

Intake Interviews in Family Mediation – some thoughts from Scotland

Published in 'Mediation in Practice' April 2003, pp12-17

Summary

This article is a belated response by a Scottish mediator and intake worker to the Report to the Legal Services Commission entitled "Monitoring Publicly Funded Family Mediation", in particular its oft-quoted assessment of the intake interview. I will examine the intake interview as it has developed in Scotland and the range of functions it fulfils here.

In recent years, the number of mediations started in FM West (based in Glasgow) has remained fairly static, but the number of intake interviews has increased year on year. In seeking an explanation for this, the intake interview will be evaluated according to criteria overlooked by the Report. Its key function is to introduce clients to **a mediation approach** to conflict. In doing so the worker models mediation for the client, with its emphasis on collaborative problem solving and the development of options. This may divert some clients from both mediation and the legal process, but should be regarded as a success rather than a failure.

I will then examine a recent exercise in **Monitoring clients' comments** about the intake interview. This reveals that what clients value most is the chance to talk and the sense that the person they are talking to understands their situation.

The particular issue of screening for **Domestic Violence** in family disputes is examined, outlining the merits of a confidential one-to-one interview. Finally, I will look at the role of the intake interview in **signposting** other services and forms of family support.

My conclusion is that the intake interview has been judged too narrowly, as a conduit to lead clients to mediation. Its true potential lies in providing support and introducing a mediation approach to a broader range of families than those where both parents are able to use mediation.

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Introduction

I was conducting an intake interview recently and I asked my client what he would like to come out of mediation. "Mediation's a crock of shit", he replied. "No offence to you, but my ex is just manoeuvring for position."

"Yes, but what would you like to happen?", I repeated.

"Well, I feel I've been pushing for negotiation all along and she just throws it back in my face", he continued.

"I understand that, and it must have been frustrating, but in relation to the children, how would you, ideally, like things to be organised?"

"I'm a very reasonable man, and as lucid as I've ever been, but I feel I've reached the point where I've got to say, 'Enough is enough', and stop being pushed around," went the refrain.

"You still haven't answered my question," I pointed out. "In an ideal world, if mediation were successful, how would the arrangements for the children to spend time with the two people they love be organised?"

"I don't live in an ideal world, I live in the real world, and there's no way that she and I will be able to negotiate."

Our conversation meandered on like this for a couple of minutes before he eventually said he would like the children to spend one overnight and one evening per week with him. Afterwards it struck me that this, not untypical, encounter forcibly illustrates that the intake interview has value in ways other than getting clients into mediation. Had this exchange taken place in a mediation session, it is likely that this man's "ex" would have received confirmation of most of her negative stereotypes about his behaviour – the constant reference to past hurts, the difficulty in focussing on the children and the deep suspicion of her motives. Because of the privacy of the interview I could persist with my question without the other party being given ammunition for conflict by seeing her "ex" as obdurate. I was also able to begin demonstrating a mediation approach to someone who may not get to a joint meeting. This most basic of questions, "What would you like to happen?", turns people's attention to the future and their hopes rather than the past and their wounds.

I recently, belatedly, read the Report to the Legal Services Commission (LSC)¹ by Gwynn Davies and others. It contains a huge amount of fascinating information relevant to all mediation services in the UK. However, as a practitioner outside England & Wales, I was left with the feeling that the "Intake Interview" was being judged primarily on its ability to fulfil the aims of the Family Law Act. Its shortcomings in that respect seem to have led to its other functions being overlooked and the whole idea of intake being discredited, throwing the baby out with the bathwater. I thought it would be helpful for a Scottish intake worker to react to the research from our perspective - where intake interviews have developed gradually without the constraints of legal aid funding and "conversion rates". We have come to see the intake interview as a service in its own right, fulfilling a range of functions in keeping with the government's aim of supporting families affected by separation and divorce. Those in England & Wales who are committed to this practice should take heart.

Background

The intake interview as a preliminary step in the mediation process has been used in Scotland for some 10 years. It is now standard practice to offer an individual meeting to any parent who approaches a mediation service. The larger services employ specialist "intake workers". In the smaller, more rural, services the same mediator conducts the intake interviews and subsequent mediation sessions.

The Intake Resource and Training Pack used by FMS² defines intake very broadly as "**client contact and related work which takes place separately from and prior to a joint mediation session or any of the complementary services provided**". This can take place on the telephone or in an individual appointment. Since 1998 everyone engaged in intake is required to undertake specific training.

¹ Davis, G "Monitoring Publicly Funded Family Mediation" (2000) Legal Services Commission, London

² Family Mediation Scotland (now Relationships Scotland)

Conversion rates

Over the past 5 years the number of intake interviews conducted by Family Mediation West (see below) has steadily increased, while the number of clients commencing mediation has remained much the same. By last year there were 786 individual intake interviews, while 254 parents from 127 families commenced mediation (a “conversion” rate of 32%). Does this simply indicate that the intake process is becoming less effective, or are there other possible explanations?

