

Parenting plans:
The development of substantive
guidelines for professionals

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Parenting plans: The development of substantive guidelines for professionals

By

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I dedicate this research to my two children,

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“Remember that one thing no one can take away from you in life is your education and academic performance...”

FOREWORD

This thesis is presented in an article format in accordance with Rules A.14.4.2 that is set out in the calendar of the North-West University: Potchefstroom Campus (2009). The context and technical requirements of the accredited professional journal Social Work/Maatskaplike Werk was used as a basis to formulate the articles. See Addendum 1 for the author guidelines.

SUMMARY

Title: Parenting plans: The development of substantive guidelines for professionals

Key words: Divorce; Social work/er; Psychologist; Family Advocate; Attorney; Child; Parenting Plan.

Parenting plans are a new concept for professionals in South Africa working in the field of divorce. Emphasis has been placed on the development of parenting plans by including the concept of parenting plans in section 33 of the Children's Act 38 of 2005. Professionals are now confronted with formulating adequate parenting plans which are focussed on the best interest standard of the child(ren) and that will assist the family with its functioning post-divorce.

The **aim** of this research was to develop substantive guidelines that can assist the professional in drafting parenting plans. To achieve this aim, the following **objectives** guided the study:

- *To provide the legal context of parenting plans in South Africa.* A legal context of parenting plans in South Africa is discussed by way of a literature study through an intensive analysis and critical discussion on a number of legal instruments pertaining to children, such as the Children's Act 38 of 2005; the Constitution of the Republic of South Africa, 1996; the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC).
- *To ascertain the views of mental health professionals (social workers and psychologists) and legal professionals (attorneys and family advocates) with regard to the divorcing family and parenting plans.* The views of mental health professionals and legal professionals with regard to the divorcing family in respect of parenting plans were established. Professionals completed an electronic questionnaire that consisted of open questions to establish their views. Further telephonic interviews with the professionals were facilitated to gain further insight into the professional view points on the issue of divorcing families and parenting plans.
- *To ascertain the needs of the divorcing family (parents and child(ren)) and to present these needs in the structuring of a parenting plan.* The needs of the divorcing family (parents and child(ren)) were established through an explorative approach by means of a document study

and electronic questionnaires that were completed by the family members. Through this exploration the researcher obtained an understanding of the needs of the divorcing family related to parenting plans.

- *To provide professionals with comprehensive and clear guidelines on the basic structure and general content of a parenting plan.* Comprehensive and clear guidelines on the basic structure and general content of a parenting plan were constructed for professionals working in this area, based on findings of articles 1, 2 and 3 of this research. The researcher also relied on her background and training as a qualified social worker to construct these guidelines.

It was concluded that professionals are not necessarily well equipped to structure high quality parenting plans. Guidelines ought to assist the professionals to structure plans that are well organised, practical, child-centred, developmentally appropriate, and representative of the divorcing family needs.

The researcher believes that as parenting plans are obligatory for parents that divorce, there is a need for South African research on this subject matter. This study is a contribution in the research field as to assist the professionals with the task of compiling parenting plans for the divorcing family. In addition this study adds value to the forensic field by setting guidelines on the structuring of parenting plans that empower the professional to work in this challenging field.

OPSOMMING

Titel: Ouerskapsplanne: Die ontwikkeling van substantiewe riglyne vir professionele praktisyne

Sleuteltermes: Egskeiding; Maatskaplike werk/er; Sielkundige; Gesinsadvokaat; Prokureur; Kind; Ouerskapsplan.

Ouerskapsplanne is 'n onlangse konsep vir professionele praktisyne wat werk op die gebied van egskeiding in Suid-Afrika. Klem is geplaas op die belangrikheid van ouerskapsplanne met die insluiting van die konsep van ouerskapsplanne in artikel 33 van die Kinderwet 38 van 2005. Professionele praktisyne word derhalwe gekonfronteer met die opstel van geskikte ouerskapsplanne wat fokus op die standaard van die beste belang van die kind(ers) en wat die gesin kan help met sy funksionering in die fase na die egskeiding.

Die **doel** van die navorsing is om substantiewe riglyne te ontwikkel wat professionele praktisyne kan help om 'n ouerskapsplan saam te stel. Om hierdie doel te bereik moes die volgende **doelwitte** die studie lei:

- *Om die regs konteks van ouerskapsplanne in Suid-Afrika te voorsien.* Die regs konteks van ouerskapsplanne in Suid-Afrika word by wyse van 'n literatuurstudie verduidelik deur 'n intensiewe ontleding en kritiese bespreking van 'n aantal regs instrumente met betrekking tot kinders wat onder andere insluit die Kinderwet 38 van 2005; die Grondwet van die Republiek van Suid-Afrika, 1996, die Verenigde Nasies Konvensie op die Regte van die Kind en die Afrika Verdrag op die Regte en Welsyn van die Kind.
- *Om die siening van geestesgesondheidspraktisyne (maatskaplike werkers en sielkundiges) en regspraktisyne (prokureurs en gesinsadvokaat) met betrekking tot die geskeide gesin en ouerskapsplanne vas te stel.* Professionele praktisyne het 'n elektroniese vraelys wat bestaan uit oop vrae ingevul om hulle siening vas te stel. Dit is opgevolg deur telefoniese onderhouds met die professionele praktisyne om verdere insig te kry oor die praktisyne se siening van die kwessie van geskeide gesinne en ouerskapsplanne.
- *Om die behoeftes van die geskeide gesin (ouers en kind(ers)) te bepaal en hulle behoeftes te inkorporeer in die ontwikkeling van 'n ouerskapsplan.* Die behoeftes van die geskeide gesin (ouers en kind(ers)) is bepaal deur 'n ondersoekende benadering in 'n dokumentstudie en

deur elektroniese vraelyste wat gesinslede ingevul het. Deur hierdie ondersoek kon die navorser 'n begrip vorm van die behoeftes van die gesin ten opsigte van ouerskapsplanne.

- *Om professionele praktisyns van omvattende en duidelike riglyne te voorsien ten opsigte van die basiese struktuur en algemene inhoud van ouerskapsplanne.* Omvattende en duidelike riglyne vir professionele praktisyns is ontwikkel ten opsigte van die basiese proses struktuur en algemene inhoud van ouerskapsplanne, gegrond op die bevindinge wat in artikels 1, 2 en 3 van hierdie navorsing gemaak is. Die navorser het ook haar opleiding, praktykkennis en ondervinding as 'n gekwalifiseerde maatskaplike werker gebruik om die riglyne saam te stel.

Om op te som: Professionele praktisyns is nie noodwendig daarvoor toegerus om ouerskapsplanne van 'n hoë gehalte op te stel nie. Daar behoort omvattende en duidelike riglyne te wees om professionele praktisyns te begelei in die strukturering van goed georganiseerde, praktiese, kindergesentreerde en ontwikkelingstoepaslike planne wat verteenwoordigend is van die geskeide gesin se behoeftes.

Ouerskapsplanne is verpligtend vir ouers wat wil skei en die navorser glo dat daar 'n behoefte is vir navorsing in Suid-Afrika op hierdie onderwerp. Die studie lewer 'n bydrae op die navorsingsveld om professionele praktisyns te help met die saamstelling van ouerskapsplanne vir die geskeide gesin. Verder voeg die studie waarde toe tot die forensiese gebied, deur riglyne te gee vir die ontwikkeling van ouerskapsplanne wat die betrokke professionele praktisyns bemagtig vir hulle werk in hierdie uitdagende gebied.

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SECTION A

INTRODUCTION

1. ORIENTATION AND STATEMENT OF THE PROBLEM

Divorce has become a common trend in our society and many children are annually exposed to the distress related to it. Disagreements on the subject of children and the upbringing of children post-divorce are understandably the cause of much anguish in divorce proceedings and the subject of some intense debates (De Broglio, 2006:1). The process of divorce is also a very emotional process, and decisions pertaining to children in particular can result in an intricate, explosive state of affairs. It is therefore often necessary to formalise a structure that explains in detail the responsibility of each parent to prevent further disagreement. This is reflected in disputes concerning children such as *Fletcher v Fletcher 1984 1 SA 130 (A)*, *Van der Linde v Van der Linde 1996 3 SA 509 (O)* and *Madiehe (born Ratlhogo) v Madiehe 1997 2 ALL SA 153 (B)* (Currie & De Waal, 2005:617). This structure, also known as a “parenting plan”, is explicitly required as part of the divorce settlement and proceedings by the Children’s Act 38 of 2005 (hereafter Children’s Act).

The researcher is of the opinion that both in the past and at present the child has not been prioritised when parents enter into divorce proceedings. There is a discrepancy between what the state attempts to facilitate, namely the protection of the children, and what happens in practice when professionals work with divorcing families. As a result, the best interest of child standard rarely receives proper attention and priority when the parents of the child decide to divorce. The provisions of the Constitution of Republic of South Africa, 1996 (hereafter Constitution) and especially the Children’s Act should be enforced rigidly to ensure that children receive the proper protection and prioritisation when professionals are required to draft, formulate and facilitate parenting plans.

Section 28 of the Constitution, exclusively deals with children’s rights and which is part of the Bill of Rights in the Constitution, is central to this study.

Section 28 provides: “(1) Every child has the right - (a) to a name and a nationality from birth; (b) to family care, parental care, or appropriate alternative care when removed from the family environment; (c) to basic nutrition, shelter, basic health care services, and social services; (d) to be protected from maltreatment, neglect, abuse, or degradation; (e) to be protected from exploitative labour practices; (f) not to be required or permitted to perform work or provide services that - (i) are inappropriate for a person of that child’s age; or (ii) place at risk the child’s well-being, education, physical or mental health, or spiritual, moral, or social development; (g) not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be -(i) kept separately from detained persons over the age of 18 years; and (ii) treated in a manner, and kept in conditions, that take account of the child’s age; (h) to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and (i) not to be used directly in armed conflict, and to be protected in times of armed conflict. (2) A child’s best interest is of paramount importance in every matter concerning the child. (3) In this section, “child” means a person under the age of 18 years”.

