

Modern families, modern family justice: supporting family relationships in fast changing socio-political-economic climates

St George's House Consultation in partnership
with Relate and the Association of Family and
Conciliation Courts (AFCC)

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relate
the relationship people

 **AFCC**
**ASSOCIATION OF FAMILY
AND CONCILIATION COURTS**
Improving the lives of children and families
through the resolution of family conflict

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INTRODUCTION

We live in a time of unprecedented diversity in household living arrangements, and of extensive social, cultural and economic change following a global recession. Continued economic uncertainty and austerity policies in Europe, alongside new opportunities and challenges, not least through technology, mean that relationship support and family justice services need to keep pace with and respond to change if they are to remain relevant to individuals and families in a wide range of circumstances. This consultation set out to examine:

- The challenges for relationship support and family justice services
- A number of innovative approaches from across Europe to address these challenges
- What practitioners and organisations can do to meet a variety of needs

The consultation was organised to enable in-depth discussions to generate ideas, practical solutions and effective and impactful ways to meet the needs of individuals, couples and families whose relationships are in difficulty and who may be facing family justice processes. This consultation was special in that it brought together leading experts in the fields of family relationships and family justice from across Europe to debate current issues and share knowledge and ideas for the future development of services, policy and practice to support family stability and ensure the best interests of children. The aim was for participants:

- To learn from each other and to promote greater inter-country and interdisciplinary collaboration
- To be inspired with new ideas that can be taken forward in the different jurisdictions represented at the consultation

During the consultation the focus was on a number of key questions:

- What is the current state of family justice and relationship support policy and practice in Europe?
- What are different jurisdictions doing in family justice and relationship support to overcome the greatest challenges?
- How can innovative approaches in Europe be developed in different jurisdictions?
- How can the emerging themes be set in an international context and what needs to change?

St George's House is grateful to Relate and Association of Family and Conciliation Courts (AFCC), the consultation Chair Yvonne Roberts, the speakers who provided their professional and personal insights on the challenges and opportunities in family justice and family relationship support, and the three group facilitators: Gabriela Misca, Carole Kaplan and David Truex. We would also like to thank all of the participants who took part in the consultation for their open and forward facing contributions. Such insights and ideas will help to break new ground in inter-disciplinary and inter-country collaboration on issues which are evident across Europe and indeed the rest of the Western world.

This report is structured to highlight the main themes emerging from our discussions and to summarise the conclusions and key learning that will be taken forward by Relate and AFCC. As with all St George's House reports, this report aims to reflect, from an independent standpoint, the main ideas and views put forward during the event, with the understanding that not everybody involved in the discussions will have endorsed all of the ideas included. This report should not be viewed as a policy statement on behalf of Relate or AFCC.

The consultation took place in accordance with the rules of St George's House.

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A list of participants at the consultation is included at Appendix I.

BACKGROUND TO THE CONSULTATION

Family relationships are central to the psychological, emotional, social, and economic wellbeing of adults and children living in all types of society and in all corners of the globe. Research documents the benefits of good quality, stable, supportive relationships across the life course for mental and physical health.¹ Studies point to links between relationship distress and alcohol misuse,² depression,³ and poor health: a major evidence review found an 'unequivocal association' between relationship breakdown and general adult ill-health as well as more specific conditions such as coronary heart disease and raised blood pressure.⁴ Similarly, the impact of relationship breakdown on adults can include ill-health, depression, stress, financial difficulties, and unemployment.⁵ People in distressed relationships are three times as likely to suffer from mood disorders (e.g. depression), and two-and-a-half times as likely to suffer from anxiety disorders as people who do not experience such relationship distress.⁶ Relationship distress is also linked to increased risky health behaviours, such as alcohol misuse,⁷ smoking, and substance abuse.⁸

Children today may spend much of their young lives in a variety of family structures and be looked after by a range of 'parental' figures. Indeed, more traditional structures and gendered approaches to partnership and parenting are being challenged on a daily basis. Nevertheless, there is unequivocal evidence that regardless of family structure, what matters most to children's wellbeing is the quality of the relationships they have with their parents/carers.⁹ Children growing up with parents/carers who have low parental conflict – whether they are intact couples or separated – enjoy better physical and mental health,¹⁰ better emotional wellbeing,¹¹ higher academic attainment,¹² and a lower likelihood of engaging in risky behaviours.¹³ On the other hand, poor quality parental relationships and fractious separations have detrimental impacts on children's wellbeing, which in some cases can last for many years.

Although most children whose parents separate or divorce adjust fairly well to change, poor outcomes such as behavioural difficulties are about twice as likely among these children as they are for children whose parents remain together.¹⁴ Evidence shows strong associations between parental relationship breakdown and child poverty, distress and unhappiness, poorer educational achievement, substance misuse, physical and emotional health problems, teenage pregnancy, and increased risk of children's own relationships breaking down.¹⁵ Prolonged and unresolved parental conflict – whether in intact or separated families – can affect children's and adolescents' wellbeing and adjustment and emotional and mental development,¹⁶ resulting in increased anxiety, depression, aggression, hostility and antisocial behaviour and criminality.¹⁷ Parents who engage in frequent, intense, and poorly-resolved inter-parental conflict put children's mental health and long-term life chances at risk, with negative effects evidenced across infancy, childhood, adolescence, and adulthood.¹⁸ Hence, research shows that the quality of the relationships surrounding the child post-separation are crucial to their outcomes.¹⁹ Indeed, studies show that the negative impacts on children of parental relationship dissolution are predominantly rooted not simply in the stress of family re-organisation, but in the compounding conflict surrounding separation,²⁰ and children's exposure to conflict may have a more significant impact than divorce or separation in itself.²¹ The quality of the co-parental relationship is also associated with the level of parents' engagement with their children.²² It has also been linked to fathers' sense of efficacy, with fathers who are involved in shared decision-making about their children more likely to feel more competent and confident as parents.²³ Thus, it is critical that family support services and family justice policies should seek to promote strong, stable family relationships.

