The research adopted qualitative methods and conducted in-depth face-to-face interviews with eight individuals, including the six Family Matters Guides<sup>1</sup>, one of the project managers and one Board member of Resolution who was closely involved in designing the Family Matters initiative.

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<sup>1</sup> During the time fieldwork was undertaken there was some change in personnel among the six Guides posts. This resulted in individual interviews being undertaken with some experienced Guides

Fieldwork took place between March and April 2015. The Guides were approached individually by the researchers to seek their permission to take part. Two researchers conducted one-to-one interviews, which typically lasted between 60 and 90 minutes (topic guides and respondent information sheets are available in Appendices A–D).

A focus group was held with the Family Matters Guides to explore their knowledge and experience of the role. The aim was to help promote an exchange of ideas and experiences that the Guides could discuss and would give an indication of the extent of the consensus and points of difference across the range of topics discussed. We hoped this would help deepen our understanding of the role and the challenges of delivering it.

In total only four of the six Guides who agreed to take part attended and, of these, two had already taken part in the individual interviews and two were newly appointed Guides who had only recently taken up the role. Discussions lasted around 90 minutes. Four main areas were discussed (see Appendix E for the full topic guide):

- The challenges the Guides faced in their own practice
- The wider legal landscape and how the Family Matters model fits within it
- The future of the Guide role and the Family Matters model
- Key messages for policy makers.

Ethical approval for the study was obtained from the University of York Ethics Committee and included gaining informed written consent from participants to digitally record the interviews for full transcription and to use illustrative anonymous quotes of what they said in this report. However given the small number Guides, we gave each of them a copy of the draft analysis to check they were happy with the quotes used and that they had no concerns regarding anonymity. All direct quotations in this report have therefore been approved in this way by the participants.

The data were thematically analysed from the transcripts using the Framework approach for ordering and synthesising qualitative data (Ritchie & Lewis, 2003). Through familiarisation with the data the researchers identified key topics as well as emerging themes to form an analytical framework. From this, a series of thematic charts were drawn up using Excel worksheets to produce a matrix in which each column denoted a separate sub theme or topic and each row an individual participant. One researcher then summarised the data from the transcripts and entered this onto the matrix (supported by references to data points in the original transcripts), enabling detailed exploration of the charted data across cases and

under themes. The focus group data was charted as one case (one row) but, where possible, the summaries included the initials of the participant(s) responsible for that data. The decision to treat the analysis in this way was a result of the data being rather more limited than initially expected as result of the low numbers attending the focus group and because two of the Guides were new in post and had little experience to draw on in the discussion.

### **Profile of participants**

In all, six Guides took part in the individual interviews. Table 2.1 shows the length of time individual interview participants had been working as a Guide at the time of interview ranging from the full duration of the project (two years) to being fairly new in post in the last six months.

**Table 1: Time working as a Family Matters Guide**

	<b>Guides (n=6)</b>
23 – 35 months (i.e. since project start-up)	<b>4</b>
20 months	<b>1</b>
6 months	<b>1</b>

The Guides were all professionally trained lawyers (most were solicitors, some were Legal Executives and one was a barrister). All the participants were also trained in mediation skills. Most specifically trained for their Family Matters role but some were practising mediators already. In all cases, the Guides' experiences as lawyers were markedly greater than any that they had accrued as mediators. In terms of employment, half of the Guides were seconded to Family Matters by the solicitor's firm in which they were embedded and they split their time equally between their work as Guides and as family lawyers. Others worked solely as a Family Matters Guide or worked part of the week as a family mediator. The number of years in professional practice ranged from 4 to 25 years; with three Guides having between 20–25 years of experience.

The interviewed project manager has extensive experience working in the voluntary and public sector and the part-time role is shared with another project manager who is a practising lawyer and mediator and a mediation Professional Practice Consultant whose role was to provide consultancy to the Guides on their practice as they combined their knowledge as lawyers and their skills as mediators. The job, though

split between them in different ways, involves both carrying out reviews of random case files of the parents. These, and asking the Guides to bring case studies with them to discuss at the monthly team meetings, are ways in which support and guidance can be given by the management team and is also a way of providing peer support and sharing practice amongst the Guides.

The senior member of Resolution National Committee, who was interviewed, had extensive experience as a specialist family lawyer for over 30 years and had 10 years' experience of working at a senior level on Resolution's National Committee. This background information on the participants helps set the context for the findings now presented.

## Qualitative study: findings

This section provides an analysis and interpretation of the data collected from the Family Matters Guides in their individual interviews and the focus group as well as from interviews with the project manager and the member of Resolution's National Committee. Given the small number of people involved in Family Matters (six Guides and two part-time project managers), the information given by the manager and Resolution member is not separately identified in the analysis in order to protect people's identity<sup>2</sup>.

### Early expectations of the Family Matters Guide role

#### **New opportunities**

The Family Matters Guides who participated in individual interviews explained why they were attracted to the job and what they expected the role would involve. Three broad reasons were mentioned:

- the opportunities it provided to work with a low-income client group
- to work in innovative ways
- to gain new sets of skills.

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<sup>2</sup> Quotation marks around words and short phrases indicate the actual words used by the Guides in the interviews.

First, they said the job presented an opportunity to support a vulnerable group of low-income parents who generally had no access to legal support because of the restrictions brought about by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO). The Guides thought that the Family Matters service could fill the gap but offer something even more, as the criteria to access the Family Matters service was more open and flexible compared to legal aid. For example, both parents could access it for free when at least one of them received a state benefit or earned an income equivalent to, or less than, the UK living wage. Some Guides said they were also interested in the job because they would come into contact with a wider group of parents with different backgrounds.

Second, the Family Matters Guide role provided scope for further professional and personal development. The fact that the Family Matters role was conceived, developed and launched by Resolution was a good reason to get involved. It was a trusted organisation said to be at the 'forefront' of new ideas and this job could perhaps offer a range of new skills to improve career prospects. Simultaneously, it allowed the Guides to interrupt the usual career pathway, giving them the chance to explore something a 'little bit different'.

Third, the role offered the opportunity to resolve parental disputes in innovative ways not constrained by traditional legal or mediation processes, or by commercial demands. For example, the Guides expected to work with both parents or with one parent alone, and could think more broadly about parents' needs taking into account their emotional, practical and legal information requirements. The main purpose of their job was thought to be about educating separated parents, to help them understand their legal rights and responsibilities and to guide them away from opting for court action as a first step to resolve their problems. Ultimately, the Guides expected to help parents draw up action plans and assist them in communicating more effectively to resolve their issues constructively. It was not about taking charge and giving legal advice, but helping parents identify their own solutions. It was described as:

*'...a bit like lawyer support of mediation in that we kind of, don't give that advice, but we can give very tailored information because we're solicitors as well.'*

The Family Matters Guides reflected on how these expectations matched what happened in practice.

### **Expectations and the reality of delivery**

In practice, we were told the service remained very close to the model as originally designed by Resolution and it broadly matched the Guides' expectations. Although, in reality, the Guides variously said: they did not work with couples together as much

they had envisaged; they thought they would have dealt with a broader range of issues; and they would have been involved with clients for longer periods of time. Even so, the Family Matters Guides knew it was an experimental pilot and so were keen to point out how they adopted a flexible approach in order to respond fully to clients' needs. They were all generally positive about delivering the service and looked forward to working intensively with parents to help them 'move on' after separation. 'Moving on' was said to be achieved by:

- guiding parents through the separation process
- providing lots of legal information
- helping them identify their own solutions
- signposting them to expert services locally to receive practical advice and support on a range of issues (such as debt problems, homelessness, mental health difficulties etc.)
- encouraging parents to return to the Guide, if needed, for further support or referral.

The Guides said they enjoyed the freedom of the role and that they could operate without the worry of having to 'back cover' to protect themselves from possible litigation by clients. Also, they did not have to keep detailed accounts in order to generate clients' bills. Although they did keep case records, the same level of detail was not required. In reality, however, despite these positive views, the Guides also reported that parents could be confused and harbour misconceptions about what was on offer.