Of particular importance are subsections 1(b) and (2). The first deals with family and parental care:

1) Every child has the right - (b) to family care, parental care, or appropriate alternative care when removed from the family environment;

and the latter re-emphasises the child-centred approach by making the best interest of the child of paramount importance in any matter concerning the child:

(2) A child’s best interest is of paramount importance in every matter concerning the child.

These rights have been concretised in legislation, and especially the Children’s Act. Emphasis has been placed on the development of parenting plans by including the concept of parenting plans in section 33 of the Children’s Act. Section 33(2) states that if the co-holders of parental rights and responsibilities in respect of a child are experiencing difficulties in exercising their rights and

responsibilities, those persons, before seeking the intervention of court, must first seek to agree on a parenting plan determining the exercise of their respective rights and responsibilities in respect of the child. Professionals are thus now faced with numerous divorcing families that are in need of assistance of well-structured and practical parenting plans that is suitable for the needs of their family, or who is in need of mediation where they experience difficulties in exercising their rights and responsibilities. Section 33((5)(a)-(b) of the Children's Act states the following in terms of the professionals' involvement with preparing a parenting plan:

as contemplated in subsection (2) the parties must seek—

(a) the assistance of a family advocate, social worker or psychologist; or

(b) mediation through a social worker or other suitably qualified person.

Parenting plans that are well structured can be valuable in a divorce process as it can assist the parents by giving content on their respective responsibilities post-divorce. Article 33(3) explains that a parenting plan may determine **any matter** in connection with parental rights and responsibilities, including:

(a) where and with whom the child is to live;

(b) the maintenance of the child;

(c) contact between the child and—

(i) any of the parties; and

(ii) any other person; and

(d) the schooling and religious upbringing of the child.

At times, matters in a divorcing family, such as the needs of individual members, are often dismissed or not clearly visible when professionals structure parenting plans. The dismissal and/or misrepresentation of the family members' needs may be problematic. The researcher argues that the established needs form the core of a parenting plan, together with the best interest of child standard. When the needs are not established, the result is parenting plans that are not representative of the divorcing family's needs, and plans which are unfeasible. It was therefore of the essence to gain knowledge of the needs of the parents and children, as this ought to ultimately assist and guide professionals to prioritise the divorcing family's needs in structuring plans on how to prioritise the children, as required by the Children's Act.

Every year, many families go through the process of divorce and numerous children are affected in the process. Published data (STATS SA, 2008:2) points out that granted divorce cases has fluctuated between 35 792 and 29 639 per annum in the past decade (1998-2007). In 2007, 28 480 children were involved in divorce cases. Statistics prove that thousands of children's lives are affected by divorce each year. Where children are affected by divorce, the parents are responsible for their children's well-being and in need of a well-structured parenting plan for this purpose. The amendments to the Children's Act and the emphasis that is placed on the drafting of parenting plans in the Act make it necessary for professionals to be educated in preparing parenting plans. When parenting plans are prepared, it is important to establish how the quality of children's lives can be improved in a divorce matter, by reducing the conflict between parents and by clearly setting out the parents' responsibilities to prevent further disagreement that can create more conflict in the divorced family.

In view of the above situation, the following research question was formulated: **What guidelines should professionals consider when a parenting plan is created?**

2. AIMS

2.1 General aim

The general aim of this research was to develop substantive guidelines that will assist the professional in drafting parenting plans.

2.2 Specific objectives

The general aim of the research was pursued through the following specific objectives:

- Objective 1: To provide the legal context of parenting plans in South Africa.
- Objective 2: To ascertain the views of mental health professionals (social workers and psychologists) and legal professionals (attorneys and family advocates) working with a divorcing family on parenting plans.

- Objective 3: To ascertain the needs of the divorcing family (parents and children) and to present these needs in the structuring of a parenting plan.
- Objective 4: To provide professionals with comprehensive and clear guidelines on the basic structure and general content of a parenting plan.

3. THEORETICAL ASSUMPTION

The research was guided by two theoretical assumptions, namely: (1) that professionals have a need for knowledge in compiling a parenting plan; and (2) guidelines can be formulated to assist the professional in drafting child-centred parenting plans.

4. METHOD OF INVESTIGATION

The study used the following methods of investigation.

4.1 Analysis of the literature

South African literature (including opinions of South African authors, case law and statutory law), international law (including international instruments such as the Convention on the Rights of the Child, commentary of international bodies such as the Committee on the Rights of the Child), and other important literature were explored in this study. This study enabled the author to gain insight into the problem which was identified above and the investigation added value to the professional field of social work by identifying, analysing and integrating the issues and factors which social workers should consider when a parenting plan is created.

Creswell (2009:49) suggests that the extent of theory used in the different “traditions”, or designs, can be placed on a continuum according to whether they are used before or after data is collected. Theory was used to guide the study in an explanatory way, before data collection. The researcher collected literature/theory by means of:

- Local and international books: Books authored by professionals (social workers, psychologists, attorneys, advocates) which made reference to divorce matters.

- Case studies: Case studies that have been documented in a process of litigation or in professional practices.
- Web material: Web material published by universities, governing bodies, organisations and professionals.
- Journal articles: Journal articles published in the field of social work, psychology and family law.

The following databases and establishments were used to gather literature:

- Library facilities at the North-West University, Stellenbosch University and the University of Pretoria.
- Internet facilities such as EBSCO-host research databases and ScienceDirect.

4.2 Empirical investigation

In this research study the researcher collected data in a qualitative manner. Qualitative data collection was selected as Fortune and Reid (1999:94) identify the following positive points pertaining to qualitative data collection: the procedures are not as strictly formalised as in quantitative research; the scope is more likely to be undefined; and a more philosophical mode of operation is adopted. Furthermore, Fortune and Reid (1999:94) describe the following advantages of qualitative data collection, which were important for this research: the researcher attempts to gain a first-hand, holistic understanding of phenomena of interest by means of a flexible strategy of problem formulation and data collection, shaped as the investigation proceeds; and qualitative methodology rests on the assumption that valid understanding can be gained through accumulated knowledge acquired at first hand by a single researcher.

The D&D model (De Vos, 2005a:394) was used with the intervention research as the overall research design. According to De Vos (2005a:394) intervention research is defined as studies carried out for the purpose of conceiving, creating, and testing innovative human services approaches to prevent or ameliorate problems or to maintain quality of life. The D&D model is a phase model consisting of the following six phases: (1) Problem analysis and project planning; (2) Information gathering and synthesis; (3) Design; (4) Early development and pilot testing; (5) Evaluation and advanced development; and (6) Dissemination. The study represents Phase 1 -4. Each of these phases in turn comprises a series of steps or operations. Not all phase models, whether in practice or in research,

can be viewed as patterns of one phase rigidly following the next. Although performed in a step-wise sequence, some or many of the activities associated with each phase continue after the introduction of the next phase. In addition, there is sometimes looping back to earlier phases, as difficulties are encountered or new information is obtained (De Vos, 2005a:394).

The researcher used Grinnell and Unrau's (2008:401) methods of data analysis within this study. Drawing meaning from data is perhaps the most rewarding step of a qualitative data analysis. It involves two important tasks: (1) developing conceptual classifications systems, and (2) presenting themes or theory. The ultimate goal of a qualitative study is to identify any relationships between the major themes that emerge from the data set. In addition many qualitative researchers conclude their studies by presenting descriptions of the major themes that emerged from their data, others use the themes and their interpretations to create hypotheses or theory. Although numbers are typically associated with quantitative studies, it is acceptable to use numbers in qualitative ones to document how many of the participants expressed a particular theme. Numbers will help to protect your analysis against bias that occurs when particularly poignant but rare examples of themes are presented (Grinnell & Unrau, 2008:401). Within this study the researcher used numbers and counted the participants that highlighted specific themes. The researcher furthermore used numbers to show the reader what stands out and is important aspects that should be focussed on with regard to parenting plans.

Different designs were used to give deliverance to each research objective and were presented in articles. Intervention research (D&D model) was used as overall design however each article had its own specific design. Articles 1-3 represent phases 1 and 2 of the D&D model and Article 4 represents phases 3 and 4 of the D&D model. The different research designs that were used in the articles are as follows:

4.2.1 Article 1

4.2.1.1 Research design

For the purpose of Article 1, grounded theory was used as a research design. According to Creswell (2009:49), the researcher, in this type of study, generates an abstract analytical schema of a

phenomenon, that is, a theory that explains some action, interaction or process. Within the article the researcher analysed and critically discussed the following legal instruments pertaining to children: The Constitution; The United Nations Convention on the Rights of the Child; African Charter on the Rights and Welfare of the Child; and the Children's Act. This consequently provided the researcher with a legal context with regard to the legal instruments pertaining to children and children's rights. The legal context forms part of the problem analysis and data collection that forms the basis of the development of guidelines.

4.2.1.2 Data collection and procedures

For the purpose of Article 1, the information collection method that was used is a document study. Strydom and Delport (2005a:321) propose a synthesised classification of sources for document study, with the categories of personal documents, official documents, mass media, and archival material. In the article the researcher analysed and critically discussed the following legal instruments pertaining to children: the Constitution; the United Nations Convention on the Rights of the Child; the African Charter on the Rights and Welfare of the Child; and the Children's Act. This consequently provided the researcher a legal context with regard to the legislative instruments pertaining to children and children's rights. These instruments are used to generate a guideline to ensure that the professional facilitates intervention and drafts plans within the relevant legal framework. The results of the document study were discussed with the assistant promoter of this study, Prof. L Stewart - Professor of Law specialising in human and children's rights, to ensure that the analysis was representative of the legal documents that were studied. This document study presented a legal framework with reference to parenting plans.