While globally we are experiencing increased diversity in family life, certain functions, such as the nurture of children and the care of family members, are universal. In Western countries, while married couples still constitute the main type of adult couple relationship, choice about the kind of partnership they enter into has increased, just as has the choice to end relationships that no longer measure up to expectations. Although more marriages survive than end in divorce, large numbers of children experience parental separation, the re-partnering of one or both parents, and multiple transitions in family living arrangements. For example, Relate's 2014 *The Way We Are Now* research found that almost one-in-four UK adults have experienced the breakdown of their parents' relationship.²⁴

Cohabitation has increased considerably, not just as a prelude to marriage but as a lifestyle choice. Indeed there is evidence that attitudes have changed such that many people think that there is little difference socially between being married and living together as a couple.²⁵ The cohabiting couple family (including both opposite- and same-sex couples with and without dependent children) continues to be the fastest growing family type in the UK, for example.²⁶ With an ageing population, families' reliance on practical care, provided both 'upwards' to elderly parents and grandparents and 'downwards' to grandchildren and great-grandchildren, has grown in recent decades despite the significant geographic dispersion of family members, and unpaid care by family members is becoming more and more important.²⁷ For example, in the UK today, there are seven million unpaid carers – and over the next 30 years, the numbers are expected to increase by 3.4 million to over 10 million.²⁸ Increased globalisation and significant demographic and social shifts are shaping the way we live our lives, and understanding these changes is central to the quest for more supportive family environments. In the Western world, women's participation in paid work is greater than at any previous period other than the two world wars. Policies in many European countries encourage families to be economically self-sufficient and independent of state welfare benefits and these policies have shifted expectations away from gendered divisions in family life. Men are increasingly expected to play a key role in parenting and family justice policies in some European countries deliberately promote the continuation of fathers' involvement in the upbringing of their children after parental separation. These changed expectations in parental roles can be extremely challenging for separated families to manage.

As partnerships and parenting practices in the twenty-first century are influenced by social, cultural and economic changes on a global scale, there is no doubt that stable, supportive families are important to economic growth and development, rendering it essential for relationship support services and family justice approaches to understand the pressures, opportunities and challenges families face. The challenge facing most countries in the West is how to facilitate conditions that will foster strong family relationships. An emphasis on strengthening adult couple relationships is increasingly evident in many European countries and elsewhere, including the USA, Australia and India. The overriding conclusion that children thrive best when they are brought up in families characterised by consistent care has important implications for practitioners and family justice processes. Collaboration and cooperation among policy makers and practitioners at local, national and international levels should help to inform the kind of investment that needs to be made to support stable family life and embrace diversity. There is a difficult tension, however, between the state supporting families and interfering in family life. It can be argued that the state's responsibility to its citizens is founded in its commitment to wellbeing. In many European countries the strengthening of families has become a priority goal.²⁹ For example, family relationships have moved up the policy agenda in England and Wales in recent years, with increased investment in relationship support services, the introduction of shared parental leave and, most recently, a new government programme which aims to reduce parental conflict in both intact and separated families and to embed a focus on parental conflict into local family services. New intervention and training contracts will help build knowledge about the delivery of evidence-based support for workless families experiencing parental conflict.³⁰ Government policy in relation to relationship support

has evolved from an initial focus on family stability (with a national indicator of the proportion of children living with both birth parents) towards a focus on inter-parental relationship quality (with measures of parental relationship distress and relationship quality in separated families).

The European Court of Human Rights is clear that the family life of parents and their children is not brought to an end by separation or divorce, so that parents and children have the right to enjoy relationships that continue. The United Nations Convention on the Rights of Children indicates that states have a responsibility to support parents in carrying out their responsibilities towards their children. In the final analysis, however, it is normally accepted that it is the family itself which should take responsibility for its children and many reforms in family justice systems across the globe reflect this expectation. For example, reforms to the family justice system in England and Wales in recent years have attempted both to divert families away from court, and to simplify the system for those who go to court. The 2011 Family Justice Review highlighted that too many families ended up in court, there was little awareness of alternatives, the court system was hard to navigate, and many parents did not know where to go to get the information and support they needed.³¹ The Review led to wide-ranging family justice reform which saw the creation of a single unitary family court, 'child arrangement orders' replacing 'contact' and 'residence' orders,³² and a statutory presumption that the involvement of both parents in children's lives post-separation will further children's welfare, unless the contrary is shown.³³

The expectation in England and Wales is that the parties themselves should resolve any disputes they have, if necessary via the use of mediation, before looking to the court to intervene. However, efforts to support more families to find their way to make their own arrangements were undermined by the removal of Legal Aid in 2012 from most family court cases, excepting those involving domestic violence or where a child who is the subject of an order is at risk. The corollary of this change was that the number of couples accessing publicly-funded mediation fell by over a third as the major referral route into mediation via family lawyers disappeared for many families who simply could not afford to pay for legal advice or representation.³⁴ The counterpart has been the rise of litigants-in-person: the proportion of private law cases in England and Wales without representation rose from less than 15 per cent at the beginning of 2013 to 30 per cent by January-March 2015.³⁵ Litigants-in-person often struggle to represent themselves, including those with high levels of education or professional experience, and have considerable support needs.³⁶

Further changes are in train: in May 2017, Sir James Munby, President of the Family Division, said that changes to the court system would see processes such as divorce become entirely digitised, and called for further reform in family justice that would completely de-link divorce and money, noting the need to "create systems and procedures that can be easily navigated by the litigants in person who increasingly dominate the worlds of both divorce and money".³⁷ Relate has been developing an online platform for separating parents to receive information and negotiate outcomes, with legal and mediation support where required. A pilot phase has shown that this is an approach welcomed by people who prefer to work online and at times to suit themselves. This fits with the 'digital first' approach of government.