### **Parental expectations and misconceptions**

The Family Matters Guides explained that parents sometimes found it difficult to understand the Family Matters role because they had 'never seen anything like it before'. They struggled to override the visual expectations of them being a lawyer, as the Guides were located in local law firms. This location led parents to assume they would gain the full service of a lawyer who would give legal advice and tell them what to do and, if necessary, take their case all the way to the court. This was thought to be closely tied to parents' pre-existing beliefs that their problems were predominantly legal.

Given these misconceptions, the Guides said it was challenging to explain what they actually offered. Unlike lawyers, they provided legal information and not legal advice. They explained they would not take sides and would contact the other parent to help them both work together to resolve their problems. They also could

not represent them in court (even if, ultimately, a court-based approach was necessary, for example if there was suspected domestic abuse).

The Guides said parents were sometimes confused or occasionally even hostile when the nature of the service was explained to them, adding to the difficulty of helping parents understand their role. The Guides said they got better at doing this over time and developed their own scripts to impress upon parents what they could and could not do and by 'spelling it out' to parents from the very start. One Family Matters Guide explained how she adapted her script to focus more on describing what she could do rather than not do in comparison to a lawyer, and she felt this more positive description helped gain the parents' trust.

The Family Matters Guides' perceptions varied about how successful they were in helping parents understand the role. For example, some noted that it was especially challenging to explain it to parents whose first language was not English and others said parents still called them lawyers and still expected to get a little bit of legal advice. In contrast, other Guides felt that being called a lawyer rather than a guide was not really a problem, because it was just an easy 'shorthand' for parents to use, and they implied that it didn't really matter what the Family Matters Guides were called, as long as parents felt they were being helped.

Indeed, the Guides felt the service was highly valued by parents, partly because it was free and because they had nowhere else to go now that legal aid was heavily restricted. In addition, the parents were reported as valuing the service because of the high-quality legal information they received.

Most importantly, the Guides felt that parents were appreciative of having someone with whom they could 'offload'; who would 'listen to them'; who was 'aware' of their problems; who could 'be there' and 'acknowledge their feelings'; and could 'help sort things out'. The Guides also believed that most of the presenting parents were generally 'glad' that the Family Matters Guide could contact the other parent.

In addition, the Guides thought the role was valued by parents because they could meet with a 'real person' and have an instantaneous dialogue, rather than be left alone to find information on the internet. The Family Matters Guides wanted to stress they believed the key things parents valued most was not a single thing, but the combination of the holistic and intensive service and their professional practice within it. This echoed with the Guides' views on the uniqueness of their role.

## Uniqueness of the role

In the individual interviews and in the focus group we asked the Guides to tell us what was unique about the role. This overlapped closely with their early expectations of what would be involved such as providing a holistic service, but other aspects were also drawn out such as having a working knowledge of local court processes that they could share with parents and maintaining an impartiality to enable them to work with both parents. It is worth exploring some of these unique elements in more depth.

### **A holistic service**

Providing a holistic service and tailored legal information, as well as signposting parents to other agencies, was singled out as being unique aspects of the service, but the Guides also acknowledged that a good lawyer could do the same. However, the Family Matters service was felt to be different as it involved a more proactive engagement with parents as the Guides could take the time to unpick the often complex underlying issues and thereby make the big presenting problem easier to resolve. They also thought that compared to lawyers, the service was picking up more parents in the early stages of separation and therefore the Guides were faced with people who could be 'overwhelmed with the enormity of what has happened to them' or 'in crisis'. In these circumstances, the Guides believed they were highly responsive and could refer parents immediately to other services while reassuring parents they could return to see them whenever they were ready.

The Guides' interactions with parents was described as having to 'think in a whole different way'; it was not just about dealing with the dispute, but also about dealing with the client as a person who 'was feeling hurt and angry'. Unlike a lawyer, the Family Matters Guides said they were more likely to say something to parents like 'I think you should be talking to your doctor or a counsellor'. Uniquely, the Family Matters role involved offering emotional and practical support and signposting parents to other professionals to help them with a range of issues such as debt problems, homelessness and mental health problems.

### **Impartiality and combined skills**

Impartiality was singled out as another unique element of the Family Matters role. It allowed the Guides to work with both parents and take account of both perspectives, compared to a lawyer who, the Guides said, would have to follow a client's direction and be on 'their side'.

It is not surprising that the Guides identified impartiality as unique as this was the intended service design. However, it was the way in which the Family Matters Guides brought their knowledge and skills as lawyers and mediators together that

made impartiality work in practice. The Guides went on to explain how this allowed them to provide a 'neutral voice' on the parents' situation and inform them what the likely outcome might be if they went to court. Thereby, they could help parents 'stop' and 'think again' and change their perceptions that court was the best option. As the discussion in the focus group confirmed:

*'I think the fact that, like [name of Guide] said, that we are solicitors and that we can say, look, in court this is what would be likely to happen, and you can say that with authority, you're running these cases and have ran these cases in court, I think that does have some merit [with parents].'*

The Guides commonly agreed that having good legal knowledge and an in-depth understanding of local court processes *alongside* being able to take on board both parents' perspectives in an impartial way (like a mediator) was a unique and valuable aspect of the role; an aspect that could not be easily offered within the existing structures of legal professional practice. The Guides had to accommodate in their own minds how to combine these roles in practice.

## Fluidity in professional practice

The Family Matters Guides explained that their role was unique because they combined their lawyer and mediator skills, yet they were neither fully one nor the other. Indeed, it seemed applying their combined skills was an active and thoughtful process, as the following quote shows:

*'Um...I think it's, well I mean I think the combination, you know, solicitor-mediator, so they've [Family Matters Guides] got that advantage...and the, the objectivity of the information and the breadth of the information and the impartiality of the information and the option of working with both parents and the flexibility ...you know, obviously as a lawyer... you're very much with one party. I mean it rings bells with being a mediator, but it extends, it extends that role as a mediator....'*

## Mediation practice

Mediation was described as the required 'soft skills' and was 'absolutely essential' and could even help Family Matters Guides improve their practice as lawyers. Having both sets of skills was therefore seen as complementary. However, it seemed the Guides believed they could extend the mediator role. On the one hand, it enabled them to hear both sides of the story and get 'a balanced view on where the position is'. On the other hand, some described how they could 'go further' than a mediator might do in a 'formal' mediation situation as they had the freedom of using

'directional talk' with parents and were able to 'challenge' perceptions more, or be more 'robust' in 'testing' the parents' position and beliefs. This could help counteract the 'entrenched' attitudes of some parents whose views were 'set in stone'. The Guides felt their mediation skills enabled them to look for common ground between parents (often their shared interest in their children's well-being) and thereby could help reduce the tension between parents and get them closer to reaching agreements.

The Family Matters Guides could also fill a gap that mediation could not offer. They could have joint face-to-face meetings with parents (like a mediator), but they could also hold simultaneous meetings using the telephone, or they could work in a more asynchronous way, with the Guides acting as a 'go-between' to provide the 'same legal information' to both parents to help them communicate. The parents could therefore come to an agreement without the need for a joint meeting. As one Guide said:

*'...you don't even have to see them together to find that it's made a significant difference to their view on their position, they see their position in a different place.'*

This flexibility was seen as a valuable tool in helping the parents to communicate better. But even working with one parent could help this to happen, because being an Family Matters Guide was described as involving a much more 'fluid process' than formal mediation where parents generally have to be seen together in a synchronous way.

Despite, or perhaps even because the practice of Family Matters Guides could involve a more fluid process than formal mediation *per se*, it was pointed out by one Guide that they had to sometimes resist a parent in terms of not 'being pushed into a position'. In other words, pushed into taking only one parent's point of view. They had to use their mix of lawyer and mediator skills to 'be in control' and help parents. The implication was that maintaining impartiality as a Family Matters Guide, whose role is to be interested in both parents' perspectives, could be quite challenging. A number of explanations were offered by the Guides in respect to showing how they tried to maintain that impartiality.

First, the Guides explained that they needed the mediation skills to 'convey' information and also 'elicit' information from both parents in a 'neutral way'.

Second, remaining neutral was described as being 'quite tricky' because it was difficult to talk to parents when they were very upset and they had to work hard to ensure that neither parent felt the Family Matters Guide was 'taking sides'. The Guides tended to agree that if they had inadvertently left the second parent with that impression, then they had 'lost them'.

Third, sometimes the Family Matters Guide could see the legal injustice of one parent's situation and it was difficult to remain impartial.

