



Family Mediation Instead of Court

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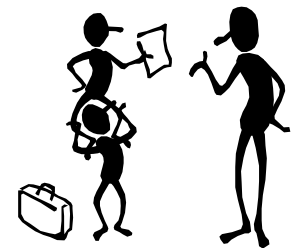
Purpose of Workshop

- Introduce the Mediation Model we use in working in the Family Court Arena
- Look at recent evaluation of this model undertaken by Barnardos Research Unit.
- Group Exercises
- Questions and discussion



NFRC and the History of Development of the Mediation Service

- Partnership between Barnardos and the local Health Trust since 1990.
- Newry Family Resource Centre offers assessment, therapeutic and preventative services to families with children who are deemed to be in need or at risk of significant harm and, where possible to enable children to remain within their family of origin.
- Utilise systemic thinking and practice.





- **Development of court work and mediation since 1999.**

Rationale: For the Trust

- **To relieve pressure on already overstretched child protection teams who had responsibility for provision of court reports.**

Rationale: For NFRC

- **To explore the possibility of applying systemic thinking and practice to court work in a way that would promote parental responsibility and produce better outcomes for children by facilitating parents in reaching agreement about contact and residence.**



The NFRC Model

- Utilizes systemic thinking and practice
- Court-associated practice
- A supportive Resident Magistrate
- Supportive legal representatives
- A Court Welfare Officer
- A screening process
- Neutral facilitators
- No legal personnel present





The influence of Systemic Thinking and Practice with regard to Our Mediation Model:

1. A shift from adversarial / conflictual position to one of empowerment for parents.
2. Parents have the primary responsibility for the upbringing and development of their children.
3. To enable parents to reach agreement about what is in the best interests of the children.





Court Mediation as per the NFRC model:

- Offers a model that fits with the context of the Family Proceedings Court.
- Parents are offered the opportunity to meet with the Court Mediator.
- Agreement that issues discussed will be shared with legal representatives.
- When appropriate, agreement placed before Court.

Issues of Child Protection / Domestic Violence:

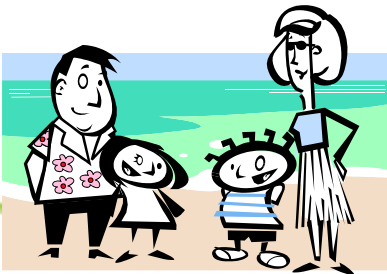
- Limits to confidentiality.
- Domestic violence – if parties in agreement to proceed, mediation will take place.
- Facilitator / either party can end the process.



Enabling parents to reach agreements:



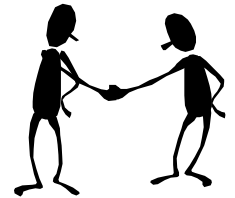
- Engagement – talk about their children.
- Acknowledge that as parents they are best placed to make decisions re: the best interests of their children.
- Help separate out adult relationships from issues pertaining to their children.
- Acknowledge the rights of the children to have a relationship with both parents.
- Listen to both parties – encourage compromise.





If agreement is reached:

- To congratulate parents on their achievement.
- Write up agreement and share with parents.
- Share with Solicitors/Barristers
- Ask both parties to read and sign if in agreement.
- The agreement goes before court if an Order needs to be made (Residence / Contact – interim / full order).



If no agreement is reached:

- Liaise with solicitors.
- Ask solicitors to speak to clients.
- Advise client of next stage of process – decision taken out of their hands.
- May arrange another appointment (time to think).





Evaluation: Family Mediation in NI. Evaluation of NFRC's Mediation Service

- In 2006, Barnardos Policy & Research Unit undertook an evaluation of the model;
- How effective is the NFRC mediation service in enabling couples to reach agreement?
- Do these agreements last?
- What are the resource implications of the model?
- Are there any limitations to the model?



The evaluation: method

- Audit of Court Reports and Mediation sessions conducted 2000-2006
- Audit of mediation cases that returned to the caseload within 6 months
- 5-minute self completion questionnaires to solicitors, barristers (N=8/36) and magistrates (N=19/30)
- Semi-structured, in-depth interviews with staff at NFRC
- They did not interview client users, as at the time we had no way of contacting them (revised)





Findings: An effective model

- 2004/05 - **80%** of mediations reached agreement and 75% of those lasted 6 months or more
- 2005/06 - **83%** of mediations reached agreement and 91% of those lasted 6 months or more

National averages (England & Wales)

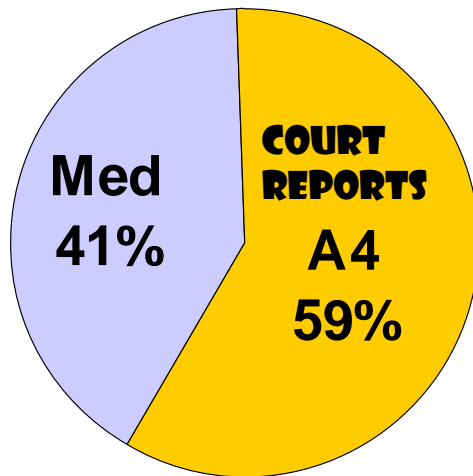
- 61% of 19,000 mediations reached agreement (National Audit Office, 2004-06)
- 50% of mediations reached agreement in audit of 15 providers (Davis, 2000)
- There is no record of how long these agreements lasted