Most – although not all – jurisdictions have long-ago removed the citing of fault as the main route to divorce. England and Wales is out of step with most Western jurisdictions in continuing to rely on a predominantly fault-based system of divorce. For many years there has been a concerted effort to remove the stigma of 'fault' from divorce processes, particularly as judges rarely take notice of the faults specified. While no-one wants to undermine the seriousness of divorce, the pressure is mounting again to make the process less adversarial, more meaningful and more focused on determining and protecting children's best interests. As a result of this focus there have been significant changes in many jurisdictions in respect of underlining the importance of giving children a voice in family law

proceedings. Increasing evidence has highlighted the way in which children and young people are marginalised when their parents split up and their desire to be able to say how they feel to those making the decisions about their future.³⁸ In England and Wales the judiciary have supported calls for children to have a meaningful voice and various experiments have taken place in courts around the country. In 2014, an advisory group was established by the Ministry of Justice to consider ways in which children's voices should be heard. A comprehensive report, published in 2015, made a number of recommendations for change which were endorsed by the government.³⁹ This is an area of family justice where learning from other jurisdictions is enormously helpful.

So, as people strive to balance traditional expectations of stable family life and new opportunities in a rapidly changing and economically insecure world, supporting families at greatest risk of poor outcomes has to be an important goal of family policy and family justice. The OECD has predicted that the numbers of families without children and numbers of children living primarily with one parent will increase in the years up to 2030.⁴⁰ Although the latest data from the UK indicate that in 2015-16, 52 per cent of children in separated families saw their non-resident parent regularly –that is, at least fortnightly,⁴¹ nevertheless single-parent households face the highest risk of poverty, and poverty in childhood can have a devastatingly negative impact on children's development and wellbeing. If policy-makers and practitioners work closely together across international boundaries the challenges inherent in supporting vulnerable families stand a greater chance of being addressed positively. This consultation sought to promote shared learning and co-operation within Europe.

THE CURRENT STATE OF FAMILY JUSTICE AND RELATIONSHIP SUPPORT POLICY AND PRACTICE IN EUROPE

With an understanding of the social and economic changes outlined above, our opening discussions were stimulated by short presentations from five speakers from different jurisdictions in Europe, followed by small group discussion.

Chris Sherwood, England and Wales. Chris emphasised the ways in which families are changing and urged that increased diversity in family living arrangements means that family support and family justice services must keep pace with these changes, otherwise they cease to have significance for those who need and use them. Of particular importance is the impact of increased digitalization and the growing use of a variety of social media in every aspect of daily life. Even very young children use digital devices and the majority of people gain their information about life events online. With the UK government taking a 'digital first' approach to services, it is necessary for all support services and for family justice procedures to be available online, so as to provide maximum choice for those accessing them. While face-to-face interventions will always be preferred by some people, there is increasing development of blended services, tailored to individual needs. Organisations such as Relate are fostering greater diversity in information, education and therapeutic services via a blended approach.

Chris also spoke about the impact of economic austerity on families since the global recession impacted on all aspects of daily life. A recent report by Relate investigated how debt problems undermine relationships.⁴² It found that debt problems can undermine relationships by causing conflict, mistrust and relationship breakdown; and that poor relationships can contribute to debt problems and affect how people manage their finances. Gathering evidence through national data analysis and from frontline debt advice and relationship support providers and their clients, the study clearly finds a two-way link between debt and relationships. Debt problems can be both a cause and consequence of relationship issues. People's relationships cannot be separated from the financial circumstances of the individuals within them; individuals' ability to manage money and deal with debt often cannot be separated from family and partner relationships around them. Each can affect the other. To address debt and financial capability it is essential to also understand relationship dynamics. The report points to the need for a more joined-up response to debt and relationship problems – and finds strong support among the relationship support and debt advice sectors for this. It calls for decision-makers to take action to develop more collaborative and coordinated ways of supporting people experiencing the impacts of debt problems on their relationships or vice versa. Chris concluded that new services to support families and new approaches in family justice must take account of the importance of promoting greater social justice in modern day societies.

Brigitte Chin-A-Fat, Netherlands. Brigitte talked about how family justice processes and professionals in Holland are finding new ways to support families. Family mediation is regarded as important by the government and family law practitioners, and since 2011 there has been an Ombudsman for children. Family lawyers have a co-ordinating role in supporting families via different routes and can represent both parents in court. As in most countries, high-conflict families cause considerable concern and the Ministry of Justice in the Netherlands has invited innovative proposals to manage high-conflict divorce cases and promote a divorce process that does not damage families. A report is due shortly. One of the ideas is to introduce a lawyer for the whole family, who can represent both parents in court when they disagree. Nevertheless, the one-family-lawyer model remains controversial in Holland, as it does in England. In addition it is suggested that a Divorce Counter will be available nationwide at the court for everyone to seek help to develop their own pathway. This was

considered to be a good innovation by consultation participants, and one which other jurisdictions might adopt. Legal aid is still available in the Netherlands and collaborative divorce approaches are encouraged.