Lastly, it was hard work. It could 'be easier' to work with one parent only and go along with their story than to work out both positions and help both parents understand that they 'share the problem'. Herein lies a tension in practice between working quickly and easily with only one parent, but potentially having to work harder if trying to include both parents. However, having the ability to work with both parents was also the very thing that made the Family Matters Guide role unique, in contrast to lawyer practice.

### **Lawyer practice**

The Guides contrasted their roles as lawyers with being a Family Matters Guide. As a Family Matters Guide, they would 'sit back more' in sessions with parents, be less 'end focused' and less active than a lawyer might be in 'seeking a solution'. Rather, they would follow 'where the parents wanted to go' and help them reach their own solutions. In addition, attempting to find 'common ground' between parents in an open and discursive way was contrasted with the usual lawyer practice of exchanging letters about clients. The Guides believed this traditional approach could create or increase tensions and, at least, could slow the resolution process down, whereas, the Family Matters Guides could take 'immediate actions' without the need for lawyers' letters and thereby, as they said, effectively cut out the 'middle man' of solicitors. They could also help keep parental relationships on 'an even keel' until they were ready to start making agreements. As one Guide described it:

*'Sometimes with solicitors' letters going backwards and forth they can make it into a much bigger deal rather than just having that conversation [with both parents] that they [parents] can't have together at that time cos they're not at the part of their separation where they feel they can talk, but just feeling that you're helping keep things on a more even keel, I guess'.*

Early intervention was another valuable aspect of the role; this provided more opportunities for 'constructive conversations' and thereby halt, or reduce, the further escalation of conflict. However, it was not always possible to work with both parents, but nonetheless the Family Matters Guides still believed that working with one parent offered something valuable and unique because they were able to keep them fully informed. Even so, being a Guide required extra vigilance in practice.

The Guides had to get in the right 'mode' in this 'hybrid role' not being quite a full lawyer or mediator. This also seemed to involve guarding against 'tipping into' giving legal 'advice' as opposed to sticking to giving legal information, as this quote highlights:

*'...but I mean, I, I think Family Guides, as a Family Guide you have to constantly remember your role and not tip into the advice...into advice mode or mediator mode, you know, you're, you're, it is this sort of hybrid...which is you know, not quite legal and not quite mediator'.*

Treading this fine line between giving legal information and not legal advice was explicitly described as challenging, in part perhaps because most of the Family Matters Guides were also employed as practising lawyers. Some even said, they felt that most Family Matters Guides probably did go 'close to the wire' when giving legal information, but they stopped short of giving advice because they had to 'remain impartial'. Others however, felt the boundary remained blurred and it could be easy to cross over the line especially if dealing with just one parent who was a particularly 'needy' case or a very unjust case. They found it difficult in the beginning, but once the Guides had gained some experience and acquired confidence in the role it got easier to give legal information. For example, it was generally agreed in the focus group conversation that over time they had begun to worry less that the information they gave may be seen as impartial. As one Guide said:

*'...no that hasn't been hard at all, and I thought that was going to be the hardest thing about it, and oddly it's been straightforward, the kind of, we give information or advice, I thought that was going to be really, really tricky to do...it's actually, it's actually a lot easier to do in practice than I thought it was going to be, to kind of neutralise what you're giving into information.'*

For this Guide at least, it appeared they followed a process in which legal advice was 'neutralised' into information. Another Guide explained, that at first they had to hold back from giving advice and remain impartial, but they realised they were not there to be critical or judgemental about what had happened in the past between parents, because as an Family Matters Guide they had to keep both parents' perspectives in mind. They stated they found this easier to do as they made 'the transition' from being in a lawyer role to a mediator role. Here we see how the two practices are intimately entwined and can be mutually reinforcing in the role of a Family Matters Guide.

Most were very keen to assert however, that despite the challenges and differences between professional practice as a Family Matters Guide and a lawyer, their legal knowledge and experience as a lawyer was vital to the effectiveness of their role as a Guide: a view also held by the more senior personnel who were interviewed in this study. As one Guide described it:

*'...In terms of the legal side though, I absolutely think that you need to be solicitors, absolutely, like your legal knowledge will be really tested...And I think*

*that's the worry about, some worry about the scheme [Family Matters Guide], that it could be delivered by non-lawyers, But what I would say is I have used every ounce of my experience as a lawyer in these cases; I've had some really tricky, really tricky situations and I think you'd need not just a knowledge of the law but also an ability to have like an authority of the law...'*

## Working with parents

### **Informing and guiding parents**

The Guides explained the process of working with parents. Typically, one parent would present or be referred to the Family Matters Guide who would explain the service in detail and deal with parents' expectations and misconceptions, while seeking a contractual agreement regarding using the service. They would work closely with the presenting parent face to face to explore their problems with the goal of developing an action plan. Some described how they often explored the options with parents in 'small steps' and tried to 'keep things simple' as that was all some parents could manage, especially if they were very distressed, had chaotic lives, suffered from drug or alcohol problems or where English was not their first language. This approach reflected the nature of this vulnerable and disadvantaged client base who were the targets of the Family Matters service. Generally, it was only after dealing with the presenting parents' problems that the Guides would then encourage them to allow the Family Matters Guide to contact the other parent. Once contact was made with the other parent, they would explore things from that second parent's point of view, treating them in the same way so that both parents would feel they were on a 'level playing field'.

### **Getting parents 'mediation ready'**

Some Guides felt that most of the parents they saw would benefit from some formal mediation sessions delivered by experts locally. Indeed it could even be the starting point for helping parents, as they said in most cases parental communication had completely broken down. The Guides felt it was very important, therefore, to explain what mediation would involve because parents tended to know little about it. As one Guide said:

*'I try and give quite a lot of information about mediation, you know...and so they get a sense of what it is, because I think, you know... everyone now, with a few exceptions, as you know, has to attend a meeting with a mediator and, yet they don't know what it is, I think so, so many people do not know what it is, there hasn't been any advertising, the government hasn't promoted this'.*

Giving 'a lot of information' about mediation could also help parents 'engage better' with the mediation process. It was described thus:

*'I like to think that we prepare people for mediation, we get them into the right mind-set, we, we've given them the legal information, we've given them their options so they have got the grounding of what's possible and what they need to think about, I would like to think that we have opened their minds to various scenarios, we've tried to give them practical advice...'*

Indeed, arranging formal mediation was something the Guides thought had worked particularly well. Generally it was seen as a positive way forward for a 'lot of people' and regarded as a better option than having 'joint meetings' with the Guides, especially if there were complex issues for parents to resolve. Guides felt their role was very valuable in getting parents 'mediation ready'. As one Guide noted:

*'I don't know, but it's sort of softening people up or, you know, sensitising them to the possibility of mediation, because a lot of people still don't understand it, they don't know what it is, they don't know how it works, and that's really actually one of the big things that we can do, because we can sit down with them and tell them all about it on a non, sort of, adversarial sort of situation.'*

Indeed, one Guide thought that getting parents 'mediation ready' was the real value of Family Matters and described it as follows:

*'[Family Matters helps parents] to know their kind of legal rights and the parameters of what they are working in, and to have the kind of reality check about what it is that they are trying to achieve is realistic, and if they can have that thought process before they go into mediation, I think it is more likely for mediation to be successful than for to go into mediation with a view that 'you're never going to see your kids again', oh right, 'I'll take you to court then', oh right, 'bye', you know it, it, it, it's just completely positioning. And I think if you can get them to having that thought and working through that process before they enter mediation, I think the chances of success of mediation are higher than if you're taking people cold off the street with no idea or knowledge of their options, where they go next, what you know, you know, where mediation fits into the whole picture.'*

If the parents, either singly or together, did move onto formal mediation and it failed to work, parents were advised they could come back to the Family Matters Guide at any time. So the Guides remained in the background and were still available to parents throughout any process of formal mediation. The Guides reflected, however, that it was not easy to engage the second parent and practice varied.

## Contacting the non-presenting parent

The Guides adopted slightly different approaches to making first contact with the second (non-presenting) parent, which could be by letter, telephone, email or a mix of these. Some took their lead from the presenting parent in deciding how best to make first contact (and indeed whether or not to make any contact at all). Others tended to ask the presenting parent to inform the other parent that the Family Matters Guide would be getting in touch with them (either by letter or by phone) and yet other Guides tended to stick to a single approach of always sending a letter first. Even so, each approach had its advantages and drawbacks.