4.2.1.3 Ethical aspects

The main ethical aspect to consider in the document study for the purpose of Article 1 was the competency of the researcher to do a legal analysis. Researchers are ethically obliged to ensure that they are competent and adequately skilled to undertake the proposed investigation. As the researcher is trained in social work and has limited knowledge in law, the researcher obtained assistance from Prof. L Stewart - Professor of Law specialising in human and children's rights (Strydom, 2005:59).

4.2.1.4 Data analysis

Data analysis involved the processes of ordering the data; reading the data and making notes; describing, classifying and interpreting the data; and representing and visualising the data (Creswell, 2009:173).

Ordering data:

Data was ordered according to a summary and interpretation of the following legal instruments:

- The Constitution;
- the United Nations Convention on the Rights of the Child;
- the African Charter on the Rights and Welfare of the Child; and
- the Children's Act.

Reading and making notes:

While reading and summarising literature, the researcher made notes pertaining to the above instruments, to obtain an in-depth understanding of each.

Describing, classifying, and interpreting:

The data was interpreted to achieve an understanding of the subject matter.

Representing and visualising:

The main ideas identified in the literature were summarised and deductions were made and visually represented in figures.

4.2.2 Article 2

4.2.2.1 Research design

A phenomenological study (Delpont & Fouche, 2005:261) was used as a research design (Article 2). A phenomenological study is a study that describes the meaning of experiences of a phenomenon, topic or concept for various individuals. It furthermore attempts to understand people's perceptions, perspectives and understanding of a particular situation. By using this approach, the researcher reduces the experiences to a central meaning or to the essence of the experience, and the product

of the research is a description of the essence of the experience being studied (Creswell, 2009:231). Article 2 focussed on the views of mental health professionals (social workers and psychologists) and legal professionals (attorneys and family advocates) with regard to the divorcing family and parenting plans. Article 2 forms part of phases 1 and 2 of the D&D model which is (1) Problem analysis and project planning; and (2) Information gathering and synthesis.

4.2.2.2 Data collection and procedures

A questionnaire (Addendum 2) was used as an instrument for information collection in Article 2. A questionnaire is “a set of questions on a form which is completed by the respondent in respect of a research project” (New Dictionary of Social Work, 1995:51). Babbie and Mouton (2001:233) point out that although the term *questionnaire* suggests a collection of questions, a typical questionnaire will probably contain as many statements as questions, especially if the researcher is interested in determining the extent to which respondents hold a particular attitude or perspective. A questionnaire ought to obtain facts and opinions about a phenomenon from people who are informed on the particular issue. The questionnaire allowed the researcher to give a range of professional views obtained from professionals who are confronted in practice with cases of divorcing families and with the task of drafting parenting plans. The researcher used a questionnaire to gather information from the professionals through electronically mailing (e-mail) the questionnaire to the professionals. Questionnaires were e-mailed to professionals because the time constraints they experienced in their practices made it more time-effective to complete a short questionnaire than to schedule an interview to discuss issues at length.

The questionnaire made use of ten open questions. According to Neuman (2003:279), open questions may be best if the researcher wants to learn how the respondent thinks, to discover what is really important to him or her, or to get an answer to a question with many possible answers. The open question has advantages when a variable is relatively unexplored or unknown to the researcher. In such a case the open questions will enable the researcher to explore the variable better and to obtain some idea of the spectrum of possible responses.

4.2.2.3 The research participants

For choosing the participants for the research, a purposive sampling technique was used. According to Strydom and Delport (2005a:329), when using purposive sampling the researcher must first think

critically about the parameters of the population and then choose the sample case accordingly. The sampling size was set at a minimum of 20 professionals from various provinces who meet the population criteria and who were obtained from a database that refers clients to the researcher in private practice.

The following criteria were set for the selection of participants: (a) The participant must be qualified in the field of social work, psychology or law; (b) the participant must work in the field of forensic investigation, family law and/or divorce related matters; and (c) participants had to be from the provinces of Gauteng, North West Province or the Western Cape.

A pilot study was done, in which the questionnaire was electronically mailed to five professionals to complete and to make comments on the structure and content of the questionnaire. Based on the feedback received from the five participants the researcher made certain changes to the questionnaire:

(a) The focus was redirected, so that the questionnaire not only focused on the parenting plan. General questions on divorce were also added to obtain a holistic view of professionals working with divorcing families and parenting plans,

(b) Structural changes were made, so that the questionnaire could fit on one page and so that no lines were included where participants could write down their thoughts at length. The researcher sent out 33 questionnaires. Twenty four questionnaires were returned over a period of two months and 23 questionnaires were used for data analysis, giving a response rate of 72%. After data from the questionnaires was analysed telephonic phone calls were made to obtain further insight into the findings and to facilitate a more in-depth discussion. The researcher telephonically contacted four of the participants (one from each professional group) to discuss their views. The professionals were selected by choosing one completed questionnaire from each professional group where the researcher identified that the participant took time to think about the questions, gave well thought-through answers and completed the questionnaire in detail.

4.2.2.4 Ethical aspects

In Article 2, the main ethical issue was to carefully consider the possible consequences for the research participants (Strydom, 2005:57). As professionals that may want to keep their identity

confidential it was advisable not to reveal their names or surnames in the research study but only make reference to their profession and their qualifications, and to allocate a number to them, for example “Respondent 1 – Counselling Psychologist (BA Psych, Psych (Hons), MA in Counselling Psych). This reference method ensured that the respondent’s identity was kept private. The respondents gave permission that the information provided by them in the questionnaires could be used in this research. The researcher ensured them that their opinions on the subject matter would remain confidential and that no personal information that could identify them would be reflected in the study (Addendum 2).

4.2.2.5 Data analysis

Data received from participants was managed in a filing system. The electronic questionnaires were organised in files and descriptive file names were allocated to them, for example “Participant 1”, which represents a social worker. Questions were analysed one at a time and all responses to a specific question were organised in a file. Similar responses were then grouped together and themes were identified. The various themes were printed and the researcher calculated the number of participants who identified with the themes.

A table was created on the profile of the participants and figures were designed for every question. The figures were used to summarise the information gathered from the questionnaire and to illustrate the identified themes per question. Accordingly, the information was analysed to draw conclusions about the professional views regarding the subject matter. The researcher also searched for comparisons between the mental health professionals and the legal professionals, to establish whether their views corresponded or differed. The numerical presentation is merely an illustration and not intended to be statistically significant.

4.2.3 Article 3

4.2.3.1 Research design

An instrumental case study was selected as a research design for Article 3. According to Rubin and Babbie (2001:123), the instrumental case study is used to elaborate on a particular theory (in this study, the best interest of child standard) and/or to gain a better understanding of a social issue (in

this study, the needs of the parent(s) and children post-divorce). The researcher used an explorative research approach. The purpose of exploratory studies is to gain insight into a situation, phenomenon, community or person. This purpose is typical when the subject of study is relatively new and unstudied (Rubin & Babbie, 2001:123). With the exploration process in this study, the researcher aimed to achieve an understanding of the needs of the divorcing family related to parenting plans, especially since parenting plans is a relatively new phenomenon in South Africa. Article 3 forms part of phases 1 and 2 of the D&D model which is (1) Problem analysis and project planning; and (2) Information gathering and synthesis.

4.2.3.2 Data collection and procedures

A document study was used as an instrument for data collection (Strydom & Delport, 2005a:329). Structured, formal official documents (forensic assessment reports) were used. The researcher practices at Intercare Medical and Dental Centre in Fourways, Gauteng, and reports were drawn from the case files of her practice. She has been in private practice for the past six years, specialising in the field of divorce and focussing on divorcing families, forensic assessment and the structuring of parenting plans. The forensic assessment reports were compiled based on (a) interviews with the parent(s), (b) a psycho-emotional assessment of the children and (c) observational sessions with the children and the parent(s). These documents were selected by using the purposive sampling technique (Strydom & Delport, 2005a:329). The sampling size was set at a minimum of 20 files that met the following criteria: forensic assessment reports that formed part of the case files in the time frame of 2007 and 2009 (as this is the period in which the researcher compiled parenting plans) which (a) focussed specifically on divorce mediation, (b) involved divorcing families with children and (c) involved the structuring of parenting plans. Twenty files that met the research criteria were selected. The three main questions that needed to be answered through data collection were the following: (1) What are the children's needs? (2) What are the parents' needs? (3) Did the parenting plans take the divorcing family's needs into consideration?

4.2.3.3 Ethical aspects

The main ethical aspect that had to be considered with the collection of the forensic assessment reports for the purpose of Article 3, was confidentiality. When the files were selected for the research study, the researcher e-mailed (Addendum 3) the participants to obtain consent that the forensic assessment reports may be used in the research study. All information had to be treated as

confidential (Strydom, 2005:57). To comply with this ethical criterion in the research study, no reference was made to the case number of the file, personal details of the individuals or any other data or information that could be used to identify individuals. In the research study, information about any individual's experience was presented anonymous. Parents and children were referred to as "participants", and no names were mentioned. This ensured that the forensic reports remained unidentified and that the participants remained anonymous.

It was also important to obtain informed consent from the subjects. All available and adequate information about the goal and the procedure of the investigation was given to the participants.

4.2.3.4 Data analysis

With the management of data, it was important to work numerically and all selected files were allocated a number. In addition, a profile of participants was created in the form of a table. The table consisted of information of the research participants, including the year the family consulted with the researcher, the number of years the couple was married, the age of the biological mother and father, the number of children in the family, and the gender and age of the children. Files were critically studied and notes were made accordingly to enable the researcher to deduce information and organise data according to themes. Nine themes were formulated. A table was drawn, with one section each summarising the raw data reflecting the needs of the parents and the children. Consequently, figures were used to present the gathered data. Literature and narrative quotations were used to support the themes and to draw further conclusions on the findings (Creswell, 2009:16).