Connie Capdevila Brophy, Spain. Connie explained that there are different approaches to family justice across Spain. As in England and Wales, the law is primarily adversarial. She noted that the most judges hearing family cases are not specialist family judges, there is a lack of resources, and processes are slow. In many ways the language used is dated, but there is an increasing emphasis on co-parenting, the use of parenting plans, and both parents having parental responsibility after separation and divorce. Unlike in other countries, mediation is not recommended and a small percentage of cases consume a disproportionate amount of the court resources. There are new initiatives, however, including coparenting coordination, which is a specialized intervention to help parents implement and comply with their parenting plan focused on children's needs. The coparenting coordinator assesses family dynamics, screens for family violence, mediates conflict, offers psychoeducation on children's needs, and coordinates with other professionals. The coordinator also reports to the judge. The AFCC parenting coordination guidelines have been translated into Spanish by the Col.legi Oficial de Psicologia de Catalunya and are being used in Spain. Connie cited this as an excellent example of international collaboration. She concluded that there is a considerable need for more specialisation in family law and preventative services.

Roisin O'Shea, Ireland. Roisin began by telling us that forty years ago, former Minister for Justice Alan Shatter, spoke of urgent reforms needed in family law proceedings to tackle congestion, delay and expense. It is 18 years since the Irish Law Reform Commission report spoke of a 'system struggling and barely managing to cope'. Historically, the family law system in Ireland had been overburdened and experiencing long delays. English Common law was imposed on Ireland in the late twelfth century, and by 1800 Ireland was integrated into the United Kingdom by the Act of Union. In 1922 the Irish Free State was formed, but Ireland carried forward all previous laws enacted and continued with the intimidating and formal forum of a courtroom with all its pomp and ceremony, accompanied by the deliberately obtuse language of law. In 2013 Murial Walls, Solicitor and then Chair of the Legal Aid Board, spoke of what current users think of the family courts: 'Unremittingly, crushingly awful; The system is chaotic/dysfunctional: Like a form of torture'. Roisin described how in her doctoral research, published in 2014, she found that the same issues still exist in the family courts in Ireland: overburdened lists, long delays, high legal costs and bewildered and stressed users of a system that cannot in truth be called a system. A striking feature of family law proceedings in Ireland is the invisibility of children. Family law operates in a highly discretionary regime based on individualised determinations of need. Most family law applications are brought by women, and there is now clear evidence that outcomes for fathers are poor, particularly where men are not the primary carer of children. Courts appear to view fatherhood as a privilege to be granted rather than an inalienable right, and 'joint custody' carries the continuing presumption that young children should be primarily cared for by the mother.

As in other Western countries, the structure of the family in Ireland has undergone significant changes in recent decades. There has been a move away from marriage as the norm, to a more diverse range of family types, with increasing numbers of informal relationships, shifting gender roles, international families and multi-cultural diversity. Despite these changes the divorce rate remains low, although this could have more to do with the requirement to be apart for 4 years before a divorce application can be made. The average contested divorce is taking two and a half years to final orders, with some cases not finalised after 10 years or more. A referendum is planned for 2019 that may reduce the separation requirement to two years.

So there have had to be changes in family justice: the Marriage Act 2015 recognises same-sex marriage; the child-centred Children and Family Relationships Act 2015 is the most important reform of child and family law for a generation with extended rights of guardianship, automatic rights of guardianship for unmarried fathers and enforcement of court access orders. The development of family mediation in Ireland has been characterised by periods of clear innovation followed by long periods of stagnation. Ireland developed the first publicly-funded family mediation scheme in Europe as long ago as 1986. The average wait for mediation is 22 weeks. More recently, there are changes which will regulate the professional practice of mediation. The Mediation Act 2017 is exciting in that Ireland is leading the way in regulating the profession of mediation, but there is a lot of work to do, guidelines and principles for mediation practice are needed, and a national code of practice for mediators is currently under review.

Roisin emphasised the need for a greater awareness of the value of mediation, with an emphasis on self-determination, shared parenting and hearing the voice of the child. By offering inter-disciplinary support at community level, she believes that the courtroom can become the last resort, rather than the first port of call.

Teresa Williams, England and Wales. Teresa stressed that family justice and family relationships should be regarded as public health issues which should be addressed as such. She described how the Nuffield Foundation has highlighted the poor quality of administrative data available about what happens to families when relationships break down and parents separate. In order to improve services it is essential to have a clear national picture of the needs of families. The Nuffield Foundation has established a Family Justice Observatory with funding for the next five years to improve the data collection and its usage in establishing robust research evidence. It will prioritise the issues where the Observatory can assist policy-makers and practitioners by ensuring greater clarity of the concerns and needs of families within the public and private law family justice system, and supporting the best possible decisions for children. Other jurisdictions will inevitably benefit from this initiative.

Discussion

Participants framed the discussion around three questions:

1. Looking at current family support services and family justice processes in different jurisdictions, what are the similarities and differences?
2. Are there other significant trends in family life and policies and processes which were not noted by the presenters?
3. What are the main challenges in family life that need to be addressed by relationship support services and family justice processes, and to what extent are these challenges the same in different countries?

