DOMESTIC ABUSE? THE COMPLEXITIES OF HIGH CONFLICT DISPUTES: THE WORK OF CAFCASS.

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ABSTRACT: *This work explores the understanding and experiences of Cafcass practitioner's engagement in high conflict disputes involving implacable hostility. Design/methodology/approach: Cafcass practitioners are responsible for the preparation of welfare reports to the family court under section 7 of the Children Act 1989 (Cafcass, 2014). These reports are designed to assess what is in the best interests of the child when parents are in dispute over the child's contact arrangements under private law proceedings (Cafcass, 2014). Semi-structured interviews were conducted with 7 participants (Cafcass practitioners). Data were analysed using thematic analysis. Findings: The study finds that practitioners require more assistance in identifying implacable hostility earlier, and also require help in how best to weigh up the 'balance of harm' to the child in individual cases. The study also discusses recent developments in the nature of high conflict cases, including the role of social media in accentuating hostility.*

KEYWORDS: Domestic Abuse, High Conflict, Disputes, Hostility.

INTRODUCTION

The Children and Family Court Advisory Support Service (Cafcass) were commissioned responsibility for family court matters since April 2001 (Mantle and Critchley, 2004, p. 1161). Previously such work was the responsibility of the Probation Service, however in the late 1990's Government policy shifted from a purely child protection-oriented focus towards a more holistic approach to supporting family units (Mantle and Critchley, 2004, p. 1164; Platt, 2006, p. 276). Cafcass was created as a new Government agency comprising of the Children's Branch of the Official Solicitor's Department, the Guardian ad Litem Service, and the Family Court Welfare Service (Mantle and Critchley, 2004, p. 1164).

Cafcass work within both private and public law cases. If a Local Authority has welfare or significant safety concerns for a child, they can apply to the Family court to take over parental responsibility (Cafcass, 2014). When a Local Authority applies to take a child into their care, the role of Cafcass is to ensure that decisions are clearly made in the child's best interests (Cafcass, 2016). Under private law, a private case may be referred to Cafcass by the family courts; if so, Cafcass will assess and support the court with information needed for a safe decision to be made about the arrangements for the children involved. Courts then have the power to assign to Cafcass the preparation of detailed welfare reports under Section 7 of the Children Act 1989 (Mantle *et al*., 2008, p. 431). Practitioners are expected to write a triangulated assessment of the case – based on first-hand assessment of the quality of relationships between the parties to the dispute and their children - in order to assist the court to reach a decision about contested issues such as residence and contact arrangements (Mantle et al., 2008, p. 435; Burton, 2003, p. 405). The judge will normally request the report at the directions hearing and stipulate the issues to be addressed. The Cafcass practitioner is required to accurately represent the wishes and feelings of the child within the welfare report (Mantle *et al.,* 2007, p. 786).

The challenges faced by Cafcass practitioners are particularly complex in high conflict disputes between the parents or carers. A high conflict dispute is distinguishable from a low conflict dispute by increased hostility and preoccupation between the parents, repeated malicious allegations, a high incidence of litigation, lower rates of child support compliance, and an overall lower assessed capacity to parent (Birnbaum & Bala, 2010; Saini, Redmond, Polak & Yadeta, 2011). In the majority, parents resolve their grievances amongst themselves, usually within two to three years from separation or divorce (Kelly, 2003), however in an estimated 10-20 percent of cases the relationship remains locked in a prolonged state of high conflict (Kelly, 2000; Kelly, 2003; Kelly, 2006; Johnston et al. 2005). Such conflict can be highly damaging to the children involved: repeated stress in childhood can affect brain development, causing lasting negative consequences extending into adulthood (Perry et al., 1998; Karr-Morse and Wiley, 1997; Siegel, 1999). The Cafcass caseload is increasing by the year; between April 2015 and March 2016, the organisation received a total of 37,568 new private law cases - an increase of 9% on the previous year (Cafcass, 2016). In the same period, the number of public law cases increased from 11,159 applications to 12,758 – an increase of 14% on the previous year (Cafcass, 2016).

The primary responsibility of the Cafcass practitioner is to protect the interests of the children involved in the case. This requires a high level of expertise in high conflict cases problematically, however, although it is the Cafcass practitioner's responsibility to protect the interests of the child involved in complex cases (Litback,2007), there is a distinct lack of research about how child protection services can best challenge, support through ongoing family conflict and engage with these types of cases (Saini et al., 2012). Indeed, Saini et al. (2012,) observe that the lack of literature guiding the decision-making process of child welfare officers involved in high conflict disputes is "concerning". Mantle et al. (2007,) concur that the literature on family court practice is "sparse", and leaves practitioners somewhat adrift without sufficient guidance. The relative paucity of literature on such an important issue makes this topic ripe for further exploration.

The terminology 'Implacable hostility' made its judicial debut through Re *B [1984] FLR 648) over thirty years ago.* Stowe (2013) highlights that the terminology implacable hostility should not be used to label a parent who presents as awkward or upset regarding contact with the other parent but, rather, it is a specific term reserved for the most obdurate of parents. Implacable hostility relates to parents who will go to great lengths to restrict or sabotage their children from having a positive relationship with the non-resident parent, "the desire of the hostile parent to restrict or sabotage the child and parents relationship outweighs any acceptance that that what they are doing is not in the best interests of the child and they may genuinely believe this to be the case" (Stowe, 2013, p74). Implacable hostility may present for a number of reasons, for a parent to control a situation, seek revenge, or genuine belief that restricting contact between a child and the non-resident parent may be in their best interests. However every case is individual and different, it is worth noting that some parents will restrict contact with the non-resident parent due to genuine fear of violence for example following a domestic abuse relationship this would not be considered as implacable hostility (Kelly, 2000).

Implacable Hostility can manifest itself in varying ways, such as the resident parent restricting or refusing contact, making unpleasant remarks about the non- resident parent which may undermine the relationship that the parent and child may have, hiding gifts, letters or messages from the non-resident parent, moving to another area and withholding contact details and false

allegations of Violence or sexual abuse V v V [2004] EWHC 1215) (Stowe, 2013, Burton, 2003).

This research aims to take an exploratory approach aiming to examine the understanding and experiences of Cafcass practitioner's engagement in high conflict disputes involving implacable hostility. The research aims to achieve this by interviewing Cafcass practitioners on a 1:1 basis. The following research questions were explored:

1. What are the practitioners understanding of the concept of implacable hostility?

2. What are the experiences of Cafcass practitioners working on high conflict disputes where implacable hostility is present?

3. How Cafcass practitioners currently manage high conflict cases where implacable hostility is present?

4. Exploring any challenges faced by Cafcass practitioners in such cases

5. Identifying any tools, support and/or guidance available to Cafcass practitioners in high conflict cases where implacable hostility is present

The Cafcass practitioners understanding and experiences are explored through 1:1 semi structured interviews conducted by the researcher. Qualitative data is used throughout the research study to present and discuss findings and explore the implications for social work practice whilst highlighting future recommendations for professional practice.

This article will review the literature in three stages: first, by assessing how scholars seek to define and characterise high conflict disputes; second, by drawing out the implications of high conflict disputes for the children involved; third, by identifying what the literature regards as the main challenges and dilemmas facing child welfare practitioners operating in a family court context.

