

Family judges learn from Australian approach to battles over children

- Studies say disputes are better settled out of court
- Child-inclusive mediation may cut mental health toll

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Senior family judges and civil servants are studying new research findings from Australia on how to minimise lasting psychological damage to children whose parents are caught up in post-separation battles.

A growing body of research shows that taking disputes over children to court makes conflict between parents worse, and that continuing parental acrimony causes mental health problems which can persist into adulthood.

The response has been to encourage the 10% of estranged parents who are unable to agree on arrangements for their children to avoid court and resolve disputes through mediation. Parents are urged to put aside their own bitterness over their failed relationship and focus on the needs of their children.

But the Australian study shows that, while child-focused mediation improves the outcomes for children and parents, "child-inclusive" mediation, where children are seen separately and their wishes fed back to their parents, works significantly better.

Australia's family law system has undergone a revolution in the last five years, with official recognition that the fallout from family upheaval is a serious public health issue. The government has poured money into community and court-based dispute resolution focusing on the child.

Britain lags way behind. But the Australian research, unveiled recently at a London seminar organised by the Family Justice Council and Cafcass, the family court support service, and attended by officials from the education department, is likely to influence how services develop here.

Researcher Jennifer McIntosh of La Trobe University told the seminar that while 37% of children whose parents went through child-focused mediation felt the outcome was positive, the proportion rose to 61% for child-inclusive mediation.

Although the child-inclusive cases were more complex, with higher conflict to start with, the children who took part showed better progress on emotional symptoms such as anxiety and clinging behaviour. Both fathers and mothers became more emotionally available to their children. In 43% of cases, said Dr McIntosh, parents said "hearing from my kids was the thing that helped the most".

Child-inclusive mediation already has a small toehold in Britain. Cafcass is using it in a few areas, including Leeds, as is the children's charity NCH, in Derbyshire, London and a few other centres.

Cafcass officers now spend most of their time preparing reports for court cases, but their role is to shift towards helping parents resolve their own disputes and facilitating contact. The service will need to find a model and the Australian research points strongly towards child-inclusive mediation.

Many contact disputes in England and Wales are now resolved by in-court conciliation, typically a single

session on court premises geared to agreeing a parenting timetable, with no involvement of children or guidance for parents on how to co-operate. This produces agreement in three out of four cases, according to research from the University of East Anglia, but it has no significant impact on the quality of the parents' relationship, the most important factor for children.

Parents caught up in their own battles often fail to see things from their children's point of view, said Liz Ralph, project manager of Derbyshire family mediation service, run by NCH. She cited the case of a divorced couple who had both started new families. Their 11-year-old son was "causing real grief at school".

The real issue, she said, was the "terrible relationship" between the two couples. "They met in the school yard and sent abusive text messages to each other." The parents were told: "He wants all these arguments to stop and he wants you both to know he loves you both." Ms Ralph added: "The parents were gobsmacked. They both started crying. They decided they'd give it a go and it seems to be working quite well."