If parents were sent an official letter first, it had the advantage of informing the parent about the nature of the service and reassuring them about impartiality at the same time as letting them know that the Guide had already spoken to the presenting parent. This letter was often followed up with a phone call as a second point of contact some time later. The drawbacks however, of sending a letter first was that it could be 'off putting' for parents: the letter could appear 'very official' and/or 'legal' and could be perceived wrongly as a solicitor's letter. Some said they believed it could even 'frighten' parents, despite the fact it was a gentle letter and non-adversarial. Other risks with sending letters as a first point of contact were that they could be easily ignored and/or that the Family Matters Guides could still be perceived as having taken a position on the case, despite reassurances in the letter to the contrary.

Sometimes, the Guides phoned the other parent as the first point of contact, either because the presenting parent asked them to do this, or because the Guides believed this was the best approach to 'engage' the other parent. If this approach was taken, a few Guides said they never knew what kind of 'reception' they might get, and that they needed to be quite 'thick skinned' to do it. In some cases it could result in a good dialogue between the Guide and the parent, but in others the parents could get quite angry and end up having 'a rant' on the phone; in other cases they could not even have a sensible conversation at all. The risks identified with this approach were that the non-presenting parent could feel 'wrong footed' or 'ambushed' by the presenting parent when telephoned by the Guide, partly because the call could 'come out of the blue' and partly because the Guide had already spoken to the other parent first. People could feel apprehensive too, and the Guides said they would have 'a lot to explain on the phone', but the advantages were they could respond quickly and reassure the parent there and then and, at the very least, reach their goal of informing the other parent. There was no consensus however, about which approach might work best to engage the non-presenting parent.

## Engaging the non-presenting parent

The Family Matters Guide role is meant to engage the non-presenting parent in the process of working with the other parent to help them reach an agreement in the best interests of their child. The Guides tended to agree that enabling communication between both parents was the key difficulty they faced, even though they made this goal clear to the presenting parent from the very beginning. As one Guide said:

*'...it [the first meeting] starts with the importance of parents working together and parental responsibility....'*

It was no easy matter however, to actually engage the other parent irrespective of the method of contact they used. Some Guides said that, if the other parent did not consider the situation as being problematic, then they saw no point in getting involved as there would be nothing 'in it for them'. Hence, some of the Guides recognised the need to be tenacious in following up the other parent after first contact. But even if they did so, it could still be hard work to convince them that the Guides were impartial, that they were not 'hooked' into the presenting parent's story, or thought that they were a 'bad parent' and that the service was also there to support them as the non-presenting parent.

Another challenge was persuading the presenting parent to allow the Guides to make contact with the other parent in the first instance or, even if they did agree, controlling the presenting parent's behaviour so they did not make the other parent feel the Family Matters Guide was actually on their side. Thus, the presenting parent was the gatekeeper and could block any attempts at engagement, or at least make it harder to achieve.

Guides also had to be sensitive to other factors that might make contact inadvisable. For example, it might not be safe for the parents to work together if there were safeguarding or domestic abuse concerns. It could be inappropriate because each parent is at a different stage in the journey of separation and feelings are too raw to establish effective communication, and/or the relationship could be very volatile as a result of recent changes (for example, a new girlfriend or boyfriend on the scene). In these latter sorts of circumstances, the Guides might suggest the parents wait until feelings had settled down and/or help them find ways to handle the situation in the meantime. While the ability to wait until things settled down was seen as a unique and valuable aspect of the Family Matters Guide role, these and the other factors that the Guides described could present serious obstacles to pursuing the engagement of the other parent.

Certainly, it was suggested that the effort required to override the obstacles and work with both parents impartially created a 'tension' in the Family Matters Guide

role. It was said that it could be easier to work with one parent as there would be no need to challenge their perspective and consequently it would be less work to maintain impartiality. It was also implied that this tension, in and of itself, could potentially influence the behaviours of the Guides, leading to a reluctance on their part to engage the other parent because they felt uncomfortable, or did not want to do it and/ or because it imbued a kind of passiveness in which the Guides might hope that the other parent would not respond to first contact. Indeed, this is understandable if the Guides' earlier comments in the analysis are considered. For example, when the Guides stated they struggled to maintain their impartiality when there was an obvious injustice in a case, or where they came close to crossing the line between giving information and support giving legal advice. The gender of the Guides and of the presenting parent could also have been a hidden factor contributing to the tension, but there was little explicit evidence on this other than the odd comment that some Guides said they found fathers easier to work with if they were the second parent than if mothers were.

This does not mean to ignore the successes Guides had in engaging non-presenting parents, nor does it mean to imply that the Guides were not doing their job, or that they were ineffective. Rather it demonstrates the complexities and tensions inherent in this aspect of the Family Matters Guide model and the determination and tenacity required to pursue engagement of the second parent. Also noteworthy is the level of resilience required in terms of being 'thick skinned' enough to handle the other parent's possible angry and hostile reaction and the level of skill required to make judgements about which cases were suitable or unsuitable and the time this would involve. Certainly, it was predicted when setting up the Family Matters model in the first place that engaging the other parent would be 'a big challenge' as it could involve 'building rapport' between parents at different emotional stages in the journey of separation. The Family Matters Guides would need support in doing that and two Family Matters project managers were built into the model to support the Guides and help them learn from one another. Despite this, most of the Guides were keen to point out that it was still very valuable to work with one parent.

Working with only one parent could still help improve parental communications because, as the Guides explained, working with one parent to help them cope with the behaviour of the other parent meant they were impacting on both parents. Also, working with one parent enabled the Guides to suggest a court solution if that was what was required or refer them onto formal mediation if they were suitable.

The Guides were also asked to explicitly highlight aspects of the service that they thought worked well or not so well.

## Perceptions of what worked well and not so well

### **Not worked well**

One element that had worked less well than expected was building strong local networks with other specialist agencies in order to signpost parents when needed. This was harder to do in practice as the Guides said it took time to get known and 'embedded' locally. What the Guides tended to do was gather lots of information about local services and refer parents on that way. It was said that signposting and building strong networks were not 'the pillar' of the service as first envisaged by the designers and project managers. A range of possible reasons were made apparent. Some Guides said it was difficult to establish stable local relationships because many other services were charities and were closing down due to funding problems. It was also surmised that perhaps the Guides themselves either lacked the knowledge or confidence to go out and actively seek to build new relationships. In any event, it seemed there was disappointment that the range of connections were not as extensive as hoped (the range mentioned included; housing services, debt advice, doctors, Women's Aid, parenting support groups and disability organisations). Also, some Guides said that parents may have already sought and received support from other services before they came to the Guides (especially if they had been referred to Family Matters by these other agencies).

Other things that were reported as not working so well included not being able to free-up parents from taking a positional stance on their situation, or stopping parents from trying to manipulate the Guides into their point of view. Bringing cases to a close could be difficult with the open ended nature of the service, and Guides could therefore inadvertently end up in the position of go-between or arbiter to continuing parental disputes, which they knew was to be avoided. Interestingly, the Guides said they rarely discussed child maintenance obligations and, on the whole, parents were not asking for help with this. More commonly, the Guides said they were frustrated at not being able to refer parents for legal advice when needed because of the loss of legal aid. One Guide noted the policy assumptions behind the 2012 LASPO Act were wrong. Parents would not find the money for a lawyer if they really needed to; this assumption was not borne out in practice because they said:

*'... most people they haven't got the money, they haven't got the family members to ask, they can't get a loan out, there's not enough assets to be taking out these other, you know, loans on them, there, there actually isn't anywhere.'*

Occasionally the Guides said this frustration led them to provide information to parents on how to become litigants in person. Perhaps, the exact opposite outcome

of what policy makers wanted in removing legal aid. However, other things were seen as having worked well.