High Conflict Disputes

A notable feature of the literature is the absence of consensus about how best to define high conflict disputes. However, what is known is that within high conflict disputes there is often an element of implacable hostility subjected towards the child (Stowe, 2013). As stated in the introduction, cases of implacable hostility involve increased enmity and preoccupation between the parents, repeated malicious allegations, a high incidence of litigation, lower rates of child support compliance, and an overall lower capacity to parent (Stowe, 2013). It is important to note that the concept of implacable hostility comes with some increased tensions as some scholars, such as Wallbank (1998), argue that the term is often used by fathers to paint mothers as irrational within proceedings and assessments. The broader term of 'high conflict disputes' is arguably preferable to use as this does not denote any directed blame which could otherwise be declared subjective as implacable hostility is difficult to assess, evidence and measure.

Rather than offer a definitive definition, Saini *et al.* (2012) identifies three characteristics said to be intrinsic to high conflict disputes that have elements of implacable hostility: manipulation, a sense of perpetual crisis and a lack of communication. To turn first to manipulation, which is known to be a common feature of high conflict disputes and incorporates the warring parties attempt to 'work' the child protection system in order to win support for their own claims (Saini

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et al., 2012, p. 1311). Parents within disputes also often attempt to manipulate the children themselves against the other parent (Saini *et al.,* 2012,). At the most extreme level, this can lead to parental alienation – a concept that will be explored in due course. A second characteristic of high-level disputes is a perpetual sense of crisis; the majority of families go through emotional highs and lows whereas high conflict families seem to be permanently locked in a cyclical crisis mode with a "continuous elevated state of emotional arousal" (Saini *et al.,* 2012, p. 1311). The third characteristic is an absence of reasoned communication between the parents: parties to high conflict disputes struggle to communicate effectively, or at all, which breeds mistrust and misunderstandings. Often, the lack of communication derives from feelings of hurt and betrayal that continue to impact the relationship between the parents even long after the divorce or separation. As Lebow and Rekart (2007, p. 84) note, communication is therefore "invariably absent or filled with conflict" in high conflict families.

The Question of Domestic Abuse

Domestic abuse is defined by the UK government (2016) as **"**any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality". Domestic abuse covers a broad spectrum of behaviours including those that are attributed to psychological, physical, sexual, financial and emotional abuse. According to Refuge (2016), 1 in 4 British women will experience domestic abuse at some point in their lives, and the figure in any given year is 8%. However due to the nature of the type of abuse, it has been widely recognised that these figures may be somewhat short from reality (Harrison, 2008).

The literature identifies an interesting overlap between high conflict disputes and cases of domestic abuse. Some analysts even argue that domestic abuse should be included as a defining characteristic of high conflict disputes given the frequency with which the two categories coincide (Saini et al., 2012). It is suggested that high conflict disputes are often a continuation and re-manifestation of domestic abuse dynamics. Smith and Stover (2013, p. 219) suggest "that domestic abuse is a factor in between 25 and 50 per cent of high conflict divorces". Furthermore, there appears to be an overlap between domestic abuse and child abuse: studies report that between 30 and 60 per cent of children living in homes where the mother has been physically abused by her partner also find themselves abused (Edleson, 1999). Even when the child him or herself is not subjected to physical abuse, witnessing domestic abuse in the home can be highly damaging to the child's development (Cunningham and Baker, 2004).

Domestic abuse is a complex matter for family court/Cafcass practitioners because abusers may use the court system to further harass the victim (Jaffe, Crooks and Poisson, 2003). In addition, "domestic abuse can damage the victim's parenting capacity, causing depression, low self-esteem and other harmful consequences" (Jaffe et al., 2009, p. 172). Consequently, the literature suggests that in cases of domestic abuse there needs to be a paradigm shift away from the dual parent ideal towards a plan that protects the victim and children, usually by a sole custody outcome (Jaffe et al., 2009, p. 169; Smith Stover, 2013, pp. 219-20), however this may be in direct contention with Cafcass (2014) who advise that a child should have a meaningful relationship with both of their parents if it safe to do so. One of the key objections made by Wallbank (1998) is that genuine victims of domestic abuse are let down by the courts when (most often) the father holding parental responsibility invokes the notion of implacable hostility to discredit the mother. Identifying the most credible scenario can present as difficult and challenging for the workers involved (Jaffe et al 2009,). This difficulty is accentuated when a

parent presents a false but convincing impression of respectability to the court using behaviours distinguished through being a perpetrator of abuse i.e. controlling in nature, intelligent and knowledgeable of the court system (Bowermaster & Johnson, 1998; Zorza, 1995; Schuldberg and Guisinger, 2001).

The Question of Parental Alienation

This leads directly on to the related question of parental alienation, a term used to describe a form of emotional abuse in which one parent vindictively attempts to turn the child or children against the other parent (Lowenstein, 2015, Lowenstein, 2007). The term 'parental alienation syndrome' was first acknowledged by child psychiatrist Richard Gardner (1985) to describe a "child's campaign of denigration against a parent, a campaign that has no justification. It results from a combination of programming or brainwashing parent's indoctrinations and the child's own contributions to the vilification of the target parent (Gardner, 2002, Gardner, 1999). According to Kelly and Johnston (2001, p. 251), an alienated child "expresses freely and persistently unreasonable negative feelings and beliefs…towards a parent that is significantly disproportionate to the child's actual experience with that parent". The hatred towards the alienated parent becomes "obsessive", and children grieve almost as if they have lost the parent (Moné *et al.,* 2011).

Often, the main method of alienating the child from the other parent is to make false allegations of child abuse, especially sexual abuse (Nichols, 2014, Lorandos, 2006). In a high conflict dispute, attempted alienation will also take the form of 'coaching' the child to say certain things against the other parent in order to undermine that parent in the eyes of the court and assessor (Mantle *et al.,* 2008,). This is directly against the ethos of the court, since a child has a right/entitlement to maintain a relationship and contact with both parents; this is not a privilege to be granted by the residential parent. This legal position was recently reinforced by the judgment in *Re A (A Child) [2015] EWFC 11.* In this case the Court of Appeal stated that "it is and should be a given that it will normally be in the best interests of a child to grow up having a full, real and entirely ordinary relationship with each of his or her parents, notwithstanding that they have separated and that there may be difficulties between the two of them as adults". The Court reiterated that all parents have a responsibility to do their best to meet their child's needs in relation to the provision of contact and that it is not acceptable for a parent to shirk that responsibility and simply say "no". If a parent unreasonably withholds contact from the other then the Courts are clear that they can, and will, make Orders to ensure that this is not allowed to continue.

It is generally the parent with whom the child spends most time with who is most likely to alienate the child against the other parent (Warshak, 2015; Clawar & Rivlin, 2013). Yet, this is not always deliberate on the part of the alienating parent: Darnall (2010) distinguishes between naive, active and obsessed alienators. "Naive alienators undermine the child's relationship with the other parent but in a careless rather than deliberate way" (Lowenstein, 2013, pp. 660-1). Active alienators are more conscious about their denigration of the other parent, but realise that what they are doing is wrong (Lowenstein, 2013).