E-mails (Addendum 4) were then sent to the participants whose files were selected for the research study. Five divorced families responded and completed the electronic form. The e-mail requested their participation in the study by providing their interpretation of their case according to the 9 identified themes. The aim was to obtain more insight regarding their respective needs and to check whether the interpretation of the files were correct. The parents to whom the e-mails were sent were asked to discuss the mail with their children, thus to include the children and to include their views as well, as their input was valuable in this research study. After receipt of the e-mails, a follow-up mail (Addendum 5) was sent to ask the parents whether they felt that the family's needs

were indeed represented in the parenting plans that were structured for them by the professionals. These electronic forms were used to add additional value to the research study and to check the validity of the researcher's interpretation of the files. A co-professional was appointed to assist in studying the files and to read the e-mails to confirm the data analysis process, to ensure valid interpretation of the data.

4.2.4 Article 4

4.2.4.1 Research design

Guidelines for professionals on parenting plans are designed in Article 4. Article 4 represents phases 3 and 4 of the D&D model, namely (3) design and (4) early development and pilot testing. This is based on the researcher providing guidelines to professionals to assist them with the structuring of parenting plans. The study does not include a pilot testing and does not implement phases 5 and 6 of the D&D model. At a later stage, further research can be initiated by facilitating a pilot study to enable the researcher to focus on advanced development and to disseminate the suggested guidelines to further target audiences.

4.2.4.2 Data collection and procedures

Based on literature and findings presented in Articles 1, 2 and 3, the researcher devised guidelines to provide the professionals with researched data and information to assist them with the structuring of parenting plans that are (a) well organised, (b) practical, (c) child-centred, (d) developmentally appropriate, and (e) representative of the divorcing families' needs.

4.2.4.3 Ethical aspects

In Article 4, the researcher applied her background and training as a qualified and experienced social worker in order to compile comprehensive and clear guidelines on the basic structure and general content of a parenting plan. Strydom (2005:63) emphasises the importance of the actions and competence of the researcher to produce a high quality and objective study.

4.2.4.4 Data analysis

De Vos (2005b:368) warns that analysing the findings can be difficult. When the researcher is analysing findings and working out what they mean, both disciplined objectivity and lateral thinking are required. Thus, with the analysis of the findings and the writing of Article 4, data was analysed and summarised according to problems that were identified throughout the research study. The guidelines that were derived from the research study were then presented – these various guidelines were based on the legislative context of a parenting plan; on the professional views relating to the divorcing family and parenting plans; and on divorcing families' needs in a divorce matter. This enabled the researcher to draw correlations between the findings and make further recommendations regarding guidelines on procedures and ethics to be followed when a parenting plan was being structured and on the requirements for structuring a parenting plan.

5. DEFINITION OF CONCEPTS

Key concepts are defined to establish the position taken in this research and to make it appropriate to the research.

5.1 Divorce

According to the New Dictionary of Social Work (2005:19) in conjunction with the Macmillan Dictionary (2010:1), *divorce* is the dissolution of a marriage by a judicial order.

5.2 Mental health professional

A person who by education and experience is professionally qualified to provide counselling interventions designed to facilitate individual achievement of human development goals and remediate mental, emotional, or behavioural disorders, and associated distresses which interfere with mental health and development (Farlex Dictionary:2010:1).

5.3 Social work/er

A *social worker* is a person registered and authorised to practice social work in accordance with the Social Service Professions Act , 1978 (Act 110 of 1978). *Social work* is a professional field which bridges community psychology, clinical psychology and sociology. Social work is concerned broadly

with the application of social-science principles to social problems. (Children's Act, Dictionary of Psychology, 2001:692; New Dictionary of Social Work, 2005:19). In this study, social workers formed part of the mental health professionals.

5.4 Psychologist

A psychologist is defined as one who is recognised or qualified to undertake any of a number of professional duties, e.g. a clinical psychologist, forensic psychologist or school psychologist and is registered at a governmental body that regulate licensing of psychologists. A psychologist is required to have completed an advanced degree (a master's minimally, often a doctorate) at a recognised institution, undertaken one or more years of a supervised internship or practicum and passed a written examination (Dictionary of Psychology, 2001:581). In this study, psychologists formed part of the mental health professionals.

5.5 Family Advocate

Person who practices as an advocate, and who is appointed under the Mediation in Certain Divorce Matters Act, 1987 (Act 24 of 1987) owing to his involvement or experience in the adjudication and settlement of family matters (New Dictionary of Social Work, 2005:19). In this study, family advocates formed part of the legal professionals.

5.6 Attorney

A professional person authorised to practice law; conducts lawsuits or gives legal advice (MACMILLAN DICTIONARY, 2010:1). In this study, attorneys formed part of the legal professionals.

5.7 Child

According to the Children's Act in accordance with the New Dictionary of Social Work (2005:19), and the African Charter on the Rights and Welfare of the child, a child means every human being below the age of 18 years.

5.8 Parenting plan

Engelbrecht and Rencken-Wentzel (1999:90) explain that the organisation of family life and the division of responsibility in the reconstructed family can be described in a document called a parenting plan.

Article 33(3) of the Children's Act explains that a parenting plan may determine **any matter** in connection with parental rights and responsibilities, including—

- (a) where and with whom the child is to live;*
- (b) the maintenance of the child;*
- (c) contact between the child and—*
 - (i) any of the parties; and*
 - (ii) any other person; and*
- (d) the schooling and religious upbringing of the child.*

6. DURATION OF THE STUDY

The study was initiated in January 2009 with the research proposal. From August to October 2009 a document study was facilitated, critically analysing various legal documents to provide a profile of the policy and legislative context of parenting plans. From November 2009 to January 2010 the researcher concentrated on Article 2 to gather information from the professionals by electronically mailing (e-mail) the questionnaire to the professionals and then commenced with data analysis.

During February to May 2010 the research focus shifted to Article 3 and a document study was facilitated. Interviews were done with the parents and children to check the quality of the information that was gathered in the document study. From June to September 2010, practical guidelines were developed for professionals when they are structuring parenting plans. The research study was finalised during September to November 2010.

7. STRUCTURE OF THE RESEARCH REPORT

The research report consists of the following five sections.

Section A: Orientation

This section gives a brief overview of the research study that allows the reader to understand the fundamental principles of the study. These include problem formulation, objectives, central theoretical argument as well as research methodology and procedures that were used during the entire research process.

Section B: The articles

This thesis is presented in an article format in accordance with Rules A.14.4.2 that are set out in the calendar of the North-West University: Potchefstroom Campus (2009). The context and technical requirements of the accredited professional journal Social Work/Maatskaplike Werk was used as a basis to formulate the articles. Four articles will be presented. Some of the articles may be longer as per the journal requirements and will be altered to meet the requirements when submitting manuscripts for publication.

Article 1

Article 1 explores the legal instruments which must be considered when parenting plans are being structured (Objective 1). A legislative context of parenting plans will give the reader an understanding of the motive of the researcher to develop substantive guidelines for mental health professionals (for example social workers and psychologists) and legal professionals (such as attorneys and advocates) pertaining to parenting plans. This article has already been submitted for publication in the Social Work/Maatskaplike Werk Journal, Stellenbosch.

Article 2

This article mainly looks into professional views about the divorcing family and parenting plans (Objective 2). The article attempts to find answers to critical questions to obtain a holistic view of where the professionals find themselves when they are working with divorcing families and the experiences and challenges that they face when they are preparing a parenting plan.

Article 3

Article 3 focuses on the needs of the divorcing family (parents and children) (Objective 3). Nine themes have been identified pertaining to the needs of the family and these needs form the core of the parenting plan, together with the best interest of child standard. This article attempts to establish and explore the needs of the divorcing family as this information on the needs adds value for the researcher when guidelines are suggested for professionals. It furthermore attempts to make authentic recommendations for parenting plans, as recommendations are based on the actual needs of the family that is going through the process of a divorce.

Article 4

This article provides professionals with comprehensive and clear guidelines on the basic structure and general content of a parenting plan (Objective 4). Guidelines have been devised to provide the professionals with researched data to assist them to structure parenting plans that are well organised, practical, child-centred, developmentally appropriate and representative of the divorcing family.

Section C:

Section C presents the conclusions and recommendations to this research.

Section D:

A consolidated list of references is listed in Section D.

Section E:

In this section the addendums to the research are presented and consists of author guidelines for Social Work/Maatskaplike Werk, consent forms, the research questionnaire, and electronic forms to be completed.

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SECTION B

ARTICLE 1

LEGAL INSTRUMENTS TO CONSIDER IN STRUCTURING PARENTING PLANS

Abstract

With amendments made to the Children's Act 38 of 2005 that makes provision for parenting plans, legal and mental health professionals have been bestowed the responsibility to structure plans for divorcing families in South Africa. Due to parenting plans being a new concept, substantive guidelines are needed to assist professionals in structuring these plans. This paper focuses on section 28 of the Constitution, the United Nations Convention of the Rights of the Child; the African Charter on the Rights and Welfare of the Child; and the Children's Act to provide a legal context of parenting plans for professionals.

1. INTRODUCTION

The objective of this article is to provide the legal context of parenting plans in South Africa. The Children's Act 38 of 2005 (hereafter Children's Act) makes explicit provision for parenting plans. It is therefore important to analyse the relevant provisions in terms of the Constitution of the Republic of South Africa (1996) (hereafter Constitution) and the Children's Act, read together with international and regional children's rights instruments pertaining to parental rights and responsibilities to establish the nature, content and necessity of these plans. Section 33(3) of the Children's Act states that a parenting plan may determine any matter in connection with parental rights and responsibilities, including (a) where and with whom the child is to live; (b) the maintenance of the child; (c) contact between the child and (i) any of the parties, and (ii) any other person; and (d) the schooling and religious upbringing of the child.