Diversion

An intake interview provides an opportunity to talk and reflect. Separated parents are usually in a state of great turmoil. As the LSC research points out, people who have recently separated can feel overwhelmed by the amount of information they have to assimilate. They are often looking for a solution to what they view as a combination of insurmountable problems.

At the heart of our practice is the opportunity for the client to tell his or her story. As it unfolds, the intake worker helps the client to identify issues and problems and to begin considering options for dealing with them. Does this sound familiar? To most of us, these are key tenets of mediation. The point here is that the intake interview is more than just a presentation of mediation – this dialogue actually models a mediation approach to conflict. As well as helping to identify the individual components of the dispute, the client learns that both s/he and his or her ex-partner are treated with impartiality and mutual respect. The client can be helped to consider the perspective of the other parent. And, perhaps most importantly, the worker highlights the crucial common ground in family mediation, the children themselves.

In effect the intake worker starts the mediation process with only one person present (the empty chair playing the role of the ex-partner!) Issues are identified, options explored and the other party’s perspective considered. As my introductory exchange illustrated, by asking a mediation question, i.e. “What would you like?” even a cynical and battle weary client is empowered by focussing on his own hopes and goals rather than what the other person has done to him. And opportunities for recognition³ abound, where the intake worker’s experience of regularly hearing both sides of a dispute means that s/he can assist a client to consider alternative explanations for what the client sees as outrageous or hurtful behaviour by the other parent.

All of this may do no more than prepare someone to use mediation. However, our experience suggests that this sort of dialogue leads some clients to reflect on their positions and enables them to resolve matters themselves. Or then again it may raise their awareness of the impact of their actions on their

³ Bush, R and Folger, J “*The Promise of Mediation: Responding to Conflict Through Empowerment and Recognition*” (1994) Jossey-Bass, San Francisco. This book proposed the notion of transformative mediation, which sees conflict as an opportunity for moral growth.

children and lead to some improvements for them⁴. Even if complete resolution is unattainable for most clients, a small improvement in their ability to negotiate or their awareness of the effect of conflict on their children is still a significant benefit to the family. This may be particularly valuable to clients who are unable to use mediation because, for example, their ex-partner is not willing to participate.

To summarise, if the intake interview diverts people from mediation it is also a diversion from the legal process and should be considered a success rather than a failure. If the intake interview leads people to act differently it is more than just a helpful exchange and has positive outcomes in its own right.

Monitoring clients' comments

Further research will be needed to test this. But what do clients themselves think of the intake interview? FMS has been piloting an evaluation using a comments form sent out the following week (and so prior to mediation itself intervening).

Between September 2001 and June 2002, we took the first 100 forms returned to Family Mediation West's Glasgow office⁵, which serves the City of Glasgow and surrounding conurbation (a population of about 1.8 million). As one might have hoped, in response to simple, closed questions, a high proportion of clients expressed themselves satisfied. However, in trying to understand what this experience is actually like for clients, their detailed comments paint a fuller picture. For this reason, the form ends with three open questions.⁶ The one that garnered the greatest response was Question 6: *"What, if anything, did you find personally helpful about the individual interview?"*⁷

To try to assimilate the very broad range of responses, we broke them down into 11 categories. Space does not permit a full description of the results here, but the most significant kind of comment, made by 40% of respondents, described having a chance to talk, e.g. *"Being able to sit down and have an honest one-to-one with someone and able to speak out my inner fears."*

And then 39% of the comments concerned the qualities of the person spoken to, including being good at the job, being supportive, having an understanding attitude and knowledge of separation and divorce, e.g. *"The person I spoke with verbalised things I felt, which reassured me they understood."*

⁴ Rodgers, B and Pryor, J *"Divorce and Separation: the Outcomes for Children"* 1998 Joseph Rowntree Foundation, York. This review of research confirms that adverse outcomes for children are more likely if there is continuing conflict between their parents after separation. See pg 6, 41/2

⁵ A return rate of approximately 30%

⁶ The last three questions on the form are:

6. What, if anything, did you find personally helpful about the individual appointment?
7. Are there any aspects of the individual appointment that you think we could improve?
8. Is there anything else you would like Family Mediation West to offer?

⁷ 85 out of the 100 responded to this question with a comment

18% described some sort of personal progress as a result of the interview e.g. *"I felt that for the first time in a long time things can move forward in our separation"*, *"I was depressed beforehand but came out thinking very positive"*, or *"It made me face some issues I didn't want to face."* This sense of optimism supports the idea that the intake interview, as an introduction to a mediation approach, contributes to the resolution of conflict and the well-being of the family even prior to the other client's involvement.