It was universally agreed that the issues and concerns discussed by the presenters were familiar across Europe but different jurisdictions had tackled them differently. Removing obstacles to family justice reform remained the biggest problem in many countries. Justifying expenditure from public funds is a challenge in respect of supporting families whose relationships have broken down. It was noted that there had been little mention of domestic abuse during the presentations, yet that is an issue in all countries and one which is both sensitive and challenging to address with confidence. Most of the discussion centred on the current challenges. These could be summarised as follows:

- Improving the rather weak evidence base for preventative interventions: can we really be sure about what works in relationship support? We need to obtain robust evidence in order to change the system.
- Enabling more research including robust longitudinal studies to grow the evidence base.
- Recognising the importance of user-centred design, and user involvement.
- Recognising the importance of protecting those who are most vulnerable. Systems tend to be clunky and we need better ways of identifying vulnerability perhaps through training front-line staff in triage.
- Unpacking the traditional role of lawyers and unbundling legal services. Lawyers are often the gatekeepers to more innovative services such as mediation, a role which can limit the numbers of couples seeking mediation.
- Removing the stigma of seeking help for relationships, perhaps by establishing centres/hubs where a range of services are available in the community, such as the Australian Family Relationship Centres. Finding ways to put more emphasis on early intervention when relationships break down. Front-loading family justice services and maybe rewarding lawyers for keeping cases out of court.
- Understanding the needs of litigants-in-person and providing the most helpful processes. It is important to ask parents what help they need and how they would like family justice systems to change, encouraging user-centred design when developing new approaches.
- Moving away from tokenism in listening to children and young people and ensuring mechanisms are in place to fully engage with them when parents split up.
- Recognising the variations in conflict and finding a better definition of high-conflict families: it is a descriptor which is widely misunderstood and used to describe a wide variety of conflict.
- Using existing resources and services more creatively.
- Embracing technology to offer choice to parents and encourage self-determination.
- Raising awareness of mediation and other dispute resolution options to move away from systems that foster conflict and litigation.

The group wondered if the time has come to redefine the roles of the professionals involved in family justice. Do we need a new polymath professional who can combine legal skills with more therapeutic skills? Who should address the relationship issues as opposed to legal issues? Could this be managed via a relationship centre?

Participants agreed that because the concerns and challenges are the same throughout Europe, we need more cross-jurisdictional sharing of ideas and a greater willingness to learn from others and be more innovative. There was broad agreement that it would be helpful if there could be a common set of terms and new non-stigmatising language within family justice across Europe; all family law professionals speaking the same language would be a huge step forward.

INNOVATIVE PRACTICE IN EUROPE

Our second session focused on the innovations in relationship support and family justice in Europe which have been developed to address some of the challenges identified in our first session. Four speakers gave examples of innovative practice, followed by small group discussion, in which participants were asked to consider the extent to which they might inform innovation in their own country.

Marianne Gabrielsson, Sweden. Marianne focused her presentation on the use of Co-operation Teams as a child-centred early intervention in separated families. There are no specialised family courts in Sweden. Family law social workers provide courts with evaluation reports and offer publicly-funded mediation. Shared legal responsibility for children by separated parents is strongly recommended and women's financial independence through paid work is promoted. To enhance this, high-quality child care is subsidised and gender-equal parental leave is promoted.

Marianne described a pilot project in five municipalities in Sweden, funded by the Ministry of Social Affairs from 2014 to 2017, involving Co-operation Teams working with high-conflict families. These families often have child protection issues; they often experience violence, mental health issues, substance abuse, and they may have a neuro-psychiatric diagnosis. There was increased awareness that families and family members have a variety of needs and that a lack of collaboration creates difficulties and contradictory outcomes for the families. So the pilot developed a new model whereby a Co-operation Team offers early, co-ordinated interdisciplinary support to the family. The team uses the Detection of Overall Risk Screen (DOORS) developed by Dr Jennifer McIntosh and colleagues in Australia. The tool enables the determination and tracking of risk, allows for the planning and coordination of responses, and promotes effective communication about risk. DOORS consists of several stages which involve the family members self-reporting of risk, follow-up by practitioners working with the family, and the identification of resources needed.

Early results indicate that the pilot has collected a vast amount of information about the ways in which the approach is being effective in identifying risks. Moreover, parents feel listened to and children's participation has increased. These are important findings in that hearing the voices of children has become a high priority in Sweden. In addition, more needs are being met and the approach is proving to be promising. The final results are eagerly awaited but the in-depth work by a multi-disciplinary team is proving to be an important innovation.

Penny Mansfield, England. Penny talked about the important work her organisation has been doing in understanding the emotional readiness of those who are looking to benefit from supportive interventions such as mediation. Clients' emotional state needs to be factored into information delivery about options, the availability of counselling or other therapeutic interventions to support emotionally vulnerable parties, and the importance of emotional readiness in family dispute resolution processes. Research has shown that 'For any process to be successful, parties need to be emotionally ready to cooperate and cope with negotiations'.⁴³ People whose relationships have broken down experience a range of emotions and often swing from one to another in a complex interplay. This can have serious impacts on parents and parenting. For example, parents may have reduced ability to identify, listen, respond, and empathise with children; their ability to 'take in' information, make decisions, access support may be compromised, and co-parenting arrangements may be jeopardized. Most people adjust over time, but for some couples co-parenting conflict may persist.

OnePlusOne have developed an online emotional readiness tool to assess an individual's emotional state, and on that basis to guide decisions about which actions they might take or services they might engage with. The tool will be available on a new virtual support environment. This provides information about what children need, opportunities for setting goals, behaviour modelling training to improve communication skills, a calendar for parenting arrangements, a parenting plan, a private chat space and a listening room for one-to-one online interactions with counsellors and mediators. OnePlusOne's new

virtual support platform (www.clickrelationships.org.uk) was launched just before the consultation. The emotional readiness tool will be available on the new platform after April 2018.

Rosanne Cubitt, Scotland. Rosanne described the relationship counselling, mediation, child contact centres and family support services Relationships Scotland offers across the country. Relationships Scotland receives 40 per cent of its funding from the Scottish Government, with whom it has a close relationship, and other funding from trusts, legal aid funding and the Big Lottery Fund. The services are overseen by one national office enabling consistency of service provision. Unlike in England and Wales, legal aid is available for family matters, but there is no court welfare service, and there are very few family therapists.