A legal context of parenting plans will give the reader an understanding of the rationale of the researcher to develop substantive guidelines for mental health professionals, for example social workers, psychologists and legal professionals such as attorneys and advocates (hereafter professionals) pertaining to parenting plans. Substantive guidelines that are comprehensive and clear on the basic structure and general content of these plans are needed for professionals, as the

researcher is of the opinion that professionals are often not well grounded in the legal requirements of facilitating, formulating and adopting or implementing of a parenting plan. It can have devastating effects on the divorcing family and specifically on the child if the proposed parenting plan is not workable, realistic or adequate (in the sense that it lacks content and substance) for the family in question, and it may result in situations of dysfunction such as stress for the child.

Bastow (2009:2), Pretorius (2008:15), Ramolotja (2000:2) along with Robinson (2009:79) indicate that the professional as well as the parents can easily lose focus of the purpose of a parenting plan – that of having the child's best interest at heart and being child-centred and not parent-centred. The researcher frequently found in practice that parenting plans are built around the wishes and needs of the parents and not that of the children. This is merely one of many problems in the practice of parenting plans.

The researcher will analyse and critically discuss a number of legal instruments pertaining to children. As a point of departure, the Constitution (being the highest law in South Africa) will be discussed, and more specifically section 28. Section 28 is part of Chapter 2 of the Constitution and exclusively deals with the fundamental or human rights of children. These rights, as contained in the Constitution, have been translated into legal subjective rights in the Children's Act. It is therefore necessary to evaluate the relevant sections in the Children's Act which deal with parental plans and related issues. Section 39 of the Constitution requires a court interpreting a fundamental right in Chapter 2 of the Constitution to take international law into account as well. Another reason to consider relevant international and regional law is the fact that the South African government had signed and ratified the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC), which places a duty on the government to adhere to these documents and translate the provisions of these documents in domestic legislation. Through a critical analysis of these legal instruments, the researcher anticipates to obtain insight in and an understanding of how legal instruments prioritise the child and how a child-centred approach should influence the contents of parenting plans and what is required by these documents for purposes of formulating a parental plan.

2. PROBLEM STATEMENT

Section 28 of the Constitution, which exclusively deals with children's rights and which is part of the Bill of Rights in the Constitution, is central to this study. Of particular importance are subsections 1(b) and (2). The first deals with family and parental care:

1) Every child has the right - (b) to family care, parental care, or appropriate alternative care when removed from the family environment;

and the latter re-emphasises the child-centred approach by making the best interest of the child of paramount importance in any matter concerning the child:

(2) a child's best interest is of paramount importance in every matter concerning the child.

These rights have been concretised in legislation, and especially in the Children's Act.

However in practice the child has not been prioritised when parents enter into divorce proceedings. There is a gap between the protection of the child which the state attempts to facilitate and what happens in practice when professionals work with divorcing families. Consequently, the researcher is of the opinion that by and large the best interest of the child rarely receives proper attention and priority when the parents of the child decide to divorce. Currie and De Waal (2005:617) in concurrence with Ramolotja (2000:1), Tayer and Zimmerman (2001:165) and White (2005:22) indicate that when a family goes through divorce proceedings, it is the child's rights that should be emphasised and not the rights of the parent. The provisions of the Constitution and especially the Children's Act should be enforced rigidly to ensure that children receive the proper protection and prioritisation when professionals are required to draft, formulate and facilitate parenting plans. A parenting plan should thus clearly reflect the child's needs, wishes and sense of safety, and it should ensure that the rights of the child are respected, protected, promoted and fulfilled in accordance with the Constitution and the Children's Act.

The researcher experienced the mentioned problems with the drafting of parenting plans for divorcing families. It was then necessary to verify whether these were indeed problems other professionals are also faced with, and if so, to establish means to address these problems areas. Parents often insist on being the main focus in the intervention process and do not want the professional to consult with the child. Furthermore, the parent liable for the professional bills expects to be the 'prioritised client' who is entitled to make a bigger input in the process and to have the final say. Clients consult with various professionals until they feel content with the recommendations that promote the clients themselves and their needs. Often attorneys represent their adult clients, while the child is not accommodated in the process. Professional conflict about

recommendations leads to further disagreement, which affects the family even more. In this process, the parents' conflict becomes the main focus of the process instead of the child's rights and interests. Professionals do not consult with the children and children are not heard in the process: the result of this is that parenting plans are designed which are focussed on the parents' wants and needs rather than on the best interest of the children.

These problems should be prevented by developing parenting plans that are child-centred. Carter, Haave and Vandersteen (2010:1) offer a number of guiding values for child-centred parenting plans, for example:

- Parenting plans should minimise loss and maximise relationships for children;
- stability of placement should be considered in the context of developmental needs for the child;
- parents are more important than alternative care providers for the child;
- the parenting plan must consider the needs of the older child for peer contact and the changing parent/child relationship;
- school-age children may need multiple parenting plans: one for the regular school year, one for summer vacation, one for winter vacation and one for spring break;
- regardless of the schedule, children should be with their mother on her birthday and on Mother's Day and with their father on his birthday and on Father's Day;
- children are unique individuals and should each benefit from some one-on-one time with their parents;
- the role of parents is to cooperate to provide as many opportunities for their children as possible; and
- clear definitions of terms are required, for example: 'A weekend begins when the child leaves the school for the last time before Saturday. The weekend ends when the child enters the school for the first time after Sunday.'

The researcher agrees with all the above-mentioned guiding values for child-centred parenting plans and believes that these values should be incorporated into child-centred parenting plans. However the above stated values are formulated for Hawaii and South Africa is in need of similar tested values that have not yet been developed. These guiding values need to be context specific and thus the need for this article to analyse the legal context to enable prospective guiding values for parenting plans. The child's wishes (what the child wants) and best interest (what is good for the child) must form part of a child-centred parenting plan. However, it is important that when the

child's wishes are not necessarily in his or her best interest as determined by a professional, the best interest of the child (as determined by a professional) should take priority over the wishes of the child. The contention is further held that when parenting plans are developed and implemented, the emphasis should be on the child and on the requirements of legal instruments pertaining to children.

This research is guided by the following research question: ***What legal issues and factors do professionals have to consider when a parenting plan is created?*** The researcher aims to answer the above question through critically analysing relevant provisions pertaining to parenting plans in these legal instruments. As a point of departure, section 28 of the Constitution is analysed, followed by the United Nations Convention of the Rights of the Child; the African Charter on the Rights and Welfare of the Child; and the Children's Act. Insights gained through these legal instruments are then used to set general guidelines taken from the legal findings.

3. THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996

Today, the South African society is guided by a Constitution that recognises their rights and the equality and dignity of everyone, including children. During the drafting of the Constitution, the United Nations Convention on the Rights of the Child (UNCRC) played a critical role to ensure that children's rights were entrenched in the Constitution. The Bill of Rights in South Africa's Constitution safeguards the human rights of all adults and children alike. The purpose of the Constitution is to create a society that is based on equality, dignity and freedom. Children have the same rights as adults, with a few age-related exceptions, such as the right to vote and the right to stand for public office. In addition, the Bill of Rights further specifies a number of rights contained in section 28 which apply only to children (Situational Analysis of Children in South Africa, 2009:3,4).

Section 28 of the Constitution is particularly relevant to this study. It was explained in the problem statement above that section 28 should be considered as a point of departure and a baseline to fully comprehend the subjective rights of the child contained in legislation such as the Children's Act when a parenting plan is being drafted.

The Constitution emphasises certain important aspects that the researcher believes should be taken into consideration with parenting plans. The researcher is of the opinion that when professionals facilitate the process of intervention with a divorcing family, they should consider the following, as reflected in the Constitution, to enable the professional to draft a parenting plan. Firstly, a parenting plan should clearly reflect the *child's right to parental care*. Secondly, the *child should be protected*

by the professional recommendations made in the parenting plan. A developmental approach is an approach that takes into consideration the child's needs from birth to age 18 and it focuses on age-appropriate recommendations. Such a developmental approach to child care and protection is to achieve a situation where most children are participating in and are cared for by well-functioning families, who are able to claim their rights. Close-knit families, inspirational parents, loving grandparents and welcoming extended families are critical conditions for children's happy family experiences (Situational Analysis of Children in South Africa, 2009: xx). The researcher has observed that in a divorcing family, the family often experiences a period of dysfunction – therefore it is imperative that the professional structure of a parenting plan ensures that the child remains cared for and protected within the period of dysfunction as well as the period when the family recovers and becomes functional post-divorce.

Thirdly, it is imperative that the child as well as the parents be informed that *the child has the right to legal representation*, as the child's wishes (what the child wants) and best interest (what is good for the child) should be considered in the formulation of a parenting plan. The wishes and the best interest of the child should, however, be professionally evaluated as children's perception of what may be good for them may be different from the professional's view based on experience and knowledge. The best interest of the child thus takes priority over the wishes of the child as evaluated by a professional. The researcher often sees parents that are represented by legal counsel, but have seldom seen that children have their own appointed legal representation. A shift in this practice is necessary, so that children are represented fully by legal counsel, especially in the intervention process, to facilitate parenting plans that give a voice to the child.

Lastly, the *child's best interest* should be prioritised throughout the process of facilitating intervention and making recommendations in a parenting plan. Barratt (2003:145), Bastow (2009:2), Pretorius (2008:15) together with Ramolotja (2000:2) and Robinson (2009:79) indicates that while working with divorcing families, the professional is often placed under pressure by co-professionals (legal counsel that represents a parent) or the parents themselves to make decisions and/or recommendations in favour of the parents, or decisions which will suit the parents. It is imperative that the professional not give in to intimidation in the process, but that he/she should remain focussed on the needs and wishes of the child and act on behalf of the child, as it is important that the child is seen as the client and not the parents.