15% mentioned the information and explanation received, 15% named impartiality and 11% the focus on children.

What we learn from this is that our clients value more than anything else the combination of a chance to talk and the sense that the person they are talking to understands their situation. While getting information was significant, it seemed to engender far fewer of these positive comments.

In summary our own preliminary evaluation has confirmed our impression: that clients value the intake interview as a helpful encounter in its own right. This has in turn increased our confidence that we should allow clients time to tell their story. We have come to view the intake interview less as an information session and more as a collaborative, problem solving exchange.

Domestic Violence

Scottish intake practice has come down firmly in favour of individual meetings to allow assessment and, not least, disclosure of domestic violence. The LSC Report addresses the issue of how such allegations might be made if resource limitations made a joint intake interview more usual. It suggests that a preliminary "sift" by telephone would ensure that no-one who was in fear of their former partner would be required to attend a joint intake appointment.

This contradicts our experience in Scotland. The disclosure of domestic abuse is a personal and sometimes traumatic affair for the victim (not always female). A considerable amount of training is devoted to appropriate and sensitive questioning, dealing with the alleged perpetrator and the crucial issue of protecting client confidentiality. Jane Lewis's research⁸ indicated that, even where an individual meeting had been held, domestic abuse may not have emerged. Victims of domestic abuse are often hazy about the degree of threat they remain under. It seems at odds with common sense to suggest that a preliminary sift by telephone is as likely to encourage a proper and thorough examination of the issues. Nearly a quarter of our clients disclose some concerns about domestic abuse: we believe we should continue to have a confidential one-to-one setting to deal with this issue.

Signposting

⁸ Lewis, J *"The Role of Mediation in Family Disputes in Scotland"* 1999 Scottish Executive Central Research Unit, Edinburgh

Another possible explanation for the larger number of clients coming for intake interviews and not “converting” to mediation is that clients receive information about other services or agencies. Local mediation providers in Scotland have tended to broaden the range of services offered in keeping with the goal of providing support to separating families. The complementary services referred to above include:

- one-to-one support or counselling for children and young people
- children’s groups
- counselling for adults
- “Surviving the Breakup” groups
- contact centres
- direct consultation with children

The intake appointment is the obvious place to present these options to clients and help them to choose the most appropriate.

Conclusion

The research emanating from England and Wales is certainly of great relevance to Scotland. However, as I have suggested earlier, the Scottish perspective may offer encouragement south of the border. Intake interviews unapologetically stand as a service in their own right, fulfilling several functions: -

- listening to a person’s story and reflecting on it with them
- conveying a mediation approach to problem solving and beginning to apply it to the dispute
- evaluating the appropriateness of a range of services including mediation
- screening for domestic abuse and child protection issues
- signposting other agencies

Our evaluation in Glasgow confirms our belief that an intake interview does more for the client than convey information. The dialogue with the parent allows them to tell their story, to feel that they have been heard, to begin to reflect on the perspective of the other parent and to consider options for resolving difficulties. It provides considerable opportunities for recognition and empowerment, the twin goals of transformational mediation.⁹ It allowed clients to say, *“I can see a glimmer of light ahead of me now”* or even *“The mediator had me thinking how my partner may feel as well.”*

So, the intake interview allows the worker to model a mediation approach. I would suggest therefore that, rather than seeing a low conversion rate from intake to mediation as a failing, it should be viewed as a strength. Just under one third of our clients “converted” from intake to mediation. In conducting intake interviews with the other two-thirds, we were able to provide an important and timely support to people who would not be able to use mediation, perhaps because their partners were unwilling, because they found help elsewhere or because of their own fears and anxieties. I certainly hope

⁹ Bush, R and Folger, J, *ibid*

that the intake interview will continue to be developed and supported as a key step in the resolution of conflict and will not be judged to have failed because in England and Wales it delivered insufficient business to mediators.

To finish with another anecdote, I recall a client whose wife had been asking him to leave the family home so that she and the children could continue to live there. He hadn't wanted the separation and, in the intake interview, told me he didn't see why he should be the one to lose his home as well as, as he saw it, his wife and children. We spent an hour and a half discussing the options: his wife moving out, his moving out or the house being sold and the proceeds divided. We talked about the implications in terms of conflict and exhaustion of each one. He seemed genuinely taken aback that I might regard his moving out as one of the options.

A month later he telephoned me to say that he had decided to find a place of his own. Things had improved between him and his wife, and the children were seeing him more often and in a better atmosphere. He thanked me for our meeting and said that they would not be needing mediation as things were going so well.

Of course I don't know what happened after that, but what is clear is that this man failed to convert to mediation and yet was a satisfied customer. These are the opportunities that motivate me to write this piece and to continue with this work.