The concept of parental alienation is highly contested and controversial (Meier, 2009). Nichols (2014, p. 663) notes that the concept has been "widely discredited by mental health professionals and fails standards of evidentiary admissibility". Indeed, many professionals argue that false allegations of child abuse are much rarer than Gardner suggests – one study of 9,000 contested custody cases found only 2% involved allegations of sexual abuse, and of those

only half were substantiated (Nichols, 2014). Further, domestic abuse activists argue that the concept of parental alienation is used to undermine victims and override the reasonable desires of women to have nothing to do with their abusers (Nichols, 2014). For these reasons, the term parental alienation is not widely accepted by the judiciary in the UK, nor by Cafcass, and the term high conflict dispute leading to implacable hostility is preferred instead – although, as we have seen, this is not without its own problems (Lowenstein,2013,). Overall, this remains a highly controversial area, with a significant degree of disagreement and challenge visible in the literature (Lowenstein, 2012).

Implications of High Conflict Disputes for Children

The most important person in a high conflict dispute is, of course, the child. Many analysts argue that high conflict disputes amount to a form of emotional abuse, which can be defined as "the ongoing emotional maltreatment or emotional neglect of a child" (Lowenstein, 2012). This can include making children feel frightened, or forcing them to hear or see the ill treatment of another (Cawson *et al.,* 2000). There is overwhelming consensus in the literature that high conflict disputes damage children and have a significant adverse impact on their psychological functioning and development (Smith Stover, 2013, Rodgers and Pryor, 1998). Divorce in itself has been described as "the single most traumatic experience of a child's life – but this harm is magnified when conflict between the divorced parents remains ongoing" (Nichols, 2014, p. 664). Children in such circumstances are at higher risk of adjustment difficulties – higher even than for their peers who live in an acrimonious two parent home (Moné et al., 2011, Hetherington and Stanley-Hagan, 1999; Hetherington and Kelly, 2002).

There is significant psychological and neuroscientific evidence to support these claims. Developmental over-pruning (of the corticolimbic system) describes the toxic effect of overwhelming stress on the young brain: the release of stress hormones leads to excessive death of neurons in crucial pathways involving the neocortex and limbic system – the areas responsible for emotional regulation (Perry, 1997; Karr-Morse & Wiley, 1997). Repeated experiences of fear, terror or other stress experiences can be deep-seated within the circuits of the brain as states of mind – caused, for example, by incidents such as telling a child the other parent may hurt them or take them away (Siegel, 1999). High conflict situations can therefore force a child into a perpetual state of anxious arousal on account of repeated exposure to threat or danger, and this pattern of emotional activation can become entrenched as a personality trait (Wiley, 1997).

In addition to the trauma inflicted by seeing their parents warring with each other, the particular problem for children in high conflict disputes is that they become 'triangulated' between both parents (Lebow and Rekart, 2007; Erel & Burman, 1995). As Mantle *et al.* (2007, p. 786) suggests, "Children become "torn" between the parents and feel their loyalties being split two ways". This problem is accentuated by the fact that most children do not even receive a joint explanation from the parents about the reasons for the separation; some do not receive any explanation at all (Mantle *et al.,* 2008,). If high conflict coincides with alienation (usually of fathers), the damage to children can be even greater, since lack of contact with fathers can lead to internalising of symptoms by children and a tendency to harbour more negative representations of the mother (Smith and Stover, 2013,). In summary, therefore, it is clear that high conflict disputes cause untold harm to children – underlining the urgent need for a successful resolution of such disputes as quickly as possible.

Practice Challenges and Dilemmas

Establishing evidential base

Of all the dilemmas facing Cafcass practitioners, perhaps the one underscored most often in the literature is the difficulty of discerning the most credible account in a contested situation. Numerous scholars observe how hard it is for a child welfare officer to work out which of the numerous claims and counter-claims are true and which are false (Brown, 2003; Jaffe et al., 2008; Johnston et al., 2005). Even when the parents do not deliberately invent claims, "it can often be the case that they have differing memories, agendas and interpretations of events" (Jaffe *et al.*, 2009, p. 178). Individual perceptions of events naturally differ, meaning that there is not necessarily any one 'real' version of events that can be uncovered by a third party to the conflict (Jaffe *et al.,* 2009). Furthermore, assessing emotional harm to the child – intangible by its very nature – is also a significant challenge for practitioners, "Emotional harm is much more difficult to evidence than physical harm and requires considerably more expertise from practitioners" (Saini et al., 2012, pp. 1312-3).

It is equally difficult to determine the real views of the child given that the child will often be reluctant to offend either parent (Mantle et al., 2007). Moreover, children form mental representations in response to both internal and external factors: this can make them less reliable than adults and more inclined to state, or believe, things that aren't true (Mantle *et al.,* 2007). Moral reasoning remains relatively undeveloped until the age of 8 or 9, forcing children to rely upon adults, Poor reasoning, and parental influence, can make wishes and feelings unreliable (Saini *et al,* 2012) This undermines any notion that it is possible simply to 'collect' a child's true thoughts (Mantle *et al.,* 2007,). Instead, the practitioner may be forced to fall back on interpretation, which means that the welfare report can at best be a representation of the situation (Nichols, 2014). This then becomes problematic when the practitioner has a duty to ascertain the child's wishes and feelings and capture the child's voice within the welfare report (Cafcass, 2014; The Children Act 1989; 2010). That said, there is some evidence that children's competence may be relatively high developed in the right circumstances (Neale, 2002; Smith et al., 2003). Projects involving children in a research capacity have found their skills to be relatively sophisticated, suggesting that the child can become a partner in the process if the practitioner designs the assessment appropriately (Fielding and Bragg, 2003; Kellett et al., 2004; Moules, 2006).

Lack of Guidelines

There is a high degree of consensus in the literature "that child welfare practitioners lack guidance for dealing with high conflict cases" (Saini *et al.,* 2012, p. 1309). Although each case must be judged on its own merits, guidelines are noted to be extremely useful for practitioners - especially in complex cases (Lowenstein, 2015). A particular problem is the lack of precision about exactly where the threshold for 'high conflict' cases – as opposed to 'standard' cases – lies, with practitioners often left unsure whether a case qualifies as such or not and where the high conflict case has complex features of implacable hostility. In general, practitioners also seem unaware of the short- and long-term effects of high conflict disputes (Saini *et al*., 2012). This underscores the need for common guidelines that will enable a consistent approach to be adopted in such cases. The fact that "21% of mediation agreements currently break down within one week" is perhaps an indication that the system is not working as well as it could (Mantle and Critchley, 2004, p. 1168).

Time and Professional Challenges

Practitioners may suffer considerable amounts of stress when engaging with high conflict cases (Bacon and McKenzie, 2004; Saini and Birnbaum, 2007). These cases take significant amounts of time as the practitioner engages with both parents, much time is taken by investigating allegations and counter allegations (Brown, 2003). The assessment task itself is also more onerous in high conflict disputes: as well as the 'standard' elements of understanding children's needs, wishes and feelings and parents' skills (Bacon and Mckenzie, 2004). Time must also be invested in the 'second layer' ascertaining the history of the parental conflict, and children's coping methods and so forth (Jaffe *et al.,* 2009,) therefore making the assessment process more difficult. "To manage one highly complex and conflicted case is estimated to be equivalent to managing several standard cases" (Saini *et al.,* 2012, p. 1314), which may cause further issues due to the increasing number of cases allocated to Cafcass each year (Cafcass, 2016).

The additional time and emotionally charged situation is said to cause considerable stress to practitioners, Previous studies have found that "practitioners report feeling emotionally drained and suffer sensations of stress and trepidation" (Saini *et al.,* 2012, p. 1313). Practitioners are often asked to give evidence in court about the accuracy of their report which may place further worry, stress and pressure upon the practitioner (Mantle *et al.,* 2007).