Rosanne talked about four innovative services that Relationships Scotland is pioneering:

1. **The African Hairdressers listening project (MWAMBA).** This innovative project involves hairdressers being trained in skilled listening about relationships. The training has been adapted for and is sensitive to African cultures and the training takes five days. It is well-known that many people talk to their hairdresser when they are in the salon and often open up about relationship issues. By training hairdressers to listen effectively, the clients can be supported while engaging in an everyday activity. The training has been shown to help hairdressers to feel less overwhelmed when clients talk about their personal problems; become more effective listeners; provide more support to their clients; and feel better equipped and supported themselves. The participants said that the pilot had reinforced and developed their existing skills; provided mutual support and encouragement; empowered them; and helped in their personal lives. Relationships Scotland has learned lessons as to the locations where listening can best take place; the cultural impact on communication styles; content sensitivities; and context differences. In future, the listening skills will be enhanced by offering signposting to specialist services, hairdressers will be able to help with more than relationships, and the service will act as a bridge to mainstream services. There is a strong belief that this skilled listening approach will help clients to develop skills themselves, and that it is an important service for men as well as women.
2. **Parenting Apart.** This innovation involves a group session and one-to-one programme for separating parents. It is funded by the Scottish Government and is therefore free to participants. Although the programme is strongly encouraged by the judiciary and the Scottish Legal Aid Board, it is not mandatory. The programme is integrated with mediation provision and child contact centre support. The contents are tailored to specific circumstances and the timing is flexible. Over 1,000 parents have taken part: 55 per cent fathers and 45 percent mothers. The programme includes the provision of booklets, film, information on the website and interactive exercises and follow-up online skills sessions. Parenting Apart has been independently evaluated and this has shown consistently positive and encouraging outcomes: the programme has had a positive impact on parents' communication, conflict management, and planning. It has increased parents' ability to cope and their satisfaction with the children's arrangements. At the follow-up review stage, parents are more likely to have a child maintenance agreement in place and are less likely to be seeking a court order.
3. **One-to-one child contact centre support service.** Family support workers are based in child contact centres in order to offer intensive one-to-one support for some families who need it. Each family is helped with an individual support plan, which is reviewed regularly. The support workers assist with establishing contact, overcoming barriers and the challenges parents are facing after separation. They can also signpost families to other services. The service is funded by the Big Lottery and is free for parents.

4. **Safe and Sound Project.** This innovation is a joint project with Shelter Scotland and is targeted at families whose relationship has broken down and housing provision is unstable. The families are offered housing support and mediation, including emotional and practical support and skills development. Also funded by the Big Lottery, this service is free to families.

All these innovations are having a positive impact for separating families and all are relatively straightforward to develop and implement with appropriate funding. They are all community-based and easy for parents to access. Relationships Scotland is currently progressing work on a Family Dispute Resolution Pilot, child-inclusive mediation and family therapy and family counselling. They are also looking at specialist risk assessment innovations.

Joseph Salzgeber, Germany. Family courts were introduced in Germany in 1977, alongside no-fault divorce. The primary consideration is ensuring the best interests of the child and in 1998 shared custody (Wechselmodell) was introduced. In 2017 equal shared care was put in place. Family law in Germany is part of the civil code. Ninety-five per cent of parents share legal custody of the child and both parents are expected to share in the upbringing of their child. There is no distinction made between rights and responsibilities. The family law process is procedurally defined, lawyers are always involved and there are very few litigants-in-person. A number of new interventions are primarily court-based: a Guardian ad Litem always considers the welfare of the child; a Contact Supervisor assists with contact arrangements, but does not supervise the contact itself, and a Custody Evaluator is appointed and paid by the court. In 70 per cent of cases the state pays all the legal costs. The custody evaluator is 'the right arm' of the judge. The evaluator talks with the parents and others, explains the child's reaction to the separation, makes a diagnosis and provides a regulation about contact and communication. The custody evaluator may also act as a parent co-ordinator and coach and there are no clear boundaries between counselling and custody evaluation. Inter-disciplinarity is a key feature of the legal process in Germany, so that counsellors, mediators, custody evaluators, contact supervisors and lawyers work together to reach agreement with the parents. The voice of the child is an integral part of the process and judges routinely talk to children aged three and over.

Discussion

Participants framed their discussions around three questions:

1. What other innovations are taking place in different jurisdictions in relationship support and in family justice?
2. To what extent could these be implemented in different countries/jurisdictions or are they culturally/jurisdictionally specific?
3. What other ideas might be considered and what are the key ingredients?

Participants noted the variations in the provision of state-funded support and legal services around Europe. Yet the outcomes desired from a range of approaches are broadly similar: the emphasis is on protecting children and enabling parents to continue to take parental responsibility for their children's upbringing and welfare. Taking an interdisciplinary approach, professionals work together to achieve these outcomes either out of court or within the court process. In Denmark, for example, psychologists work with families and with children. During the discussions, a number of dilemmas and questions emerged:

- How far should or could mediated agreements out of the court setting be legally-binding?
- Are lawyers needed in all cases and could they be involved only if legal advice is needed or when issues are in dispute?