### **Worked well**

A range of operational matters were identified as having worked well, including being supported by the Family Matters project manager, having monthly meeting with other Guides and working locally with another Guide, having good administrative support with managing client bookings etc. Other professional practice elements were identified as working well too. For example, being a practising lawyer meant they could take appropriate action on child protection issues, they were up to date with the latest legal practice, they had local knowledge of the courts and their status afforded them credibility in the eyes of other service providers. Without that credence, one of the Guides felt they 'wouldn't get the time of day' from other agencies in the local community with whom they were trying to build networks. Also, being a Family Matters Guide meant they had the freedom to look at the situation in terms of what is best for the parents without the fear of litigation, they could work more intensively with parents, gain their trust and therefore were better able to root out domestic violence which might otherwise have remained hidden. As one Guide said:

*'But the domestic violence, I think that just gets lost a lot of the time unless people can kind of access an organisation like Family Matters, to talk to someone in, in depth'.*

In addition, being located in a solicitor's firm with an active Resolution membership was felt to be a quality mark of the Family Matters service as the host firms often had good reputations locally for dealing with legal aid cases. Also, the environment of the solicitor's office was 'safe' and provided a pleasant place for parents to meet with the Guides.

Being able to intervene early and stop the escalation of issues was also mentioned as an aspect that worked well. Guides could help parents let off steam and allow them to return later or, as one put it, they had the flexibility to help parents 'dip in and out of the service'. Family Matters Guides believed they could make a difference, they could reach many disadvantaged people in their communities and it was described as a:

*'...massive opportunity to intervene in a really meaningful way and in a way that's actually going to make a difference to families'.*

Some of these aspects relating to how well the service worked in practice, related to the local context and the legal landscape the Guides had to operate within.

## Local context

### **Competition with local firms**

As described, the Family Matters Guides were hosted by local law firms, thereby closely tying the Family Matters service into pre-existing legal practices and local business networks. While conceivably this could help the service to establish quickly, this did not seem to be the case and indeed could be problematic. Not only was it suggested by some Guides that it could take a full two years for the service to be understood locally to the point of being recommended by word of mouth, but their low referral rates (at least initially) was in part due to the 'suspicion' and 'mistrust' they received from some other local law firms who were worried the Family Matters service would 'pinch' their clients. This was said to be the case especially for firms that did legal aid work. Many were under threat of closure because of lack of business following the 2012 LASPO Act. These firms were reportedly very concerned that as Family Matters was free and was situated within a Resolution 'host' law firm, they would pick up the remaining eligible cases for legal aid (such as domestic violence) and refer them onto the host firm, rather than 'onto' or 'back to' the legal aid firms that had referred them in the first place.

The Guides said they worked hard to reassure the local firms and indeed a policy was created that made the Family Matters referral routes clear. The policy stated that when only one parent used the Family Matters service and required legal advice, then the Family Matters Guide could refer them to the host firm. If the Family Matters Guide had worked with both parents however, they would provide both parents with a list of local firms, including the host firm, but would make no referrals to any firm. This transparency however, resulted in varying degrees of success. In some areas it was said that legal aid firms remained fairly hostile and almost never referred parents to Family Matters, in other areas relations were thought to be good as they shared a common membership of Resolution, but still they hardly got any referrals. Yet, in other areas, things were said to have improved once people understood that the Guides were giving information and not advice and were not in direct competition with other firms *per se*.

Arguably, the fears of other local law firms were justified, at least to some extent. First, because (as discussed earlier) the Guides themselves said they had time to root out domestic violence and therefore, by implication, find more eligible legal aid cases than might otherwise be detected. Second, the host firms in which the Guides were located could refer their low-income clients to Family Matters for free information and, in turn, Family Matters Guides could refer the cases back to the host firms (if there was no conflict of interest), thereby, potentially at least, giving the host firm a competitive advantage. However, it was noted that in the policy, the expectation was to refer cases back to the referring firm where possible. Third, it

was suggested that the funding for Family Matters Guides was wrongly perceived as supporting the businesses of the host firms. In contrast, the 'high end' law firms were said not to feel the same about Family Matters. Indeed, in some areas, they were reported as finding it valuable to send low-income parents to Family Matters as these parents had nowhere else to go. Some law firms however, were described as simply remaining 'baffled' by the Family Matters model, despite apparently repeated explanations offered by the Guides or project managers.

An entirely different story emerged about the Family Matters Guides experiences of working with local mediation services. Local mediation providers were described as being much more receptive. Not only did the Guides report that they made the mediators' jobs easier (by getting parents 'mediation ready'), but they were a referral source to mediation providers, thereby potentially increasing their business. On the whole however, in terms of referrals to Family Matters Guides, it took time to establish good working relationships with other legal practitioners, not least because of the fears (real or otherwise) over competition, but also because of the difficulty in understanding how the Family Matters model worked in practice. These were some of the drivers that led Family Matters Guides to extend into outreach work.

### **Outreach work**

The Guides described a range of outreach activities including: situating the Family Matters Guides within Children Centres; in Citizen Advice Bureaux (CAB); at a local Women's Centre (with links to the probation service); and running drop-in services in courts. The different outreach venues had varying degrees of success. The Children Centres could enable the Guides to reach more men, but the number of referrals could be low making it not worthwhile. CAB was reasonably successful, but at times seemed to refer the wrong clients (in other words, not parents). The Women's Aid Centre was felt to be good at accessing 'hard to reach' groups. The court drop-ins were good as they were thought to be 'complementarity' to other charities working out of courts. These charities involved law student volunteers, who helped people attending court by reassuring them and helping them fill out forms. Family Matters could bolster that service by providing free legal information and explaining what people could expect in court. On occasion, they could even have an adjournment so the 'litigants in person' (parents) could get longer-term support and information from a Family Matters Guide. This activity was described as filling the gaps left behind by the withdrawal of legal aid. This outreach work shows how the Family Matters service adapted in practice and helps to show the challenges involved in delivering an innovative service. Indeed, one of the questions the study wanted to address was how the Family Matters model might relate to other innovative models of practice.

## Family Matters and other innovative practice models

We asked the Guides how they thought the Family Matters service related to other innovations such as the ‘one solicitor, two clients’ idea where one solicitor would bring both parties together to resolve disputes. Although conceivably very close to the Family Matters model, some Guides were quick to point out one very significant difference, that the Family Matters Guides did not give legal advice. Therefore, this model could never work in practice as a solicitor could not legally represent both parties as there would be a conflict of interest. Others thought it might work in some very specified and simple circumstances (like filing a divorce petition), but not in complex cases. It was also contrasted with Family Matters in terms of the latter being more of a mediation model in which there is no conflict of interest, as there is no legal advice being given.

Other models were discussed, such as a lawyer supported mediation model or a collaborative practice model<sup>3</sup>. There was no general agreement however, about whether the Family Matters model fitted well or not. It was thought to be different from ‘lawyer supported mediation’ because, the Family Matters model was said to be firmly fixed on working out what was in the children’s best interests. It was thought to be similar because it prepares people for doing the hard work of ‘effecting change’ and both models commonly use soft skills to enable couples to work together. There was a view that practices associated with collaborative practice and lawyer support mediation had evolved to enable practitioners to tailor information to the couple themselves, including in the form of ‘shuttle mediation’. The Family Matters model was, however, reported as opening up possibilities for new approaches and business models, but nothing was specified. All the same, there was a common sentiment expressed among the Guides and Project Manager that there would always be a core group of people that required legal advice from one lawyer, but the withdrawal of legal aid made that difficult if not impossible for low income groups who literally had nowhere else to go. The Guides held strong views about legal aid and the policy recommendations they wanted to make, to which we now turn.

## Family Matters Guides’ policy messages and the future

The key messages for policy makers arose out of the Guides’ experience of delivering the Family Matters service following the 2012 LASPO Act. The Act was described as

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<sup>3</sup> In a collaborative practice model the parties each have separate solicitors, but the parties and their solicitors can have a four way meeting to tackle the issues collaboratively, rather than through solicitor negotiations or litigation.

being 'morally bankrupt', inducing untold long-term consequences as a result of restrictions to legal aid:

*'...the cost, social cost of that is going to be something that is going to be borne for decades...not only in family work, in other areas as well.'*

The Guides were keen to stress that no matter how successful their service, there would always be a core group of people that needed legal aid (beyond the current restrictive criteria). They also lamented that following the Act the number of litigants in person had risen and referrals to mediation had fallen. They felt this was not a desirable outcome for anyone. People acting as litigants in person were described as being unprepared, lacking knowledge, did not know what they were doing, were firmly set in their views, believing (often wrongly) that the court would see the dispute from their position and grant an order in their favour. The Guides also believed that the apparent simplification belied the complexity involved for litigants in person and that judges did not want to deal with these cases.

