

# Mediating with Families

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Linda Fisher & Mieke Brandon  
Thomson Reuters  
3e. 2012

Reviewed by  
Margaret Halsmith  
Halsmith Dispute Resolution  
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## Introduction

The family mediation profession is fortunate that Linda Fisher and Mieke Brandon decided to write the third edition (2012) of *Mediating with Families*. The first two editions (2002, 2008) were very well received in Australasia and beyond, and the third edition is following suit. Family Dispute Resolution Practitioners, mediators, academics and trusted advisors all have much to gain from engaging with this expanded and updated edition.

Spanning as they do, ten years of significant change, the three editions have recorded some of the history of mediating with families in Australia. In the years since the first edition of *Mediating with Families*, the most significant of the changes for families has perhaps been the advent of compulsory family dispute resolution from July 1, 2007. For mediators, the development of clear qualification pathways for both Family Dispute Resolution Practitioners and for mediators has been similarly significant.

During the ten year period of the growth of mediation theory and practice, the concept of family has also undergone significant social change. Perhaps each in their own way, both mediation and families have transformed in the way that a child, born in 2002 has developed over the same time. As with the child, a synergistic mix of nature (evolution) and nurture (largely policies and the legal system) has brought family mediation into the second decade of the century.

## Signature attributes

Mieke Brandon and Linda Fisher have ensured that this third edition of *Mediating with Families* carries its signature style and content while being thoroughly up-to-date.

## Welcoming

The style that permeates the book is welcoming, generous, understated and highly accessible. The text is approachable in a way that invites certain reciprocity. Linda and Mieke offer their insights for the consideration of the reader, rather than as immutable truths. They have written a text that understates its place in the world of family mediation and is all the more accessible and therefore influential for it. Some texts imply that theirs is the first and the last word on the topic. This one speaks with a confident voice, welcoming other confident voices.

The authors' accessible, conversational writing and is complemented by easy-to-navigate organisation. The reader can engage in the style of conversation that they choose: a collegial conversation, a mentor-mentee conversation, a knowledge gathering conversation. I find that I hear the text as I am reading it.

### **Insightful**

In this edition the authors are as generous as ever in sharing their collective wisdom and experience which go well beyond transmitting plain knowledge. Grounded in sound theory, the authors provide their insights in a way which is both engaging and motivating. This edition broadcasts the pivotal message of previous editions: at all times think about yourself as a mediator and the effect you and your interventions are likely to be having on participants. I read the message as 'keep in mind that the mediator is there for the participants'. This message extends to two related insights: the importance of professionalism and of self-care foremost. Typical of the positive frame of this book is that these insights are delivered through a lens of affirmation of practitioners.

## **Content**

The content of the book is considerably updated to account, in particular, for the changes to Family Dispute Resolution in Australia, and for a broadening of the concept of 'family'. New Zealand FDRPs will welcome *Mediating with Families*, following their recent introduction of Family Dispute Resolution.

Due to the welcoming tone and the accessible approach, just as with the first two editions, the reader can be thought of as accepting any one of multiple invitations from the authors. I will consider the two most likely: one could be to read with a **family focus** and the other to read with a **mediation focus**. Others include a cultural focus, a skills approach and a parenting focus. Each of these themes is anchored in particular chapters and developed throughout the book.

### **Families focus**

**In the big picture**, for readers with families in front of mind, there is a variety of invitations including, for example, to appreciate families and their place in society and to consider the society that forms and is formed by families. There are more for the looking. The reader whose primary focus is families and whose secondary focus is mediation, might start with Chapter 1 'Setting the context: the family' then take that framework with them to Chapter 4, 'Issues for separating couples', Chapter 5, 'Issues for couples: established and new relationships' and Chapter 7, 'Issues for parents and children', in particular, the section entitled 'The Family's Sense of Self' and Chapter 9 'Practice considerations'.

From the **micro perspective**, in one among many examples of family dynamics, Chapter 1, at 1.130, introduces 'power and control'; chapters 4, 5, 6, 7 and 9 develop, analyse and exemplify the concepts that provide context for issues of power and control.

From a **specialised perspective**, *Mediating with Families* can be thought of as being oriented toward families whose degree of complexity is within approximately one standard deviation of the norm. The versatility of this book is such, however, that family complexity beyond that range is addressed in a number of ways. Every family is a complex family and some are more complex than others<sup>i</sup>. As Kaspiew et al (2014)<sup>ii</sup> have shown, complexity creates a need for holistic interdisciplinary approaches. *Mediating with Families* addresses complexity by taking a systems approach, that is, a holistic, interdisciplinary approach, summarised in figure 1.1 and in the two chapters on language and culture. The authors address many of the components of complexity including vulnerability, violence, safety, and abuse. Third, they identify a variety

of family constellations including adoptive families, stepfamilies, families involved with surrogacy, single parent families, same-sex families and nuclear families. While the focus is as the title suggests, readers could choose to follow a pathway through *Mediating with Families* to add to their knowledge of families with complex needs, with respect to conflict and mediation.

### **Mediation focus**

In the **big picture**, for readers focusing on mediation there is an invitation to consider mediation processes in all their permutations and another to develop and/or to review skills. To read as a mediator is to be invited to reflect both on mediation practice and on the self-as-a-mediator.

The reader who accepts the invitation to focus on the mediation process in the family context could start their pathway at Chapter 2 and follow on to Chapters 3, 6, 8, 9 and 10. Chapter 2 has been very usefully updated to consider four approaches to family mediation, a comment on diversity in approach, mediation frameworks, and philosophy, practice and process. I find the mediation frameworks especially helpful for reflecting on my own practice.