- Can litigants be helped to help themselves? There was support for the provision of personal support units in the courts, perhaps staffed by law graduates.
- Could more be done to educate children about relationships and about family breakdown in schools?
- Should there be one point of entry or many points where advice and information can be given to families about family law matters?
- How can parents be helped to listen to the voices of children and put their best interests first? Do programmes such as Parenting Apart in Scotland provide a good model for this?
- Can digital platforms increase diversity of interventions and how can we make more use of online support programmes?
- To what extent can peer support be helpful and are there ethical considerations that should be considered when non-family-law-professionals are taking a listening/signposting role?

There was strong consensus that the judiciary are important leaders of change and many innovations are the result of determined and influential personalities driving change agendas. If there is the will to make changes and offer new approaches then opportunities will flourish. Australia offers a good example of innovation in family relationship support and family law when a more holistic view of ways to improve family relationships was developed and subsequently modified by the evaluation evidence. Many of the innovations discussed in the consultation have the possibility of being adapted and tried in different jurisdictions. There was particular interest in the training of hairdressers and using everyday scenarios as opportunities to support families.

EMERGING THEMES: WHAT NEEDS TO CHANGE AND HOW IDEAS CAN BE TAKEN FORWARD

The final two presentations looked to the role, benefits and concerns of digital technology in family justice, and opportunities for future international collaboration. These were followed by small group discussion, and final reflections.

David Hodson, England. David reminded us that digitalization is increasing across family justice systems the world over. He cited 500 million tweets a day; 1 billion websites; 1.2 trillion google searches every year; 2.5 million emails every second; 3.5 billion internet users in 2017; and 47 per cent of the world population with internet access (81% in the developed world). Much of family law is focused on dispute resolution. Already, 60 million customer disputes are dealt with online via ebay's dispute resolution scheme. Parties are generally happy with the process which is perceived as being an effective way to reach settlements. Moreover, the procedures are intelligible and comprehensible to the user. So how can this kind of technology be used in the administration of justice, the resolution of family disputes, the practice of justice, and access to justice?

David cautioned that many families going before the family courts are poor and disadvantaged and do not have ready access to the internet. Nevertheless, family law is already being influenced by digital processes so it is important to consider how it can benefit. There are several online divorce schemes and lawyers offering online services. Standardised court forms will enhance consistency and result in higher quality ways to help litigants in person understand the processes. Lawyers will inevitably be doing different kinds of work and mediators are likely to find new ways of working, for example via Skype and Zoom. Clients will have different expectations of the professionals that support them and it is reasonable to ask whether justice has to be conducted in a courtroom or whether there are more efficient ways to administer access to justice. The President of the Family Division in England and Wales has commented that some proceedings will be conducted almost entirely online in future. Judges will not need to be in a courtroom but can interact electronically with the parties and any lawyers involved. Only the most difficult cases may need to be heard in a traditional courtroom. These changes will mean significant changes in the design and use of court buildings. Online dispute resolution programmes will be the choice of clients, lawyers and the judiciary. An example of the current use of digital technology is the International Family Law Arbitration Scheme which uses electronic hearings, fact gathering via electronic forms, and decisions populated from the facts obtained. The process is open and transparent for parties.

But there are challenges. Will it be difficult to ensure discretionary, personalized, tailor-made justice via an electronic system? Does an electronic system detract from the solemnity and gravity associated with court rooms and more traditional judicial processes? Will online processes be abused? Undoubtedly, digital technologies are advancing at an amazing rate and it's possible that the challenges can be overcome, especially as family dissolution becomes a more administrative process, but it is essential to be mindful of the importance of ensuring equal access to justice. At the present time, rural areas in England and Wales have insufficient broadband speed, for example, and those litigants most in need of access to the family justice system have the least accessibility to digital technology. In addition to the unequal access to the technology, there is the challenge of imbalances in people's confidence using it.

In assessing the innovations discussed during the consultation, we need to accept that family support and family justice will have to change to keep pace with digitalization and the new opportunities it offers. Professionals will have to adapt to new ways of working with clients, and families will have different and probably higher expectation of the services they are offered. At the same time, the

emotional experiences and legal needs of families facing relationship breakdown will remain the same, as will the need for highly-experienced professionals and innovative services. And access to justice will continue to be of absolute importance.

Annette Burns and Peter Salem, USA. Peter indicated that there were a number of themes emerging from the presentations and discussions so far and that it is possible to identify some overarching principles in respect of innovative practice that would have resonance across Europe and beyond. These include:

- Professional accountability
- Child agency and having children's voices heard
- Self-determination of families
- Protecting the vulnerable, and addressing power imbalances
- Prevention – and a public health approach
- Judicial leadership
- Evidence-informed approaches
- Promoting family well-being
- Collaborative system design and service user-involvement
- Interdisciplinarity

Peter argued that it would be possible to identify a more complete set of principles that could inform innovations in relationship support and family justice and thereby encourage a more coordinated approach across different jurisdictions, taking account of variations in family law processes between countries.

Annette spoke about the value of taking a bottom-up approach to innovation. This would embrace the views of service users and remind us to be cautious about wanting 'to rescue' people. If the overall goal is to facilitate better, healthier family life then we can start by placing information in the right places and offering wrap-around options. She emphasised the importance of checking each new idea against a common set of principles.

Discussion

Participants were asked to consider the last two presentations by thinking through

1. The learning from the consultation
2. The innovations we should be encouraging
3. The opportunities for collaboration between different professionals and different countries.