A range of policy suggestions were offered by the Guides to tackle these problems, including; widening access to legal aid and making the 'Separated Parents Information Programmes' (SPIPs) available for free without the need for a court order<sup>4</sup> (and possibly also making it compulsory).

The Guides explained that their experience showed parents needed time to reflect and they were keen to suggest they had an important role to play in that process. For example regarding litigants in person, the Guides could intervene early (before parents made a court appearance) and in doing so they could challenge parents' fixed beliefs, offer them alternative solutions, help them look for common ground and support them to reach an agreement outside the court or refer them to mediation. Similarly, the Guides felt that they could make up for the reduced referrals to mediation by getting parents 'mediation ready' and referring them on.

A number of future possibilities for the service were also described by the Guides. These ranged from having a dedicated centre within which various professionals could operate (such as lawyers, mediators and psychologists). The centres could be easily accessible to parents and sited in high streets, similar to the Australian Family Relationship Centre model. On a related point when discussing the mode of delivery, some Guides said it was not always necessary following an initial face-to-face meeting to continue in that way. It could be quicker, more convenient and cheaper for most parents (in travel costs and time off work etc.) to use the phone for follow-up discussions as they could ill afford to attend frequent face-to-face meetings. On

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<sup>4</sup> SPIPs are only free if a court order is made, thus requiring parents to bring their case to court in the first instance.

the other hand, some Guides felt face-to-face contact for most of the time was vital as it helped pick up any domestic abuse concerns.

Despite these differing views, there was a strong consensus that the least useful mode was online service delivery. Again, this was partly in recognition of the poverty of this target client group as well as the literacy problems some might face. The parents may not have a computer or, even if they do, they may not have a broadband and phone line to connect to the internet. They may also not have the skills to use technology. They said it is all too often assumed that everyone has access to the internet when this is not the case.

Other ideas included expanding the Family Matters service into outreach to be better able to engage both parents and having Family Matters Guides acting as a triage service. This would involve parents meeting the Guides face to face, Guides helping parent unpick their issues, then diagnosing what was needed and referring them on for other specialist or intensive support. Overall, the Guides were suggesting the Family Matters service could be seen as both a triage, but also an opportunity to create some time and space to help parents reflect before taking further action. However, from a business perspective, it was noted there were real challenges ahead for the Family Matters model in terms of affordability, sustainability and scalability. All these would have to be considered carefully and it would be difficult to work out whether to, or how much to charge clients. The short-term funding under HSSF was about to come to an end and there were no easy answers to any of these questions.

## Discussion: professional practice

This study set out to explore in depth the experiences of Guides delivering this innovative Family Matters service. Two important findings are worth further discussion. First, the distinction between giving legal information and legal advice in practice and second, the identification of a possible early pre-mediation or litigation stage in the separation journey.

In relation to the first finding, it is a thorny question as to how, or indeed whether, practitioners can distinguish between giving legal advice and giving 'legal information'. Surprisingly, perhaps, some of the Guides found it much easier than they imagined to deliver information and stop short of giving legal advice. Similarly, Barlow et al (2014) in their Mapping Paths to Family Justice report found that mediators were able to maintain this distinction in practice, but that it was not always appreciated by the parties in mediation and some felt they wanted legal advice. The evidence from the Family Matters Guides also highlights how it is still complex, involving processes of transition, neutralisation and suppression (in other words, resisting taking one parent's side and losing impartiality).

Together these processes show how the Guides adjusted their professional identities from lawyer or mediator to being a Family Matters Guide. However, maintaining impartiality and engaging the non-presenting parent was particularly difficult. The difficulties of engaging the non-presenting parent appeared to be wrapped up with practical challenges (such as making judgements about whether, when and how best to make first contact), but also with the Guides' professional identities and moral codes as lawyers. For example, sometimes it was difficult to maintain impartiality if they felt the circumstances of the presenting parent was particularly unjust. In this situation, the Guides had to suppress the desire to take one parent's side of the story and risk losing their impartiality, but this could be an easier option in practice. So, while Family Matters Guides had to fight against the strong and trusted brand of 'lawyer' embedded in parents' minds, it seemed that, sometimes at least, they also had to face an internal struggle to suppress the desire to focus on one party's interest. Arguably, this was made more challenging in the absence of a set of established practice guidelines based on the learning from shared experiences within the DR sector as a whole. Therefore, the processes of neutralisation, transition and suppression are worthy of further research study. This would create a deeper understanding of what happens in practice and help to generate professional guidelines for similar innovative approaches being developed in the field of DR.

Overall, this concurs with the recommendations made by Walker and Barlow (2014) following their investigations into DR practice in other countries for the Mediation Task Force. They suggest that, ultimately, what is needed with regard to new innovations in DR is a culture change that involves breaking down professional silos and producing more collaborative working.

The findings here also suggest that the Guides may have uncovered an identifiable early stage in the separation or dispute journey. This could be called a pre-mediation or pre-litigation stage and was evident in the Guides' practice of helping parents become 'mediation ready' and in their outreach work in courts, where they offered information and support to litigants in person. This important finding relates to the uniqueness of the Family Matters service where flexible, extensive and intensive support enabled parents to take the time to reflect on their next course of action with guidance from a 'neutral voice' on their situation.

If there is such a distinguishable early stage in family separation and family disputes, it appears parents might benefit from a non-traditional mediation or litigation approach in the first instance – like the support of a Family Matters Guide who has the skills of both practitioners, but the freedom and flexibility to operate without the constraints of either. This echoes with the work of Barlow et al (2014) on their examination of alternative approaches to family dispute resolution (FDR). One of their key findings was the idea of 'emotional readiness'; that is, regardless of which method of FDR was used, parents had to be emotionally ready to deal with it, both in terms of their ability to absorb legal information and in terms of having the resilience to cope with the process of mediation or litigation. Conceivably, the Family Matters Guides were supporting parents to do just that, to become emotionally ready for the next stage of mediation or litigation. This study's findings lend weight to Barlow et al's (2014:33) recommendation regarding what the policy priority should be. That is to find a better way to close the 'post LASPO gap' in which parties are left 'in limbo' (in other words they are neither suitable for mediation and cannot access legal aid). The Family Matters Guides felt strongly they were just the right service to close that gap.

# Conclusion

The Family Matters service was developed in response to the HSSF fund and was designed to provide free legal information to low-income separated parents within the context of reduced access to legal aid. In that regard, Family Matters was an experimental model created to explore what would be involved in delivering extensive and intensive support to separated parents to help them reach agreements in the best interest of their children. This was an idea closely related to the purpose of the HSSF fund as outlined in the 2012 Green Paper on child maintenance policy *Supporting separated families; securing children's futures*. It was intended to provide effective, coordinated local support services. An analysis of the overall effectiveness of Family Matters (including examining parental perspectives and outcomes) is currently being assessed by the DWP in their evaluation of the HSSF fund and is therefore not discussed here. Rather, this study aims to provide an in-depth understanding of the Family Matters Guides' experiences of delivering this new innovation. Thereby, it contributes to current debates about the future of professional practice in DR as well as exposes some of the operational challenges of embedding a new legal information service within local communities.

The results show that, according to the respondents, the Guides managed to maintain many of the model's unique elements in practice and that they thought their combined skills (mostly lawyers with mediation skills) were vital to both the quality and success of the service.

For example the Guides believed they:

- delivered the service flexibly, allowing parents to go at their 'own pace' and 'dip in and out' when needed
- maintained impartiality and thereby helped to keep parental relationship on an 'even keel' until they were ready to communicate together and reach agreements
- 'listened properly' to parents to help them 'unpick' the layer of problems that frequently lay beneath the presenting issue, thereby rendering it more amenable to resolution
- provided 'tailored information' and delivered it to both parents
- minimised conflict – or at least did not exacerbate it further

- signposted parents to other specialist agencies to help them resolve complex health, financial and practical problems
- responded quickly to parental distress and to moments of crisis in the early stages of separation
- enabled parents to become 'mediation ready' by removing practical and attitudinal barriers to formal mediation.