The researcher identified four points in section 28, namely (1) the child's right to parental care, (2) the child should be protected, (3) the child has the right to legal representation, and (4) the child's best interest, that will enable professionals to place the primary focus on the child and that will assist them in their work with divorcing families and their drafting of parenting plans. The United Nations Convention on the Rights of the Child will be discussed in the section below.

4. THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

South Africa signed and ratified the United Nations Convention on the Rights of the Child (UNCRC). In terms of the UNCRC, South Africa – as a state party – is required to measure progress towards fulfilling children's rights and to report to the UN Committee every five years. The specific provisions for children's rights in the South African Constitution were aligned with the UNCRC, which must be taken into account in the interpretation of the constitutional rights of children in South Africa. According to the UNCRC, every child has the right to survival, development, protection and participation. All four these generic rights are pertinent to each of the categories of rights, well-being and vulnerability, as reflected in the UNCRC (Situational Analysis of Children in South Africa, 2009:6).

Archard and Skivenes (2009:1) together with Gould and Martindale (2009:33) and Stahl (1999:25) explain that two central commitments are made in the law and policy that operate in Western jurisdictions with respect to children: to promote the child's best interests or the child's welfare; and to allow the child to express his or her view of any matter affecting his or her interests, these views being given a weight proportionate to the child's maturity, age, and understanding of these issues. These two commitments have practical application in all the key areas where a child's interests are at stake, including health care, child custody, child protection, and child welfare generally. Most obviously these commitments can be found at the heart of two of the most important articles within the UNCRC, namely articles 3(1) and 12(1):

Article 3(1):

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 12(1):

Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

As explained in the problem statement, it often occurs in practice that the requirements contained in legal instruments are not satisfied in practice, and professionals do not apply what is required by the legal instruments. The researcher found that often the two central commitments – namely to promote the child’s best interests or the child’s welfare, and to allow the child to express his or her view of any matter affecting his or her interests (where these views are given a weight proportionate to the child’s maturity, age, and understanding of these issues) (Archard & Skivenes, 2009:1; Gould & Martindale, 2009:33; Stahl, 1999:25) – are ignored in parenting plans and this defeats the real purpose of a parenting plan, which is meant to protect the child post-divorce.

It is the researcher’s view that these two commitments need to be clearly reflected in the process of facilitating intervention with divorcing families when parenting plans are being drafted. The reason for this is that often the child’s wishes and best interest are overlooked when the process is facilitated with the family and when relevant information for a parenting plan is obtained, because the parents are often regarded as the client instead of the child. When parenting plans were drafted in the past, children also did not have the opportunity to express their views of any matter affecting their interests, again because professionals focused on the parents and not on the children. The researcher is aware of professionals who often do not include or consult the children in the intervention process pertaining to parenting plans. This is a clear indication that the child’s views are not being considered or prioritised in parenting plans.

The following articles from the UNCRC can also add value to the process when working with divorce matters, and they should be considered in preparing a parenting plan. When plans are being prepared, it is imperative that professionals give attention to the child’s position and protection, and that they should prevent the parents’ opinion from dominating the process, so that the child does not end up feeling suppressed and discriminated against. It is thus imperative to promote and protect the child in the intervention process pertaining to parenting plans, in accordance with the guidelines provided by articles 2(2) and 19(1) of the UNCRC:

Article 2(2)

Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 19(1)

Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

An important aspect of the parenting plan is to promote the child-parent relationship and all aspects should be considered to protect this relationship. Articles 9 and 10 of the UNCRC should be taken into account for this purpose:

Article 9:

Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

Article 10:

A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contact with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any

country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (order public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Furthermore, it is imperative that parenting plans focus on the responsibility of the parents. This is an important aspect of the preparation of plans, as it is imperative that parents' responsibilities are clearly defined in the plan. Articles 5, 18(1) and 27 should be considered in this case:

Article 5:

Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 18(1):

Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

Article 27:

Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

The researcher identified a number of main themes in the provisions of the UNCRC which are relevant for this study. Figure 1 illustrates 14 important aspects which the researcher has deduced from the UNCRC to be considered by professionals when they are preparing a parenting plan:

Figure 1: Aspects to consider when preparing a child-centred parenting plan

Protection of the child is of paramount importance [UNCRC: A(2)]
The child should maintain personal relations and direct contact with both parents on a regular basis [UNCRC: A(9.3)]
Children should not be separated from their parents except in special circumstances [UNCRC: A(9.1)]
Best interest of the child should be prioritised and should be the basic concern of the parents [UNCRC: A(3); A(18.1)]
A child should be heard in proceedings [UNCRC: A(12.2)]
Children must express their views if capable [UNCRC: A(12.1)]
A child has a right to a certain standard of living to promote their development [UNCRC: A(27.1)]
On relocation children should have the right to maintain contact on a regular basis with the parent [UNCRC: A(10)]
A child must be protected against abuse, neglect, negligent treatment, maltreatment, and exploitation [UNCRC: A(19.1)]
Caregiving and protection must conform to certain standards [UNCRC: A(3.3)]
Both parents have a common primary responsibility for the upbringing and development of their children [UNCRC: A(18.1)]
Parents must give direction and guidance to their children [UNCRC: A(5)]
Parents' responsibilities, rights, and duties must be respected [UNCRC: A(5)]
All parties should participate in intervention [UNCRC: A(9.2)]

When professionals work with divorcing families and when they are drafting parenting plans, the aspects reflected in Figure 1 should be used as a guideline. This will give direction to the professional to draft well-structured parenting plans with high quality recommendations for the divorcing family.

Below, the African Charter on the Rights and Welfare of the Child will also be considered for further insight that can be used in parenting plans.

5. AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

The African Charter on the Rights and Welfare of the Child (ACRWC) was adopted by the Organisation of African Unity (OAU) in 1990, which legally became the African Union in 2001. South Africa endorsed this document in 1999. Like the UNCRC, the ACRWC is a comprehensive instrument that sets out rights and defines universal principles and norms for the status of children. The ACRWC and the UNCRC are international and regional human rights treaties that cover the whole spectrum of rights (Situational Analysis of Children in South Africa, 2009: vi).

For this research, a number of articles of the ACRWC were identified that can add value for the professional when intervention is facilitated pertaining to parenting plans. When a parenting plan is prepared, it is of paramount importance to focus on the child: this entails the promotion of the child's rights, the best interest of the child and endorsing the development and functioning of the child as a human being. This includes the promotion of freedom of expression and taking the views of the child into consideration in all decisions or recommendations. Articles 4, 7, 9 and 12 of the ACRWC should be considered in this process:

Article 4:

In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

Article 7:

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

Article 9:

Every child shall have the right to freedom of thought, conscience and religion. Parents, and where applicable, legal guardians shall have a duty to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interests of the child. States Parties shall respect the duty of parents and where applicable, legal guardians to provide guidance and direction in the enjoyment of these rights subject to the national laws and policies.

Article 12:

States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Parenting plans should focus on parental rights and responsibilities in relation to the child. These rights and responsibilities should be clearly specified in the plan to ensure that parents understand their roles pertaining to their children and their roles in the post-divorce family. Articles 11(4), 18, 19 and 20 of the ACRWC should be taken into account when parents' rights, duties and responsibilities as caregivers of their children are being considered:

Article 11(4):

States Parties to the present Charter shall respect the rights and duties of parents, and where applicable, of legal guardians to choose for their children schools, other than those established by public authorities, which conform to such minimum standards may be approved by the State, to ensure the religious and moral education of the child in a manner with the evolving capacities of the child.

Article 18:

The family shall be the natural unit and basis of society. It shall enjoy the protection and support of the State for its establishment and development. States Parties to the present Charter shall take appropriate steps to ensure equality of rights and responsibilities of spouses with regard to children during marriage and in the event of its dissolution. In case of

the dissolution, provision shall be made for the necessary protection of the child. No child shall be deprived of maintenance by reference to the parents' marital status.

Article 19:

Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law, that such separation is in the best interest of the child. Every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.

Article 20:

Parents or other persons responsible for the child shall have the primary responsibility of the upbringing and development the child and shall have the duty: (a) to ensure that the best interest of the child are their basic concern at all times-(b) to secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and (c) to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.

The ACRWC plays an important role in protecting the rights of children in an African context. Although the rights it describes are similar to those in the UNCRC, it is specifically focussed on the unique circumstances of the African child. The ACRWC puts children's rights in legal and cultural perspective. In order for the ACRWC to have significance for children's rights in Africa and effectively change children's lives, people and member states collectively need to believe in and accept children's rights as human rights and recognise binding duties on them. It is a key source of inspiration for African member states and represents a collective recognition of the rights and welfare of African children, and it establishes a legal framework for their protection (Lloyd, 2002:11).