Assessment versus Intervention

Cafcass is clear that its own role is 'not a treatment agency, Cafcass staff work with children, but do not undertake therapy' (Cafcass, 2006, para. 3.6). The principal aim of a family court is not therapy but to reach a settlement, which means that the primary role of the Cafcass practitioner is to assess rather than to intervene (Mantle and Critchley, 2004, Mantle et al., 2008). However, in practice the lines are often blurred since assessment often underlines the need for intervention (Walker and Beckett, 2003). Indeed, Mantle *et al.* (2008,) suggest that assessment can simply be seen as the first stage of intervention – and that "in a sense, going 'beyond assessment' is inevitable". In reality, practitioners often enjoy discretion to intervene where they deem it appropriate (Mantle *et al.,* 2008, p. 434). Examples of such interventions include: attempting to broker an agreement between the parents; helping the child deal with their situation; facilitating improved communication within the family; and making referrals to other agencies and support services (Mantle et al, 2008, Parkinson, 2006).

Such interventions can often be justified on the grounds that no one else is available to do it, but there are nonetheless difficult questions of legitimacy. Cafcass practitioners have no mandate to intervene in a therapeutic way when assigned reporting duties; their principal role is to assess the child and family and report back to the court (Milner and O'Byrne, 2002; Parker and Bradley, 2003). Going beyond this defined role might seem ethically justified, but it also places practitioners in a difficult moral position since, technically, they are acting outside their remit when they intervene in such circumstances (Mantle et al., 2008.).

SUMMARY

The literature review identified a number of key themes. Firstly, although there is general agreement about the main characteristics of high conflict disputes - parental manipulation, a permanent sense of crisis, and poor communication – there is much less theoretical consensus about whether concepts such as implacable hostility and parental alienation are useful or not.

There is also disagreement about whether or not domestic abuse should be contained within the definition of high conflict disputes.

Secondly, high conflict disputes are highly damaging to children, and highly challenging to practitioners faced with the almost impossible task of discovering the most credible account about prior events in a relationship and about the emotions and sentiments of the child. The lack of clear guidance for Cafcass practitioners – not helped by the conceptual and theoretical dissensus described above – makes their task considerably more difficult.

Thirdly, these practice difficulties are accentuated by the underlying tension between assessment and intervention that constantly confronts Cafcass practitioners. The question of how best to balance assessment and intervention in future practice is a critical one.

The literature search failed to provide any research on practitioner's experiences of the use of tools or guidance used to assess if a case is considered a high conflict case that has led to implacable hostility. Thus, gaps in the literature underline the necessity of this type of research and point to the need of the development of further lines of enquiry.

METHODOLOGY

Methodological Framework

The purpose of the study is to examine the understanding and experience of Cafcass practitioner's engagement in high conflict disputes involving implacable hostility. Therefore this study adopted a qualitative research design through an interpretivist paradigm (Bryman, 2008) as the research aims to examine practitioners understanding and experiences of the topic defined. This is naturally expressed through language rather than numerical value and therefore is best captured in a similar form (Cohen *et al.,* 2011). Interpretivist theories support the assumption that social reality is subjective as it is shaped by individual perceptions (Denscombe, 2007). Moreover, the perception of a situation can be shaped by the individual paradigm adopted; the lens through which the work is viewed. The ontological position being that reality is socially constructed and the epistemological view requires understanding of different views and experiences of people within a particular situation (Cohen *et al.,* 2011). Therefore, Denscombe, (2007) highlights that the social world cannot be researched in the same way as the natural world (Petty *et al.,* 2012).

Sampling

The purpose of sampling is to identify a group of people who represent the research aim (Griffiths, 2009). This can therefore be unreliable and create distorted data. For example, if a sample is selected primarily because they indicate a particular viewpoint the researcher wishes to highlight, this may exclude other people who have a differing, but equally valid viewpoint. The specificity of the research aim incorporates the use of purposive sampling, since this enabled the specific targeting of participants who possessed the characteristics that could best inform the research (Patton, 1990; Parahoo, 2006). The key characteristic in this case is working as a Cafcass practitioner on private law cases in the field of high-conflict disputes between parents.

The sample therefore focused on Cafcass practitioners working in a local team. Access to this sample was achieved on the basis of a 20-week placement at this office prior to the research being undertaken. The inclusion criteria for the sample were set as Cafcass employees, and the exclusion criteria were set as Cafcass workers on secondment from the local authority. Given that there are only 10 practitioners in the local team, the study aimed to achieve 6-8 participants. The potential participants were invited to participate in the research study by email.

Data Collection

The interviews were semi-structured, based around a list of questions but with scope for focusing more deeply on particular areas where the participant expressed an inclination to go into greater detail. The interviews were conducted on Cafcass premises in a private room away from the main office and carried out on a one-to-one basis.

Data Analysis

The study utilised a thematic analysis for analysing the data collected. Braun and Clarke (2006) describe this as identifying and examining themes within data. Themes across data sets are important to the description of a phenomenon and are associated to a specific research question (Morgan, 2004). Thematic analysis is Compatible with differing epistemological positions and Fielding, and Bragg, (2003) further add that this approach is appropriate for novice researchers. However, Thompson (2000) highlights some criticism to this approach. Fielding and Bragg (2003) add that the approach can be hard to follow due to the limited guidance for researchers. Therefore it was imperative that the researcher adopted a clear structured approach whilst utilising thematic analysis within the study. Braun and Clark (2006) model was utilised to assist the researcher through the analysis of data. The data collected was manually coded to the research questions to enable themes to be drawn out from the data collected (Fielding and Bragg, 2003). This enabled the novice researcher to follow guidelines of the use of thematic analysis whilst ensuring the flexibleness tied to its epistemological position (Morgan, 2004).

RESEARCH FINDINGS: A CRITICAL DISCUSSION

Introduction

This section presents and discusses the research findings with a view to drawing out the main themes of the interviews with Cafcass practitioners. The analysis is therefore thematic, sub-divided according to the principal themes identified during the course of the research. The interviewees will be identified as 'P1', 'P2', and so on, to represent each practitioner.

Experience of working with implacable hostility

Perhaps the most obvious starting point was understanding what Cafcass practitioners understanding of implacable hostility was. It quickly became evident that such cases were relatively frequent and that their number seemed to be growing. P1 had worked at Cafcass for eight years, and during that time had experienced "*at least four or five cases every year*" of implacable hostility. In two of these cases, the children had been removed from the care of their mother because the level of emotional harm was deemed as significant level. P1 observed that

high-conflict cases have "*been around always*" but also stated that "*I think it's on the increase*". P3 agreed with this, observing that "*more and more so, we have cases you just feel you can't move them on… I think we see more and more in private law in Cafcass*". Although P6 stated they "*have had a few, not an enormous amount*", another interviewee, P7, agreed that "*it happens a lot at least one case a month.* P4 also stated that they had had "*lots of cases*", and P5 observed that "*we deal with it a lot in this team*". Generally the practitioners stated that they were receiving at least one case every few months where they thought implacable hostility was present in their cases.

Practitioner Perceptions of cases where implacable hostility is present.