However, the operational challenges meant some aspects of the model were not as central to the Family Matters Guide role as first envisaged. For example, the Guides tended to find it more difficult than expected to:

- build extensive/stable local networks with other specialist providers (such as housing services, debt advice, women's aid, CAB etc.)
- receive the predicted number of referrals, at least in the early days of the service
- engage the non-presenting parent
- explain the service to parents and override their misconceptions about the Family Matters Guide role, (partly created by being hosted in local law firms).

Indeed, two main operational challenges were the lack of familiarity with the Family Matters Guide role and hosting the service within local law firms. As one Guide said, this location was both a 'curse and a blessing'. On the one hand it was a disadvantage because it generated fears that the Family Matters service created a competitive benefit for the host firms and, in turn, this negatively affected referrals. It was also said to have confused some parents because they were more familiar with the lawyer brand and thus had misconceptions about what the Family Matters Guide could offer. On the other hand, being located in host firms was an advantage, because it gave credibility and a quality mark to the service, was a workable and cost-effective business model, it was a nice environment for parents and it reassured them they were going to a 'proper place'.

These operational difficulties raise policy and practice implications. Clearly there is a need for:

- understanding more about the processes involved in changing practice – such as making transitions, neutralising advice and maintaining impartiality
- understanding more about the external obstacles and internal inhibitions (regarding professional identity) that make it difficult to engage both parents

- professional marketing of the new service and educating people about new 'models' of practice
- creating a strong brand for any new model
- better awareness and sensitivity to the local business context
- testing the feasibility of different location(s) for the service

Overall, this study suggests that if the direction of future practice is to work more collaboratively with parents, then adopting a professional principle of impartiality might be a good idea to help engage both parents to assist them in resolving disputes. However, the evidence from Family Matters Guides experiences show that working collaboratively would require a greater understanding of what might be involved for practitioners as well as for parents. Working collaboratively is also likely to involve making a cultural change that breaks down and reconfigures the traditional professional boundaries and modes of operation.

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# Appendix A: information sheet for Family Matters Guides (05.03.15)

## The Role of Family Matters Guides: a co-production of knowledge project

Please read this information sheet regarding this project. We would really appreciate your help in taking part.

### **What is the project?**

This is a joint research project between Dr Christine Skinner from the Department of Social Policy and Social work at the University of York and Family Matters. It is funded by the Economic and Social Research Council (ESRC) under their Impact and Acceleration Account. It is an entirely independent project and has nothing to do with the Department of Work and Pensions which funds the FM service.

### **What are the aims of the project?**

The key aim of this project is to explore how the Family Matters Guide (FMG) role is working in practice. As you know FM is a new service, and we would like to understand what the unique aspects of the role are and what the implications might be for future models of professional practice. Please note, it is NOT an evaluation of the effectiveness of the FM service or of the performance of individual guides.

### **How will you be involved?**

We would like to conduct a research interview with you to hear about your views and experiences of delivering the service to separated parents. Please see over the page for the list of topics we would like to cover.

The interview is private on a one-to-one basis and will be in the form of a conversation with open questions. It should last just over an hour. The researcher will come to your place of work to conduct the interview, unless you prefer another venue in which case you can discuss this with the interviewer who will be either Christine Skinner or Sue Clarke (both are experienced social science researchers).

### **Informed consent**

Before the interview starts, we will ask you to sign a consent form confirming your agreement to take part. This is a normal requirement for all social science research projects and will be kept for research ethical purposes only. It will not be shared with Family Matters or Resolution.

### **Confidentiality, anonymity and data protection**

Your involvement in this study will be kept confidential. We do recognise that there is a small group of guides and managers taking part in this project who are all well known to one another and we want to reassure you that we will take every precaution to protect your identity. We will anonymise the information you provide and use it only to help us write our report and other project outputs (for example, journal articles). You will not be named in any of the project outputs and we will also anonymise your place of work in order to protect your identity as far as possible. With your permission, we may use quotes from your interview to illustrate key points, but we intend to keep the use of these to a minimum to further protect your identity. We find it helpful to record interviews with your permission. Recordings are typed up professionally and dealt with confidentially.

Any information you provide will be kept strictly confidential and stored securely in line with the Data Protection Act; that means we will store all records containing personal and confidential data in the University File store which is secure and password protected. Any paper based personal information will be kept in a locked filing cabinet in a locked office in the University of York. No one outside the University of York research team will have access to your personal information or interview data. That means neither Family Matters nor Resolution will have access, nor will they use any information in the published reports or other outputs (journal articles – conference papers) to support measures or decisions about participants.

Ethical approval has been obtained from the Ethics Committee of the Department for Social Policy and Social Work at the University of York.

### **How will the information be used?**

The data from your interviews will be analysed by the research team and the results will be written up in a final report given to Family Matters / Resolution who may use all or parts of the report for funding bids, for discussions on professional practice and in their professional publications. The report and analysis will also be used to deliver presentations at professional/research conferences and to write up journal articles for publication.

### **These are the topics we would like to discuss in the interview:**

- Background: your professional experience and qualifications
- Role and experiences of being an FMG
- How FMGs work with parents in practice
- Uniqueness of the FMG role and challenges
- Parents' expectations of FMG
- The expectations of other legal practitioners in your locality about the role of FMG
- How the FMG roles fits with a '1 solicitor, 2 client' model of practice.

**If you would like any more information or to discuss the project further then please feel free to contact Dr Christine Skinner in confidence:**

Department of Social Policy and Social Work, University of York, Heslington, York, YO10 5DD.

Direct Telephone 01904 321 251

Email: [Christine.Skinner@york.ac.uk](mailto:Christine.Skinner@york.ac.uk)

**If you have any complaints:**

Please contact the Head of Department Professor Nick Ellison (same address as above)

Direct Telephone: 01904 321 265: [nick.ellison@york.ac.uk](mailto:nick.ellison@york.ac.uk)

## Appendix B: topic Guide for Family Matters Guides (final version post pilot (pilot took place 13.3.14))

### Introduction and consent process:

- Introduce yourself and the study.
- Interview expected to last 60–90 minutes.
- The interview in a conversational style – it is not a questionnaire.
- Explain participants' rights and anonymity.
- Can we use quotes are you ok with that? Or do you want me to show them before putting them in the report?
- Answer questions.
- Ensure a consent form signed
- Record

### Preamble

As I have explained, the main purpose of this interview is to understand what you do in your work with separated parents, what you think is unique about your role as an FMG and how you see that fitting with your own professional practice. I would like begin by asking you some basic questions

### Interviewer

...stress not an evaluation of outcomes.

...stress anonymity, data management and no access by FM, under control of Dr Skinner and ethical procedures at the University.

**1. Background: professional experience and qualifications:**

Q. First, can you tell me briefly about your own professional background...

- Qualifications
- Level experience as legal advisor
- Years legal advisor
- How long work with FM

Q. What first attracted you to job as a FMG?

Q. In your view, what are the key aims of the FMG role?

**2. Role as FMG: what doing with parents**

Q. Now I would like to understand a bit about what you do with parents in practice... I understand that individual parents can present as clients on their own, or together as a 2 couple. So you may have different types of cases and it can be quite complicated. Can you talk me through a typical case?

Interviewer NB: Key thing to understand in 2 is the challenges of working with different cases – i.e. one parent presenting and trying to engage the other parent. And working with couples who present together.

- How engage with other parent?
- Do parents have to sign up to anything to use the service?
- What modes of delivery?
- Does it matter if initiating parent is a mother or a father?
- What actually doing with different types of parent?
- How do they help them communicate better? (Training parents?)
- If parents present together do you work with them differently? If so how?
- Case management:
- Closing cases challenges – reaching an action plan?
- Letting go?

- Volume of cases?

**3. Experience of being a FMG: uniqueness of the role and challenges**

Q. I would like to understand what you see as unique about the role of being an FMG and the challenges you may face.... can you explain that to me?

Interviewer NB: Key thing to understand here is to tease out the differences between mediation and legal advice and legal information and how hard or easy they find doing that.

- What is unique about your role?
- What do you say are the 'skills set' that you need to be an effective FMG?
- How does it compare to your role to a mediator?
- How does it compare to your role to a solicitor?
- How do you see FMG compared to '1 solicitor, 2 client' model.

**4. Role as FMG: parents' expectations on the uniqueness of the role**

Q. I would like to understand more about parents' expectations – what do you think they see as being valuable and unique about the service and your role?