The following aspects that are derived from the ACRWC (see Figure 2) are important for the purpose of this research and should be consulted when parenting plans are drafted, to ensure that the African child's rights are being promoted in the parenting plans:

Figure 2: Aspects to be considered when drafting a parenting plan in an African context

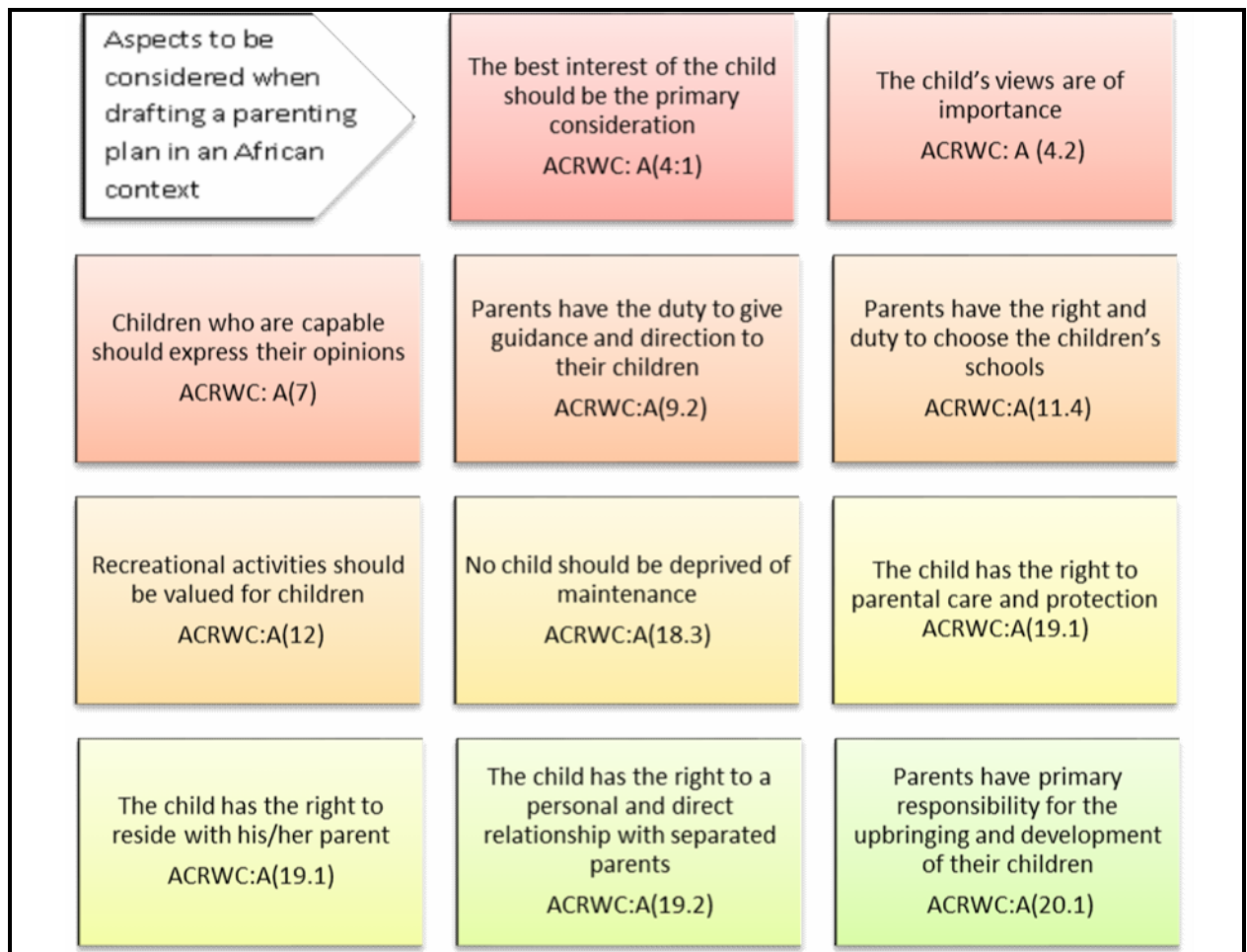


Figure 1 and 2 highlight important criteria that should be applied by the professional who is facilitating intervention with the divorcing family during the process of drafting a parenting plan. The following criteria are set by both the UNCRC and the ACRWC and are of primary importance for parenting plans:

- the best interest of the child;
- the child's views and opinions;
- recreational activities for the child;
- maintenance for the child;
- parental care and protection of the child;
- the child's contact with parents when the parents are separated or when parents relocate; and
- the child's standard of living.

After compliance with these criteria, the following points in the UNCRC and ACRWC should be addressed by the parenting plan:

- responsibilities, rights, and duties of the parents;
- the direction and guidance parents should give their children;
- the primary responsibility of the parents for the children's upbringing and development; and
- the fact that the basic concern of the parent should be the best interest of the child.

Below, the Children's Act will also be discussed in as far as it contributes guidelines for a well-formulated parenting plan.

6. THE CHILDREN'S ACT

The Children's Act adopts a developmental approach that emphasises the state's role in the provision of social services to strengthen the capacity of families and communities to care for and protect children. The Children's Act has done a lot to improve the environment for the protection of children. The South African judicial system has significantly improved in terms of promoting children's rights and processing children's issues (Situational Analysis of Children in South Africa, 2009: iv). The Children's Act gives effect to certain rights of children as contained in the Constitution. Two specific sections of the Children's Act that are indispensable for parenting plans will be analysed here, namely section 7 (best interest of child standard) and sections 33 and 34 (contents and formalities with regard to parenting plans).

6.1 Best interest of child standard

Since the circumstances of each child in each family unit vary across a wide spectrum of factors, the best interest of child standard is invariably a relative concept (Gould & Martindale, 2009:33; Maya, 2005; Stahl, 1999:25). The facts and context of each case determine not only which interest, but also what factors are to be considered. Generally, the child's interests include his or her physical, economic, emotional, intellectual, cultural, spiritual, social, moral and religious well-being. It is impossible to compile an exhaustive list of all the factors which must be considered when a court has to decide on a child's best interests. Yet, these interests should be incorporated in the process of drafting the parenting plan.

Bekink (2003:15), Currie and De Waal (2005:617) and Strous (2007: 223) emphasise that the best interest test directs the court to exercise the discretion it possesses in its capacity as upper guardian of minors to promote the interest of the child, rather than to focus on the rights and entitlements of

the parents. However, the concept of the ‘best interest of the child’ is not unproblematic. It has become controversial because it has failed in the past to provide a reliable or determinate standard. In addition, it created the risk of social engineering through what the helping professions or social services consider to be in the best interests of the child. In the South African law, the best interest of children is paramount: as indicated above, this principle is also embodied in the UNCRC and ACRWC (both of which South Africa has endorsed) and section 28(2) of the Constitution.

As indicated above, the child’s interest should be determined by considering the terms contained in the Children’s Act. Factors reflected in cases such as *McCall vs McCall* should also add value to determining the best interest of child standard. The *McCall vs McCall* criteria are frequently referred to in divorce disputes, although judges are not compelled to take all the criteria of that case into account. As useful as it may be, then, the *McCall vs McCall* list serves only as a guide (Barratt, 2003:145). Table 1 illustrates the terms in section 7 of the Children’s Act and factors in the *McCall vs McCall* case and points out correspondences and unique features between the two:

Table 1: Factors to consider when determining the best interest of the child

Factors in section 7 of the Children’s Act	Factors in the South African case of <i>McCall vs McCall</i>	<u>CORRESPONDING FACTORS</u> considered by both the Children’s Act and in the case of <i>McCall vs McCall</i>	<u>UNIQUE FACTORS</u> considered by section 7 of the Children’s Act and in the case of <i>McCall vs McCall</i>
The nature of the personal relationship between (i) the child and the parents, or any specific parent; and (ii) the child and any other care-giver or person relevant in those circumstances.	The love, affection, and emotional ties that exist between parent and child, and the parent’s compatibility with the child.	Bond between the child and the parent.	Act extended to other caregivers for example, grandparents.
(i) The attitude of the parents, or any specific parent, towards the child; and (ii) the exercise of parental rights and responsibilities in respect of the child.	The ability of the parent to communicate with the child, and the parent’s insight into, understanding of, and sensitivity to the child’s feelings. The capacity and disposition of the parent to give the child the guidance that he or she requires.	The ability of the parent to add value to the child’s life and sensitivity.	McCall indicates sensitivity towards the child.
The capacity of the parents, or any specific parent, or any other care-giver or person, to provide for the needs of the child, including emotional and intellectual needs.	The capabilities, character, and temperament of the parent and the impact thereof on the child’s needs and desires. The ability of the parent to provide for the education, well-being and security of the child, both religious and	The parent’s ability to provide for the needs of the child. Not only financially but emotionally and intellectually.	The ability of the parent to provide financially for the child.

	secular.		
The likely effect on the child of any change in the child's circumstances, including the likely effect on the child of any separation from (i) both or either of the parents; or (ii) any brother or sister or other child; or (iii) any other care-giver or person with whom the child has been living.	The desirability or otherwise of keeping of siblings together.	The desirability to keep family members together to avoid separation from a member.	The Act includes other care takers for example grandparents.
The practical difficulty and expense of a child having contact with the parents, or any specific parent, and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with the parents, or any specific parent, on a regular basis.			The practical difficulty and expense of a child to have contact with a parent.
The need for the child (i) to remain in the care of his or her parent, family and extended family; and (ii) to maintain a connection with his or her family, extended family, culture or tradition.	The child's preference, if the court is satisfied that in the particular circumstances it should be taken into consideration.	The child's need and preference.	Role of legal representative in terms of Section 28(1)(h).
The child's (i) age, maturity and stage of development; (ii) gender; (iii) background; and (iv) any other relevant characteristics of the child. The child's physical and emotional security and his or her intellectual, emotional, social and cultural development.	The ability of the parent to provide for the child's emotional, psychological, cultural, and environmental development.	The parent's ability to enhance the child's development.	Any relevant characteristic of the child.
Any disability that a child may have. Any chronic illness from which a child may suffer.			Any disability of a child. Any chronic illness of a child.
The need for a child to be brought up within a stable family environment and, where this is not possible, in an environment resembling as closely as possible a caring family environment.	The stability or otherwise of the child's existing environment, having regard for the desirability of maintaining the status quo.	The stability of the child's environment.	
The need to protect the	The mental and physical	To protect the child from any	

child from any physical or psychological harm that may be caused by (i) subjecting the child to maltreatment, abuse, neglect, exploitation or degradation or exposing the child to violence or exploitation or other harmful behaviour; or (ii) exposing the child to maltreatment, abuse, degradation, ill-treatment, violence or harmful behaviour towards another person.	health and moral fitness of the parent.	physical, mental, and moral harm.	
Any family violence involving the child or a family member of the child.			Any violence involving the child.
Which action or decision would avoid or minimise further legal or administrative proceedings in relation to the child.			Actions or decision to avoid or minimise further intervention involving the child.
	The ability of the parent to provide for the child's physical and material needs and economic security.		
	The desirability or otherwise of applying the doctrine of same sex matching.		Same sex matching.
	Any other factor that is relevant to the particular case with which the court is concerned.		Any other factor.