Broadly, practitioners' perceptions of the nature of implacable hostility correlated closely with the definitions set out in the literature. P1 stated that *"it is usually one parent or both parents where they are unable to shift from their position and this leads to a situation where they become so embedded in their views that children become involved in that and they are unable to consider any alternative view…"* Later in the same interview, P1 observed that the concept of implacable hostility in particular describes a situation where "*sense and reason and what's in the child's best interest is lost… they cannot see anything else or what's in the children's perspective; they often will use their children as, I guess, a weapon in their hostility towards the other person". This appears to be echoed in the work of Lowenstein (2015).*

Practitioners were careful to note the distinction between cases of 'average' or 'normal' conflict and those involving high conflict. P7 made an observation that "*there is conflict between all parents otherwise they wouldn't be in proceedings, would they?"* However, P1 observed that there is "*a difference between people who feel hostile towards somebody and don't like what someone has done and then the hatred and the difference with somebody who absolutely hates the other person".* The dividing line between standard cases where implacable hostility is present appears to come when the practitioner is unable to enable the parents focus on the best interests of their children. As P4 stated, "*with these parents you can't make them be child focused".* Echoing much of the literature (Lowenstein, 2007 Kelly, 2000; Kelly, 2003; Kelly, 2006; Johnston et al. 2005) Mantle and Critchley, 2004). P6 observed that a period of anger and unreasonableness is common in many divorce cases, but that *"in most situations that calms down and they are able to…establish some reasonable arrangements for the children".* The difference in cases where implacable hostility is present means   that *"they are unable to do that".*

One indicator of implacable hostility, therefore, is that one parent simply refuses to consider contact between the other parent and the child even though there is no justification for this stance. As P3 observed, "*they will say they don't feel the child is safe and yet despite lack of evidence they will continue to give that view that the child is not safe… it's hard to budge the parent from that position".* Later in the same interview P3 expanded on this line of thought: *"It's just when the evidence is really clear to me that contact is the way forward and still it's like a brick wall".*

Drivers of implacable Hostility Cases

The immediate spark for a high conflict case such as a case where implacable hostility may be present appears to be generally a dispute about how much contact one parent is permitted with the child (Lowerstein, 2007). P4 commented that it tends to be "*mums*" who seek to restrict contact with the child, but also noted that "*I have a case with a dad now".* P3 observed that

high-conflict cases tended to "*crop up in private law proceedings rather than public*". The underlying causes of a dispute over contact tend to vary according to the particular circumstances of the case. Sexual abuse and domestic abuse were both mentioned by several practitioners – but, interestingly, not as drivers of high conflict cases but rather as symptoms of them. In other words, practitioners suggested that one parent generally the mother will make up allegations, or exaggerate previous incidents, in order to alienate the father from the children. This was also echoed by Lowenstein (2012), who states allegations such as sexual or physical can be alleged in order to create issues with the other parent.

In terms of domestic abuse, P1 observed that in high conflict cases there has often been *"an incident, usually one incident, of aggression or violence or where somebody has been unexpectedly angry and the children have witnessed that, and then that is used as a tool with children to make children fearful of their father even though it has been an isolated incident due to the break-up rather than a pattern of domestic abuse"*. P6 had also encountered a case where "*the mother has alleged quite high levels of domestic abuse which she hadn't disclosed before".* This is echoed in existing research that domestic violence is the most common welfare issue raised in private law proceedings (Bancroft and Silverman, 2002; Hunt & Macleod, 2008). Interestingly P3 raised the issue *of one parents appear to state domestic abuse as a way to control the other.* The term 'control' are now included in the revised government definition of domestic violence (Home Office, 2013). P2 added that *'domestic abuse can be really hard to work with and detect especially whilst interviewing parents'*. There is no current literature available on practitioner's experiences of interviewing parents in relation to domestic abuse allegations and counter allegations therefore the differing views and experiences of the Cafcass practitioners could be from their own practice experiences and personal views (Thompson, 2000, Burke, 2006).

Sexual abuse was also mentioned by practitioners but generally in the context of false or malicious accusations. P1 stated that "*in at least two or three cases there had been allegations of sexual abuse that have been investigated and there has been no evidence to support that, and usually low level sexual abuse"*. In two of the cases, digital penetration of the anus had been alleged, but P1 noted that such allegations were *"very hard to prove"* and the child descriptions of the alleged incident(s) tend to be *"very muddled"*. P7 also described a case where "*mum had convinced the child and herself I think that that dad had sexually abused him, although there was no evidence to say he had".* This was further supported by Milner and O' Bryne (2012) who that sexual abuse claims are a complicating factor within private law work.

Another driver of conflict mentioned by practitioners is when one of the parents enters a new relationship. As P1 commented, "*very often as well in a couple of cases the hostility has occurred when the other parent has formed a new relationship"*. Later in the interview, P1 expanded on this: *"Has there been a new partner? Sometimes somebody having a baby with another partner can be a trigger…"* In such circumstances, previously amicable arrangements in relation to contact with the children can suddenly become conflictual and require outside intervention. Interestingly, P1 stated that the possible rise in high-conflict cases was partly caused by parents using social media to criticise their ex-partners. In addition, it is possible that seeing ex-partners posing with their new partners on social media can also cause problems. The social media factor may raise antagonism and turn an averagely acrimonious dispute into a high-conflict one.

Practitioner Perceptions of Parental Alienation

Practitioners largely echoed the literature in distinguishing parental alienation from implacable hostility (Gardener, 2002, Kelly and Johnston, 2001) P1 stated that implacable hostility refers to the relationship between the parents, whereas parental alienation describes a situation *"where those views filter down to the children…so they will gradually and in a clever way undermine the views the child have of their absent parent"*. The child then "*takes the views on as their own and becomes resistant to seeing that father, that mother, those family members, and that could be demonstrated in the child refusing to see them, children becoming distressed when they see the parent as though something incredibly traumatic has happened to them".*

Sexual abuse claims were most likely to arise in cases of possible parental alienation. Equally, though, practitioners noted that the concept of parental alienation itself was contested and of ambiguous value. Interestingly, P5 observed that parents themselves will sometimes use the term parental alienation in an effort to lead the Cafcass practitioner in a certain direction: "*A lot of parents will use the term parental alienation; some will go even further and use the term parental alienation syndrome…she has parental alienation syndrome, she won't let me see my child…".* Furthermore, P5 noted that "*we need to be careful with parental alienation syndrome; it isn't recognised".* Later in the interview, P5 expanded on this point: "*There's a temptation to go away and look up a body of information, particularly parental alienation syndrome, which can lead you down a very difficult path which could be the wrong path to take professionally".* This might be why P7 stated: *"I don't recall ever using parental alienation in a report as I wouldn't feel confident. I don't know anyone else who has used it".* Although practitioners were aware of the concept of parental alienation, then, they were generally wary of using the term in any official sense which is consistent with Cafcass current operating framework, (Cafcass, 2014).

The Challenges of Dealing with High Conflict Cases

There was general consensus among the interviewees that high conflict cases are some of the most difficult and challenging they confront. As P1 observed, *"they are some of the most difficult cases to deal with because whatever you say to that person they don't acknowledge it, or accept it, or see the harm that it's doing to the children even when you point that out".* A major problem for practitioners is parental defensiveness, which cropped up again and again in the interviews. For instance, P1 commented that "*they are often the cases where they* [the parents] *become defensive, they shut down, they won't let you see the children and they make complaints".* Indeed, P1 suggested that parents can even extend their hostility to the practitioner: *"It creates difficulties in the relationship as well and that is when they become implacably hostile with you as a worker as well".* P1 recalled high conflict cases where the parents *"have also tried to undermine my role and the child's ability to share with me".* P5 also stated *that the work with the child can become difficult as a parent may try to stop this happening.*

The importance of establishing the child's view and delivering a child-centred service are key issues for effective child protection (Munro, 2011). As Munro (2011:25) states:

> Children and young people are a key source of information about their lives and the impact any problems are having on them in the specific culture and values of their family. It is therefore puzzling that the evidence shows that children are not being adequately included in child protection work. A persistent criticism in reports of

inquiries and reviews into child deaths is that people did not speak to the children enough.