Findings: Mediation saves time

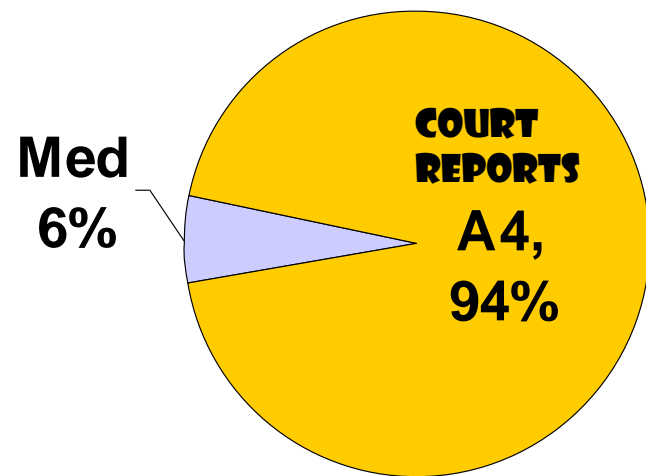
Analysis of the 101 court cases handled in 2005/06

Proportion of cases



59% of the 101 cases handled were Article 4 reports...

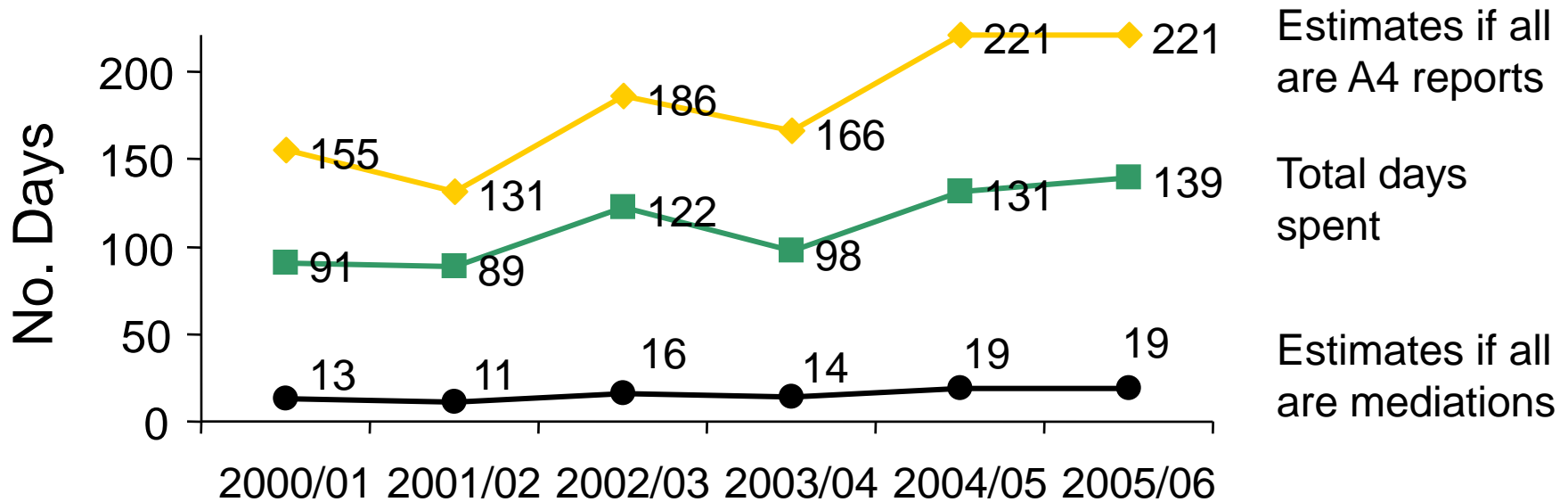
Time spent



... but the Article 4 reports took up 94% of staff time



Findings: Mediation saves money



221 days social work costs £27,439 (excl tax);

139 days social work costs £17,258 (excl tax) - a saving of £10,181



Legislation and Frameworks

Sections of the Children (NI) Order 1995 of direct relevance

Over-riding principles

- | | |
|---------------|--|
| Article 1 | The welfare of the child is of paramount consideration in all decision making |
| Article 1 (2) | Delay is prejudicial to the child |
| Article 1 (3) | The welfare check-list |
| Article 1 (5) | The principal of minimum intervention. No order should be made unless the court is satisfied that the likely outcome for the child of making the order will be better than making no order at all. |



Legislation and Frameworks

Orders

Article 8 Orders:

- Residence
- Contact
- Prohibited Steps
- Specific Issues
- United Nations Convention on the Rights of a Child
- European Convention on Human Rights and fundamental freedoms