- Do parents understand the uniqueness of what you are providing – the role?
- What do parents see as valuable?
- How do you manage any mismatch in parents' expectations of the service and what you provide?
- Do parents' expectations differ by type of parent – type of case?

**5. Role as FMG: expectations of other local legal practitioners**

Q. Can you explain a bit about how your FM service geographically fits with other legal practitioners and mediators in your local area?

Interviewer NB: How many mediators/solicitors locally – and how close to their office. Get a sense of local context.

Q. How do you think the FMG service is perceived by these other legal practitioners locally?

- How do their expectations fit with the FMG actual role?
- Key challenges in working together.
- Suggested improvements in ways of working together.

**6. Finally...**

Q. In an ideal world – what key thing would you like to change?

**7. Anything else?**

**[End of interview]**

# Appendix C: topic guide for project managers/Resolution board members (final 15.04.2015)

## Introduction and consent process:

- Introduce yourself and study
- Interview expected to last 60 minutes
- The interview in a conversational style – it is not a questionnaire
- Explain participants' rights and anonymity
- Answer questions
- Ensure consent form signed
- Record

## Interviewer note

This topic guide will be used to interview a FM project manager as well as a member of Resolution's Board. So all the questions may need adapting slightly to their particular roles.

There is a distinction being made between **FMG role** – which relates to the people in the post and how they might deliver the service in reality. Then there is the **FMG model**, which is the basic design of this model of practice, irrespective of how it is delivered.

## Preamble

The main purpose of this interview is to discuss your views about the FMGs model and also to understand your role in development – delivery – or management of the practice of FMG's. I would like to begin by asking you some basic questions.

**1. Background: professional experience and qualifications**

Q. First, can you tell me briefly about your own professional background...?

- Qualifications
- Relevant experience
- How long work with FM/ been a Resolution Board Member

Q. Please can you explain how you have been involved in the FMG service?

- Where did the idea of a FMG model come from?
- How did you initially envisage the model?
- How do you see it working currently?

*Preamble: I would now like to discuss in more depth what you see as being unique about the FMG model.*

**2. Uniqueness of FMGs model in practice**

- Can you briefly describe the FMG role as you see it?
- Best aspects of FMG's role?
- Uniqueness of FMG model?
- Has anything come out of the service that has surprised you?
- What things worked well and not so well as you hoped? Why?
- What do you perceive as its impact on parents?

**2b (Project Manager only)**

- What were challenges you faced as a PM?
- What were key changes over time?
- What are the challenges on how FMGs engage with the 2nd parent?
- What about arranging child maintenance agreements?
- Suggested improvements in the FMG role?

**3. Legal landscape**

- Where does FMG model fit in current practice? (Mediation model – Solicitor advocacy model)
- Where does FMG fit within Resolution?
- How does FMG compare with other models of practice?:
  - 1 solicitor, 2 client model
  - Collaborative practice model: 2 clients, 2 solicitors; face-to-face
- Elements of acceptance – or possible resistance to the FMG model?
- How do you think FMGs are perceived by others?
- What are the career prospects for FMG and their CPD?

**4. The future**

- In ideal world what should happen to FMG's role/model?
- What about sustainability and scalability – is it feasible to scale up?
- Best location for service of FMGs?
- Best mode of delivery (face-to-face, blended, wholly online)
- What key lessons from FMG role would you like to see adopted into wider professional practice?

**5. Policy: collaborative parenting**

- How can policy improve collaborative parenting?
- How can policy help you?
- What key lessons arising out of FMG would you want to share with policy makers?

**6. Anything else?**

**[End of interview]**

# Appendix D: consent form for Family Matters

The role of Family Matters Guides: a co-production of knowledge project

	Please tick if agree	
	Yes	No
I agree to take part in the study	<input type="checkbox"/>	<input type="checkbox"/>
I have read and understood the study information sheet	<input type="checkbox"/>	<input type="checkbox"/>
I have had an opportunity to ask questions about the study	<input type="checkbox"/>	<input type="checkbox"/>
I agree to anonymised information being used in reports, publications and presentations – including anonymised direct quotations.	<input type="checkbox"/>	<input type="checkbox"/>
I agree to my interview being recorded	<input type="checkbox"/>	<input type="checkbox"/>
I understand that I may withdraw from the study without giving a reason	<input type="checkbox"/>	<input type="checkbox"/>

**Your name (in BLOCK letters):** \_\_\_\_\_

**Your signature:** \_\_\_\_\_

**Interviewer's signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

One copy for the research team and one copy for the participant. Department of Social Policy and Social Work, University of York, Heslington, York YO10 5DD

## Appendix E: topic guide for focus group with Guides (15.4.2015)

### Introduction and consent process

- Introduce yourself and study
- Focus group discussion expected to last 60–90 minutes
- Explain participants' rights and anonymity
- Permission to use anonymised quotes
- Answer any questions
- Ensure a consent form is signed by all
- Ensure consent for recording of discussion

### **Notes for the research team:**

*There is no single focus for this focus group discussion. Rather there are a range of topics and the main aim is to encourage interaction between the guides to help them discuss and rationalise their practices to each other and to the researchers so we can understand the shared understandings and/or multiple understandings about the FMG role and service. For example we want to find out:*

- Do they all do similar things OR is there a range of professional approaches with clients?
- What are the areas of agreement and disagreement about the practice and about the FMG role?
- What are the challenges they faced; how have they resolved difficulties (or not)?
- What do they see as the future prospects for the FMG **role** as currently configured?
- What do they see as the future prospects for the adoption of the FMG **model** in wider practice?

1. **Challenges in own practice**
2. **The legal landscape**
3. **The future**
4. **Policy implications**

## Preamble

Thank you again for participating in this research. What we want to do today is to open up discussion and debate among you as a group of FMGs. Coming together like this as a focus group will provide more insights on the FMG role than the interviews alone, as you will spark ideas off one another. So it does not matter if we cover some of the same ground as in the interviews – it will still be different and valuable information that you give us.

Also, please don't feel that you need to reach a consensus of opinion over any of the topics. What we want to understand is the range of opinions and views you might have, all of them are valid – there is no right or wrong answer.

So this is your chance to tell us how it is. Please relax and enjoy this session and feel free to express your individual views. As we have explained before, we will not attribute any of what you say to individuals in the report and none of the original data will be shared with FM or Resolution. The data will be analysed and stored according to the confidentiality protocols of the University of York.

## Ground rules

- Agree – all bound by confidentiality – no reporting on the discussion that took place outside this group.
  - Also means no reporting back to Project Managers or Resolution the content of the discussion.
  - FM and Resolution will find out from the careful analysis of all the data in the form of findings.
- Mobile phones away and on silent please – no distractions.

- Because we are recording the discussion and will need to analyse it – it would be most helpful to try and not talk over one another – so one person at a time.
- Any other ground rules you would like to put in place?

### **1. Challenges in practice**

- Can you briefly describe the everyday role in practice?
- What is your level of confidence in the role – complexity of cases?
- How did your initial expectations of the job compare with the reality?
- Biggest challenges faced in the role and how overcome?
- What things worked well and not so well as hoped? Why?
- Perceived impact on parents:
  - Improved communications skills?
  - More empowered?
- What about arranging child maintenance agreements?

### **2. The legal landscape**

- As an FMG - how do you perceive own professional identity?
  - Where align self – mediator or solicitor?
  - FMG - Future career prospects?
  - FMG - CPD opportunities/ training needs?
- How do you think FMGs are perceived by others?
  - Trust/ acceptance/ resistance
  - Where think FMG fit into current professional practice?
  - Mediation model – Solicitor advocacy model
  - 1 solicitor, 2 client model
  - Collaborative practice model: 2 clients, 2 solicitors; face-to-face

**3. The future**

- In ideal world what should happen to FMG's role/model?
- Can it be scaled up wholesale – reasons why and why not?
- Best location for service of FMGs?
- Best mode of delivery (face-to-face, blended, wholly online)
- What key lessons from FMG role would you like to see adopted into wider professional practice?
- Any Hints and Tips around engaging the second parent?

**4. Policy: collaborative parenting and working with both parents**

- How can policy improve collaborative parenting?
- How can policy help you?
- Your key message for policy makers?