Hobbs (2001) and Mantle et al (2007) concur with the Cafcass practitioners, stating that children not wanting to go against the resident parent or upset either parent can make direct work with children difficult especially as Cafcass have a statutory duty to gain the child's voice through their wishes and feelings (Cafcass, 2014, Children Act 1989).

A second difficulty relates to the time constraints experienced by practitioners when dealing with high conflict cases. P1 describes the *"contradiction of what I think needs to be done and what I am allowed to do on the case, the responsibility of the other cases I have… It feels like I am not supported to do what I feel I need to do for those children, because of time constraints"*. In the same vein, P4 agreed that *"it's hard when Cafcass have short time [periods] like eight weeks for private work to change things when it's so entrenched"*. As noted above, most high conflict cases occur under private law, which P5 observed presents difficulties because "*as its private law we don't have a lot of time… I am not sure we have the time unless they go through the system"*.

A third challenge is the difficult of weighing the balance of harm for the child. This particularly applies when the practitioner must weigh the harm of not seeing the non-resident parent against the harm of ongoing hostility if the court does mandate contact with the non-resident parent. P3 was honest about the dilemma this entails: *"Whilst I have a view that contact should be happening, I [also] have a view that if the resident parent will not support that process or the child in that process, it can become harmful"*. In such circumstances, P3 observed that: *"It then becomes tricky; you have to weigh up the harm of the resident parent not supporting the process and the harm that causes to the child versus the view that they should be having a relationship with that parent"*. Consequently, P3 observed that *"it's a balance of harm that you have to make, the balance of harm of that child not having a relationship versus the short term, perhaps longer term, impact of trying to pursue contact"*. In other words, P3 stated, "*you end up balancing harm and it becomes incredibly difficult"*. Another interviewee, P5, agreed that *"you need to weigh up the harm the hostility may cause as opposed to the harm of change"*.

Sometimes this leads to terrible ethical dilemmas. In cases where one parent has alienated the child from the other parent, P6 was honest enough to admit that the alienated parent might sometimes has to be sacrificed in the best interests of the child: "*I consider that if you have tried everything you have to consider no contact, as in the end that is the most helpful thing to do; it takes away the child's conflicting loyalties and they can focus on just one parent, and the resident parent can relax"*. P6 acknowledged that "*although it is wrong in principle, in practice it may be the only way we can achieve some resolution for the child"*. P6 accepted that this is "*very harsh on the non-resident parent, who may have to face not being an active part of their child's childhood"*. Indeed, P7 observed that for the non-resident parent *"it must drain them not seeing the child, a lot of them won't have seen the child, a lot would be arrested and questioned following allegations; for the parents going through it when they haven't done something, it must impact the relationship they have with their child"*. Practitioners thus face an unenviable ethical dilemma in such circumstances.

Interviewees were clear that these challenges and difficulties cause a lot of stress and aggravation for them as individuals. P1, for example, described the *"frustration and anger in a sense because coming from an outside position I see the children are being damaged…"* P3 agreed that *"it becomes very stressful… it becomes difficult"*. Later in the same interview, P3

commented: *"they are just nightmare cases; you feel helpless… they are incredibly frustrating and incredibly draining and unsatisfactory".* The word 'draining' was also used by P4, who observed that *"these cases are draining – with all the cases you genuinely want to hep with a positive ending…but they go on so long".*

How Practitioners Approach High Conflict Cases

Although the challenges of high conflict cases are clearly profound, practitioners had developed strategies for dealing with these difficult cases. A fundamental requirement was the ability to analyse the child's testimony for discrepancies between what the child says and what the parents might say. As P1 observed, *"it's about making the analysis and looking at the disparity often between what the child is saying and the actual experience of that relationship with their parent – and it is often very different, they often have their parent's version of events as opposed to their real version of their childhood".* The key, then, is *"analysing the incongruity between what they say and what their actual experiences have been".* One method of doing this is to look into what parents might have been posting on social media – P1, for example, said that *"as Cafcass we need to be savvy and use other evidence to form our analysis. I have parents pay lip service then when I see Facebook posts you see a different story. We need to be more aware of it".*

Many of the practitioners mentioned the importance of seeking expert help by moving cases from private to public law under section 16.4 procedures. As P7 commented, *"sometimes it the hostility between parents is so severe we see it go from private law to public law and 16.4 because it's so emotionally damaging".* Invoking section 16.4 of the Children Act 1989 has numerous benefits for practitioners. First, it allows more time to be taken over particularly difficult cases. As P1 commented, *"section 16.4 is helpful because you are given more time".* P1 emphasised that *"you need to be saying to the court that I can't walk away from this… we need to look at this more deeply; it takes a more intensive assessment".* Second, invoking 16.4 allows Cafcass practitioners to request a solicitor to act on behalf of the child instead of the parents (Cafcass, 2014). As P1 observed, *"if it is a 16.4 case that gives me the support I need, I can use a professional, having a solicitor on behalf of the child to kind of add another level on behalf of the child".* P4 agreed that *"it ups the ante and the parents kind of get how serious it is when a solicitor gets involved, a child has their own solicitor; it gives you support on hand as well as knowledge. It helps being able to talk through strategies and help to communicate with parents".*

Third, section 16.4 enables the practitioner to request expert psychological assistance for the child. As P5 observed, section 16.4 allows the practitioner to *"appoint an expert for a psychological assessment".* P1 agreed that *"they are the cases I say should become a 16.4 case as they are much more complex… I am not a psychologist or psychiatrist – I haven't got the evidence and background to say – so they are often the cases where I do ask for there to be an expert assessment, which is very, very useful".* Later in the interview, P1 expanded on a case where an expert had been involved, *"at the first hearing I was saying there is parental alienation and implacable hostility and we need an expert, which is what we did. His report said what I thought it would say but in a more powerful way with a clear recommendation that proceedings should be issued as the child was being harmed".* In addition, P6 observed that an expert psychological assessment *"can help because at some point the parents can begin to acknowledge the harm to the children, and if you can focus their mind on the impact that has on their children, you can get some movement there".* P1 emphasised that practitioners should therefore invoke 16.4 *"as soon as possible"* in the most difficult cases.

Practitioner Perceptions of Available Tools and Support

There were divergent opinions on the usefulness of the tools and support systems in place to help Cafcass practitioners working on high conflict cases. P1 had some recollection of training and tools specifically related to high conflict cases: *"I know there have been some new tools that have come out… I went on a training course where we did talk about implacable hostility and parental alienation and where some tools were given…for working with children, but I can't remember where this is now"*. P1 continued: *"The difficulty with that tool was it was quite an intensive and lengthy piece of work and certainly something that if you are doing your initial visit, or a section 7 report, you would never have time [given] the limits that Cafcass place on you"*.