From a mediation practice **micro skills** perspective, one among many mediation skills that is developed throughout *Mediating with Families* is the use of agendas. Agendas and their vagaries are considered in a variety of contexts across five of the chapters. Agendas can be tricky. Chapter 11 describes communication patterns to reach the phrasing of a robust agenda which in turn becomes the scaffolding for agreements.

From a **specialised perspective**, Chapter 6 includes mediation of wills and estates, Chapter 7, parent-adolescent mediation and Chapter 8, some aspects of elder mediation.

### **Mediation Participants**

In 2008 when I reviewed second edition of *Mediating with Families* I was intrigued by what I read as the developing dialogue between the authors and the reader of the role of the mediator. developed throughout the book. This third edition deserves the same praise as the second, for this thread. On reading this edition I found myself also intrigued by the authors' portrayal of the participants in mediation. For each main assertion of the authors, there is a practice application in the form of either a case study, followed by self-paced learning questions or a series of examples or a relevant Appendix. The authors are in touch with reality and ensure that the reader is too. Consistent throughout the case studies, the questions, the analysis and the examples, the empathy, compassion and respect of the authors for families in conflict, shines through.

## **Organisation**

### **Finding your way around**

The reader who is wondering how to investigate their choice of theme, will be pleased to know that the authors have identified the starting point, a descriptive contents pages and from there, each step of the way can be mapped in the comprehensive index. Think of the topic, decide the approach, start with the contents pages then shift to the index to find the topics and more. The advantage of being able to take this approach is that the constructs are in their setting. Everything you read raises awareness of the issues and your self-awareness as a mediator or trusted advisor.

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As well as the scope and detail of the book, the *Additional Resources* at the end of each chapter convey to the reader a reminder that there is much more to consider and much more that has been considered. To have identified and included the *Classics* in these sections acknowledges and affirms the foundations on which *Mediating with Families* and many contemporary texts are built. *Footnotes* provide another source for those wanting to excavate the archives. The inclusion of *Booklets* in the resources section is particularly family friendly.

## Approach

Characterising the approach to each of these applications of models and theory are themes of inclusivity, consensus, relationship orientation, cooperation and self-determination.

### Hub

From my perspective the hub of this book is introduced in Chapter 3, ‘What mediators bring to practice’. That is, this book assumes that improved practice is dependent on greater self-awareness. In each topic, the movement from unconscious unknowing to conscious unknowing to conscious knowing follows the pathways of mediator and mediation as it develops the role of the mediator.

### Principles

Characterising the approach throughout the book are principles of inclusivity, consensus, relationship orientation, cooperation and self-determination; themes that recognise and acknowledge participants.

One of the techniques that integrates the subject matter is the way in which the authors exemplify the principles of mediation both in what they say and what they do. The book is an avatar of mediation. The practice of mediation is an inclusive one; it is the role of the mediator to be inclusive; *Mediating with Families* is inclusive. One among many of the indicators of inclusivity is the breadth of the list of excerpts used throughout the book.

Another of the fundamental principles of mediation is its focus on party participation. *Mediating with Families* provides ample opportunity for the reader to participate well beyond consolidating the concepts under discussion to internalising them in the practice setting. As a point of comparison, legal negotiation and litigation are premised on professional participation.

A mediator is tentative regarding content (facts) and assertive regarding process; as is *Mediating with Families*.

In the same way that mediation involves a peer-like relationship among mediator and parties, each with their different fields of expertise, the tone of *Mediating with Families* is one in which authors and reader are peers in a partnership, each with their different fields of expertise. The authors convey their expertise in an informal way which affirms the reader as expert in themselves and in their application of the authors’ expertise to their practice.

The authors ask the reader to look at the family situation as unique and to adapt the practice of mediation to suit the family circumstances. This is another of the fundamental principles of mediation: that it is situational and individualised.

A book entitled *Litigating with Families* could be expected to exhibit the principles of exclusivity of content, professional participation, hierarchical relationships, emphasis on precedent.

By absorbing the content in the way that it has been presented, the reader gains knowledge of the family and family disputes, self-development as a mediator and experience of the distinctive approach of mediation.

The content is provided from the general to the specific; from theory to practice concluding with language and culture, which is the underpinnings of all that has been before.

### Over Coffee

In writing this review I have conducted my own dialogue with the authors, unbeknown to them! The welcoming and open style invites discussion. One of the comments by Mieke and Linda that I look forward to discussing comes from Chapter 2, on the topic of 'Diversity in Approach' in which they comment

*Many mediators, however, do not maintain such distinctions in their practice and prefer an eclectic approach. These mediators approach the diverse situations that come to family mediation using interventions from a range of approaches that seem to meet the parties' needs.*

I read this as an endorsement of an eclectic approach. I have concerns about an eclectic approach from an integrity and internal consistency point of view both in terms of professionalism and in terms of cohesion of experience from participants' point of view... to be explored over coffee.

### Conclusion

*Mediating with Families* comes highly recommended. Its subject matter could be summarised as being concerned with access to justice for families. Its approach is one that resonates with the approach described by Hayes and Higgins<sup>iii</sup>: it advocates, albeit gently, for collective awareness, common narratives and coordinated approaches to promoting resilience, in this case through mediation for decision-making and dispute resolution.

Linda Fisher and Mieke Brandon are to be congratulated again. It is the families of Australasia who will benefit from their dedication, leadership and insights.

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<sup>i</sup> Apologies to George Orwell

<sup>ii</sup> Kaspiew, R., De Maio, J., Deblaquiere, J & Horsfall, B. (2014) *Families with complex needs: Meeting the challenges of separation* AIFS

<sup>iii</sup> Hayes, A. & Higgins, D. (2014) *Complex family issues: collective awareness, common narratives and coordinated approaches to promoting resilience* AIFS