The key learning from the consultation was identified as being the similarity in respect of the challenges facing relationship support and family justice providers across Europe. Nevertheless, ways of addressing the challenges vary considerably. There was widespread recognition of increased digitalization and a strong sense that one size does not fit all, and that choice and tailored responses are important ingredients. While technology offers many exciting new ways of working, we are looking for ways of enhancing the well-being of human beings at very sensitive and distressing times of family change. Part of the task is to help people make and sustain healthy, committed relationships, so increasing emotional literacy is a key ingredient. There was clear consensus that developing and agreeing a clear set of principles that can be shared across boundaries would be very worthwhile. Innovations should be service user-informed, accessible and proportionate and this will almost certainly

indicate the need for a blended approach. Digitalisation is unlikely to be able to do everything but joining-up interventions and working in a blended way should be more efficient and give greater choice. It is essential not to forget the centrality of diversity and ensuring inclusion.

Participants recognised that the consultation had provided increased opportunities for cross-country collaboration and establishing new professional partnerships. We have begun to create a community in Europe for sharing best practice, reviewing the use of language, setting standards and practice guidelines, and networking. There was enthusiasm for interdisciplinary training, international meetings to share ideas and good practice, and learning from each other.

REFLECTIONS

Jan Walker, England. Prior to the closing discussion, Jan was asked to provide some reflections on the consultation. She reminded participants that the ambition of St Georges' House is to effect change for the better by nurturing wisdom through dialogue. This consultation has focused on sensitive issues which are of extreme importance in all jurisdictions as family life changes and family support and family justice try to keep pace with a global economy which is both exciting and challenging. The art of consultation is to nurture wisdom through openness and respect and frank discussion. Over the previous twenty-four hours those values have characterised this consultation as participants from different European countries (and two guests from the United States) have worked together and shared their ideas. Much of the discussion has focused on family justice processes and we have given less time to thinking about interventions to support family relationships at all stages of life. But, as we were reminded in the opening session, family justice is about more than legal processes and should be examined through the wider lens of social justice. That is why we are here. We all acknowledge that our commitment to innovation and change is driven by the desire to increase family well-being and ensure that children experience the best possible loving family relationships in which to thrive. When relationships break down then interventions that can minimize the negative consequences and support families to deal with the changes they must make are to be promoted. Working together with families requires us to work together with other professionals. Together we have a lot of valuable tools at our disposal and a great deal of experience and knowledge to share.

Many of the innovations we have talked about have been funded by governments. It is clear that states have a duty to support families, particularly those that are especially vulnerable. The level of state support is very variable as we have seen here. But all governments can play an important role by:

- Supporting parents to support their children
- Providing high quality reliable information
- Ensuring access to a range of support and advice services
- Ensuring equal access to justice irrespective of class, creed, ethnicity etc
- Ensuring that children have a voice

Many of the innovations described here have a therapeutic goal but it seems that some governments find it difficult to fund such services. How far should they get involved in issues that are primarily personal and which have a moral component? The expectation that parents should sort out their personal difficulties by themselves can sometimes prevent states from taking an active role in the development of innovatory services. Yet without support many families and children become more vulnerable and can need more support from the state in the longer term. Unresolved conflict and hostility can result in increasing demands on health services. If we view relationship issues as a public health matter then governments might be more able to assist in relationship problems.

We all acknowledge that our commitment to innovation and change is driven by the desire to increase family well-being and ensure that children have the best possible loving family relationships in which to thrive. When relationships break down then interventions that can minimize the negative consequences and support families to deal with the changes they must make are to be promoted

During the consultation there has been frequent reference to the role of champions, change agents, professionals that can take a leadership role and influence change and promote innovation. But rather than always look to others to perform this role, we can look to ourselves. We can all act as change

agents by working collaboratively, sharing our wisdom and supporting each other. Where there's a will there's a way! The hope is that everyone would leave Windsor Castle feeling refreshed, optimistic, thoughtful and empowered to make a difference. We should also feel that we belong to a community of like-minded people sharing a passion for social justice. The AFCC can help us to foster that passion in the months and years to come.

POST-CONSULTATION REFLECTIONS OF THE PARTICIPANTS

Shortly after the consultation had taken place we conducted a brief survey of participants to garner their reflections. The feedback received was overwhelmingly positive and there is little doubt that participants enjoyed the space and opportunity to think about a range of issues and to share ideas from different countries. There was a strong feeling that another 24 hours would have been useful as there is so much to learn from other jurisdictions. Participants appreciated the safe space in which to share ideas and the mix of formal presentations and informal discussion was welcomed. Several commented that St Georges' House offers a unique opportunity to work with colleagues in a residential setting. Topics mentioned for future meetings and exchanges included the following:

- The ethics of mandatory mediation
- How the voice of the child is being respected in different jurisdictions
- Access to justice in family matters
- The role of law in family conflicts
- Self-represented litigants
- The role of welfare reports
- Family support centres
- Mental and public health issues in family support and family justice
- More in-depth understanding of high conflict families

The consultation had encouraged international collaboration and this was regarded by participants as very important. The discussions had stimulated ideas and were described as thought-provoking. Comments were made that more international liaison and cooperation can only be beneficial for families. In response to a question about what are the main opportunities going forward one participant replied 'networking, networking, networking'. The priority questions raised by the consultation for the participants included:

- How to simplify judicial procedures
- How best to come up with a new approach for families that need assistance, rather than continue to try and fix broken systems
- How to encourage policy-makers to recognize the value of promoting family well-being
- How to create possibilities for families to reduce conflict and reach settlement
- How to create more specialized services
- How to regulate mediation practice
- How to ensure clarity in European family law after the UK leaves the European Union

Participants offered some thoughts about how future events might be structured to include more presentations. The only negative comments related to the lack of adequate heating in the main hall during what was a bitterly cold spell of weather and the need for better sound systems! There was a universal request for further events of this kind and especially a return to St Georges' House as soon as possible for another consultation.

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APPENDIX 1. LIST OF CONSULTATION PARTICIPANTS

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