Similarly, P5 was somewhat unsure about what training tools were available: *"I am not aware of tools we use specifically, off the top of my head, no… There are various training events and research materials available to the staff, there are tools that help us to understand the impact to children on parental conflict and that to a certain extent helps us understand if children have been influenced by a parent"*. The same interviewee praised the support networks available within Cafcass, *"Access to supervision has made it very easy to deal with any gaps in my understanding or knowledge… When I say supervision I am not just referring to a manager but workers and group supervision; case discussions are very useful tools in broadly understanding the situation and being able to apply different approaches to different cases"*. P5 concluded: *"I am very satisfied in this organisation that we are issued with the support that is available… I would say that it has been very supportive, the system is very supportive in Cafcass"*.

On the other hand, P3 was more critical of the training support available within Cafcass. Asked whether there were any training or tools that could be accessed through Cafcass, P3 replied: *"No, no, no, I recently went on a talk to a family review that was useful, I had asked if we could get the expert that talked on implacable hostility in, but that hasn't happened, so no"*. P6 agreed that *"guidance and training is lacking. It would be helpful if there were opportunities to talk to other practitioners about the things they have tried"*.

In terms of how training and support could be improved, the interviewees put forward a variety of ideas. However, they disagreed on whether tools were an appropriate or useful way of helping practitioners address high conflict cases. On the one hand, some interviewees favoured tools for certain purposes – P1, for instance, suggested that *"a kind of checklist in the section 7 report would be helpful, yeah, something just to make you think. We look at physical harm, emotional harm, domestic abuse, and maybe one of the things that should be there is whether implacable hostility is occurring here. That would be helpful"*.

P3 was a little more sceptical about whether a tool would help: *"I'm not sure a tool would help. Is there a tool that would help? No"*. However, P3 also stated that *"we need something, a discussion around indicators perhaps"*. P3 was concerned that high conflict cases are not identified early enough, stating: *"I think we all know vaguely what it looks like but how to identify it earlier or alternative ways of dealing with it. We get so far down the road and then they don't conclude, should we be looking at dealing with it earlier?"* P3 suggested: *"I think perhaps just get an expert in so we can be clear what it looks like"*. This need to identify high conflict cases was also emphasised by P4, who stated: *"It would be useful to help identify it… I suppose tools in terms of formatting tool to help identify or where to go would be helpful"*.

Another of the interviewees, P7, expanded on these ideas by suggesting some sort of threshold tool that would enable practitioners *"to help know what the benchmark is when it becomes implacable hostility and not [normal] parental conflict… That's the training that would be useful, a benchmark…. We need training to be confident… Cafcass like us to use tools, so we should have them".*

However, P5 warned that tools could be dangerous if mis-applied: *"We need to be careful how that's implemented and the validity or reliability of that and how it would help influence our professional judgment".* In other words, P5 touched on the difficulty of devising a tool that could ever successfully overcome the inherent subjectivity involved in analysing high conflict cases as a practitioner. A tool that gave merely a spurious sense of objectivity might be more dangerous than no tool at all. Instead, P5 advocated a simpler approach based around training: *"I think the easiest and most practical solution initially is to look at training opportunities to make sure people are refreshing their knowledge and applying it specifically".* The Cafcass operating framework (2014) state that tools are available to guide practitioners in all areas of Public and private law. This was also echoed in the National Ofsted inspection of Cafcass in 2014 which stated *Cafcass have a good range of training opportunities and tools available to practitioners which are used effectively'* (Ofsted, 2014, p11); Interestingly the majority of the practitioners interviewed stated they would want some training and or tools to assist them within this area.

DISCUSSION

The findings presented above reinforce the literature in many ways. The difficulty of working with high conflict cases featuring implacable hostility comes across in the interviews. Practitioner perceptions of the nature of high conflict cases also largely correlates with the ideas put forward in the literature, although it was noticeable that domestic abuse was perceived more as a pretext than a cause of disputes. The difficulty of establishing the facts of a case was also affirmed by practitioners, although most appeared to have devised strategies to help with this. Perhaps most significantly, the practitioners reinforced how challenging high conflict cases are on a conceptual level. Concepts sometimes applied to such cases – parental alienation, for example – were noted to be dangerous because they can potentially lead practitioners down certain paths, or even be used as tools by parents. In this sense, the conceptual literature on high conflict cases/ implacable hostility challenges practitioners as much as it assists them, with many understandably observing that they simply didn't feel confident applying certain contested concepts to cases.

However, there were also a number of findings that add to the existing literature in important ways. Firstly, practitioners described how the hostility between parents can often extend to the practitioner him or herself if the case proceeds in a way that does not suit one of the parents. In this sense, rather than being simply an outside observer of family dynamics, the practitioner can become drawn into the enmity between the parents, with consequent knock-on effects on their ability to do their job. This parental defensiveness is a major challenge, and almost makes the practitioner a participant in the conflict rather than merely a detached observer. It is perhaps inevitable that the practitioner becomes embedded in the process, but the *extent* to which this can occur in particular situations is important to note.

Secondly, practitioners were honest about the ethical dilemmas they face. An uncomfortable reality perhaps insufficiently conveyed in the literature is the fact that sometimes the practitioner can arrive at what more or less seems to be the 'truth' of the case and yet can feel compelled to make quite opposite recommendations based on the perceived harm to the child. In other words, practitioners can sometimes conclude that there is no good reason why the non-resident parent should not have contact with the child, yet can still recommend that contact should cease or be limited if they believe the ongoing hostility of the resident parent towards the non-resident parent will cause emotional harm to the child. This challenge of weighing the 'balance of harm' places practitioners in an invidious position: they must often weigh up the short-term distress of compelling contact against the long-term damage of there being little or no contact with the non-resident parent. There is sometimes no 'right' answer.

Thirdly, the role of social media was particularly interesting and suggests that the nature of high-conflict cases may be changing as technology develops. Social media can be a spark for conflict when parents take their disagreements online, or post photographs of new partners or new babies. However, social media can also be used by the practitioner to aid the investigation. As one practitioner noted, sometimes posts made on Facebook, for example, will contradict the image carefully conveyed by the parent in face-to-face meetings with the practitioner. This latter point was particularly interesting, although there are perhaps ethical concerns here around how far a practitioner should use posts on social media (which may or may not be accurate representations of the case) as an investigatory aid. As social media grows in influence, guidelines here are likely to become increasingly important.

Finally, there were contradictory findings on whether the development of new tools could assist practitioners in high conflict cases. Some queried whether tools could be subtle enough to allow practitioners to address cases as challenging and complex as these, with some interviewees raising the possibility that a tool might force the practitioner down a certain path. Several others, however, specifically mentioned the possibility of developing a tool for identifying high-conflict cases earlier. This challenge of identifying what is and what isn't a high conflict case recurred again and again in the interviews, and a tool here – provided it was sufficiently discriminating and subtle – might be of use in future practice.

Implications for Social Work Practice

There are a number of important implications from the study for social work practice, not least for service users. Firstly, it seems evident from the interviews with practitioners that the current approach to high conflict cases carries a potential danger of structural discrimination against the non-resident parent (usually, but not always, the father). This is because in weighing the balance of harm to the child, the practitioner feels obliged to factor in the emotional harm caused by witnessing the hostility and anger of the resident parent towards the idea of contact between the child and the non-resident parent. Some practitioners were explicit that the non-resident parent can sometimes be sacrificed because it allows the situation to calm down and for the child to focus on one parent in a situation of relative normality. Although this might be understandable in an individual case, there is a risk that if applied consistently such logic could lead to systemic discrimination against the non-resident parent.

There is no obvious way of sidestepping this problem. A harsher approach to the resident parent – threatening, or even implementing, the removal of the parent's custody over the child – had been tried in at least two cases known of by P1. The child had been removed from the mother and placed in care on each occasion. It is not clear, though, that removing a child from the care

of a hostile mother will benefit the child – much, of course, will depend on the particular circumstances of the case. It might be argued that unreasonable hostility towards the non-resident parent is *prima facie* evidence of incapacity to parent effectively, but these are highly complex matters that arguably require expert psychological assessment. Faced with a completely hostile and uncompromising resident parent, then, practitioners are forced to choose. This is an invidious position to be in, but it is important that one of the key principles outlined in the literature – that children benefit from contact with both parents – is uppermost in the minds of practitioners at all times. Furthermore, allowing the child and the non-resident parent more of a voice in the assessment process might be one way of helping to redress the balance that currently seems somewhat tilted towards the resident parent.

Second, there is important progress to be made in better understanding how the child is affected by hostility between the parents. In weighing up the potential 'balance of harm' to the child, practitioners at present appear to be relying as much on intuition and 'feel' as on knowledge carefully grounded in psychological theory. It is crucial for practitioners to know whether the long-term benefit of sustained contact with the non-resident parent outweighs the potential short-term harm of exposure to hostility between the parents when contact with the non-resident parent is mandated by the court. This might differ in each individual case, but practitioners would benefit from further knowledge in this area.

Third, there are important implications for how the training of practitioners can best be improved. Many interviewees stressed the need to identify high conflict cases earlier, preferably at a stage where resolution might be easier and before positions become entrenched. Many interviewees also emphasised their unsureness about when a case reaches the high conflict stage. More training in this area would be particularly useful for practitioners. Indeed, a tool of some sort could potentially help – perhaps a checklist of certain features that, if enough were present in the case, might lead to a formal assessment of whether the case was high conflict. Such features might include: difficulty in making the parents child-focused; unreasonable reluctance to permit contact; emotional manipulation of the child; and so on. One practitioner mentioned a 'benchmark tool', but it seems important that there should be no automaticity in the process – it would be too blunt to have a tool that said (a), (b) and (c) are present therefore the case is high conflict. But if (a), (b) and (c) are indeed present, then it might be sensible to require a formal assessment stage of whether the case should be marked as high conflict. This might lead to earlier diagnosis of high conflict cases, and potentially to earlier invocation of section 16.4 – both of which might lead to speedier resolutions of these highly challenging cases.

A further training aid for practitioners could be to facilitate more discussion and collaboration among colleagues about high conflict cases. In general, practitioners spoke highly of the support system in place within Cafcass, but some mentioned the need for constant refreshment of learning as well as the need to be able to discuss difficult cases – and the learnings from them - with their peers. Several interviewees cited a lack of confidence around thresholds and certain contested terms such as parental alienation. Ongoing professional education can help to tackle these issues, and ensure that practitioners deal with high conflict cases as confidently and knowledgeably as possible. It may even be advisable to make formal training space available for high conflict cases.

Finally, it is important that guidelines be developed on how practitioners should use social media in the course of their assessments. It is clear that Facebook, for example, can be useful in identifying discrepancies between the image portrayed in face-to-face meetings and

behaviour outside those meetings. Equally, though, there is a danger that social media could be used to manipulate practitioners, perhaps if parents/carers post false information or make misleading claims online. It is important, then, that practitioners remain aware of the potential pitfalls of using social media in the course of their investigations – and formal guidelines in this area might be helpful.

CONCLUSIONS AND RECOMMENDATIONS

This study has examined the understanding and experiences of Cafcass practitioner's engagement in high conflict disputes involving implacable hostility. It is clear from the literature that these challenges are profound. High conflict cases are stressful, demanding and time-consuming. They also present conceptual difficulties – such as around contested concepts like parental alienation. The interviews with practitioners confirmed many of the points made in the literature – parents in high conflict cases were reported to take entrenched positions, struggled to focus on their child, and found it impossible to calm things down after an initial separation. However, the interviews also made important contributions that add to the literature, such as the role of social media in accentuating hostility, the extent to which practitioners can be drawn into parental enmity and become actors in the process, and the difficult ethical dilemmas that can sometimes lead to the interests of the non-residential parent effectively being sacrificed.

By way of appraisal of the research methods- a particular strength of the study is that it presents up-to-date practitioner perceptions directly from the practitioners who work with high conflict cases. The role of social media, for example, is scarcely mentioned in the literature because it is such a relatively recent development. This study addresses these omissions by presenting highly current data that take account of recent trends in these cases. Moreover, this project examines areas which are underdeveloped and research is scares; adding a freshness and newness to the field of knowledge. A further strength is that many of the Cafcass practitioners interviewed had longstanding experience of these cases and thus were able to identify trends and changes over time. In addition, the practitioners appeared honest in response to questions, perhaps as a result of the trust and rapport built up with the researcher over a period of twenty weeks on placement. This honesty helped contribute to some of the novel findings described above.

There are, however, some important limitations to this study. First, the sample size was relatively small – seven interviews were conducted, equating to 70% of the Local Cafcass office, but in itself a fairly small number so therefore could raise the issue of representativeness of the study and the objectivity of the interpretivism in its epistemological consideration. That said, nearly all the practitioners had experienced a number of high conflict cases, which means that collectively the study is informed by perhaps as many as 30 or 40 individual high conflict cases. Second, all the interviewees came from the same Local office, which meant that their insights were limited to a fairly specific geographical area. It is questionable how far these insights can be generalised on a nationwide basis, still less internationally. Nevertheless, it seems likely that high conflict cases involving implacable hostility may share certain features regardless of their location. A third data collection issue was that one of the interviews was very quiet when played back on the audio recorder, which made transcription – and subsequent analysis - difficult. Fourthly the researcher upon hindsight should have generalised the data collection questions around high conflict disputes rather than implacable hostility due to the

differences in definitions and confusion in meaning in literature as well as the difference in terminology within the UK and USA.

Perhaps the most significant message to come out of the study is that practitioners need more help when dealing with high conflict cases that involve implacable hostility?   Many spoke highly of the effectiveness of invoking section 16.4, and it is evident that the assistance of psychologists and solicitors is extremely valuable for practitioners. Enhanced training, better and more widely shared definitions, threshold tools, and greater collaboration with fellow practitioners would all assist practitioners in their work. Clearly, this is relevant in that it should improve future practice and ultimately lead to better outcomes for children.

Some questions, however, remain unanswered It would be insightful, for example, to audit some of the decisions made in high conflict cases involving implacable hostility to assess whether they meet standards of fairness. For instance, is there systemic discrimination against non-resident parents or does the system work fairly? It is difficult to answer this question without auditing prior cases, which might be a productive avenue for future research if anonymity safeguards could be ensured – a key requirement given the traditional family court focus on confidentiality (Brayne and Carr, 2002).

Similarly, the question of how far sexual and domestic abuse act as a spur to high conflict cases involving implacable hostility remains unclear. The general impression conveyed by the practitioners interviewed for this study is that sexual and domestic abuse tend to crop up more as false and malicious allegations rather than as genuine events. However, on such a small sample size it is very difficult to generalise from these observations. It remains possible that sexual abuse allegations often have more substance than some allow, and it is also possible that domestic abuse is as prevalent in high conflict cases as some scholars suggest. In essence, we simply don't know – and interviews with a limited number of practitioners can allow us only a small insight into where the facts might lie.

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