Table 1 reflects the factors that need to be considered when the best interest of child principle is being determined. The researcher experienced in practice that the principles for best interest of child standard, as contained in the newly enacted Children's Act and the *McCall vs McCall* criteria, do not always receive the necessary attention when parenting plans are drafted, because the parents dominate the process and the child's interests are overlooked in the facilitated intervention. It is of paramount importance that the best interest of child standard is the focus for the professional when the process with the divorcing family is being facilitated and when a parenting plan is being drafted. Professionals often feel passionate about the best interest of the child and will often discuss this with fellow-professionals working on the case; but this is seldom reflected in professional recommendations made in the parenting plans. Therefore it is pertinent that the best interest of child standard should be an integral part of the intervention facilitated with the divorcing family and of the drafting of the parenting plan.

When the parenting plan is compiled, the best interest of the child should be identified according to the guidelines set out by legal instruments. To this end, legislation pertaining to the contents and formalities with regard to parenting plans will be discussed below.

6.2 Contents and formalities with regard to parenting plans

Sections 33 and 34 of the Children's Act are relevant to this study, and the researcher will therefore give a brief summary of these sections.

The contents of parenting plans should reflect the best interest of the child standard. Parents must seek the assistance of a family advocate, social worker or psychologist; or mediation through a social worker or other suitably qualified person when a parenting plan is prepared. In some instances, parents may agree on a parenting plan that determines the exercise of their respective rights and responsibilities in respect of the child. However, if the parents are in conflict, they must first seek to agree on a parenting plan before they seek the intervention of a court. A parenting plan may determine any matter in connection with parental rights and responsibilities, including where and with whom the child is to live; the maintenance of the child; contact structures; schooling; and religious upbringing of the child.

Parenting plans must conform to certain formalities. A parenting plan must be in writing, it must be signed by the parties to the agreement, and it may be registered with a family advocate or made an order of the court. An application by parents for the registration of the parenting plan or for it to be made an order of the court must be in the prescribed format and it must contain the prescribed particulars. It must be accompanied by a copy of the plan and a statement by a family advocate, social worker or psychologist declaring that the plan was prepared after consultation or mediation with such a professional. A parenting plan registered with a family advocate may be amended or terminated by the family advocate on application by the parents. A parenting plan that was made an order of the court may be amended or terminated only by an order of the court on application by the parents who are parties to the plan; by the child, acting with leave of the court; or in the child's interest, by any other person acting with leave of the court.

Parenting plans are a relatively new phenomenon in South Africa, and the researcher therefore believes that the professional should use all available resources to produce effective and high quality parenting plans. Because parenting plans for divorcing families must be compiled before the courts are approached, it is imperative that appropriate, sound, well-structured and professionally

designed parenting plans be drafted by competent, well-informed and appropriately qualified professionals. Connell (2008:9) points out that disputes about parenting time and responsibility occupy much of the time of family courts and of forensic mental health professionals who perform evaluations for these courts. The legal approach to these matters continues to evolve with societal changes in the ways parenting is viewed. Certain trends are reviewed, including expanded concepts of family constellations, the current emphasis on shared parenting, and shifts in the language employed by the law. Courts are finding alternative ways to resolve conflict for families, who can benefit from education and brief intervention. The Internet has had an impact on parent education, service delivery and the promulgation of collective wisdom and community philosophy. Forensic mental health evaluations are increasingly used in cases where there are allegations of sexual abuse, alienation, chemical dependency or partner violence, or when relocation is an issue. Professional standards and guidelines for these evaluations emphasise the importance of neutrality and of collecting relevant and reliable data. In the context of refined expectations for expert testimony, and with increasingly educated examinees, heightened attention is being given to the quality of the evaluation and the competency of the evaluator. These refined expectations place pressure on the professional to deliver high quality parenting plans; and with effective training, professionals can meet these expectations (Connell, 2008:9).

Sections 33 and 34 of the Children's Act give guidance to the professional on the content and formalities of parenting plans and on how to deliver quality work in a competent manner. This in itself will assist the uninformed professional to support divorcing families in the intervention pertaining to parenting plans and the administration process surrounding the parenting plan. The drafting of parenting plans is a relatively new concept for South African professionals and not all professionals are fully prepared for this task or have received adequate training by an accredited institution to facilitate intervention pertaining to divorcing families and the drafting of parenting plans. When incompetent professionals are involved in the process, parenting plans are often not child-centred and the intervention with the divorcing family is of poor quality. Emphasis should thus be placed on assisting the professional with substantive and comprehensive guidelines that are clear on the basic process structure and general content of parenting plans, to assist the professional to deliver competent and high quality parenting plans.

7. CONCLUSION

The researcher posed the following research question in the problem statement: ***What legal issues and factors do professionals have to consider when a parenting plan is created?*** Through a critical analysis of the relevant legal instruments, the following answer to this question was construed.

In order for professionals to compile a parenting plan the following guidelines should be taken into consideration:

The professional should be well versed with regard to the legal instruments pertaining to children and children's rights. These legal instruments should be used as a guideline to ensure that the professional facilitates intervention and drafts plans within the relevant legal framework. The professional should thus directly refer to legal instruments in the plan, as this will enhance the quality of the plans drafted by informed professionals.

The professional should draft child-centred and not parent-centred parenting plans and the following rights of the child should be prioritised in drafting the plan: (1) the child's right to parental care; (2) the child's right to protection; (3) the child's right to legal representation; and (4) the child's best interest. The professional should use these four points (as derived from section 28 of the Constitution) to facilitate the intervention process with the divorcing family. After completing the parenting plan for the divorcing family, the professional should ask whether the plan indeed reflects the child's right to parental care, the child's right to protection, the child's right to legal representation and the best interest of the child. If the parenting plan does not satisfy these four requirements, the professional should reconsider the recommendations of the plan because the plan is then most likely not a child-centred plan.

Through a critical analysis of the relevant legal instruments, it was concluded that the UNCRC and ACRWC (two international instruments) are indispensable for the professional who has to facilitate intervention with the divorcing family and draft parenting plans in South Africa. These are two comprehensive instruments that set out the rights and define the universal principles and norms for the status of children. They should be used as a guideline to help the professional to fully understand and accept the rights of the child and thus to promote the rights of the child accordingly. When these instruments are applied, the professional should use an approach that primarily focuses on and promotes the right of the child and that places the parent secondary in the intervention process. This will ensure high quality and effective parenting plans.

The Children's Act is crucial for determining the nature, content and necessity of parenting plans, and three sections in the Act are particularly relevant here: the best interest of child standard (section 7) and the contents and formalities pertaining to parenting plans (sections 33 and 34). These three sections demand that parenting plans be child-centred and they accordingly provide guidelines to professionals to deliver structured plans in a well-organised process of registry to ensure an effective parenting plan that works for the divorcing family. If professionals understand these sections, they will also understand what the focus of a parenting plan should be (as stipulated in section 7) and how to deliver quality work in a competent manner (as stipulated in sections 33 and 34).

It was pointed out that professionals are often ignorant about intervention pertaining to parenting plans and are unable to draw up high quality parenting plans, because parenting plans are a relatively new phenomenon in South Africa and most professionals were not trained for the process. All professionals working with parenting plans should be well qualified in the field of parenting plans, but they must at least have a comprehensive understanding of the above-mentioned sections of the Children's Act. These sections will guide professionals to deliver well thought-through parenting plans with the child's best interest at heart. Although the mere knowledge and understanding of these sections do not qualify a professional to work in this complex field, it will nevertheless provide professionals with the basic tools to inform their clients on the importance of a parenting plan in the post-divorce stage.

The legal instruments discussed in this article emphasise the child's needs, wishes and sense of safety, and they ensure that the child's rights are respected, protected, promoted and fulfilled. The content of parenting plans, as prescribed by the Act, must determine any and all matters in connection with parental rights and responsibilities.

In order to develop high quality parenting plans, professionals should consider various aspects that are important for the child, the parent and that of the professional in drafting the plans. With regard to the child it is imperative to prioritise the child in the divorcing family; consult with children in the intervention process and give a voice to the children to state their views and opinions; recognise that the best interest of the child is of primary importance; make the child the main focus of the intervention process and not the parents. With regard to the parents it is imperative to inform the parents of the professional's ethical responsibility towards the child. Professionals ought to make informed decisions about cases, especially those cases where parents have consulted with

various other professionals, as parents often seek recommendations that suit themselves; advise the divorcing family that the mother and father should be legally represented by their own respective legal counsel and that the children should have their own legal representation (if such representation is necessary in the opinion of the professional); focus on the child and not get entangled with the dispute between the parents; act with professional integrity and respect co-professionals and their opinions; apply legal instruments; and consult other professionals if needed (such as a psychologist to establish the child's mental capacities).

The researcher strongly believes that to deliver workable parenting plans for the divorcing family, all parties need to give their full cooperation in the intervention process. Intervention with a divorcing family to structure a well-organised, practical and realistic parenting plan for each unique family can only be successful if professionals, parents and children all work together with the objective to make post-divorce family life more functional for all members of the family.

Article 2 will focus on the views of mental health professionals (social workers and psychologists) and legal professionals (family advocates and attorneys) regarding the divorcing family and parenting plans.

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ARTICLE 2

PROFESSIONAL VIEWS ABOUT THE DIVORCING FAMILY AND PARENTING PLANS

Abstract

The concept of parenting plans has been included in section 33 of the Children's Act 38 of 2005 and emphasis is placed on professionals that should assist the divorcing family to structure parenting plans when going through a divorce, before seeking the intervention of a court. Professionals are thus now confronted with divorcing families that are in need of assistance to draft a parenting plan to structure their lives post-divorce. This paper focuses on the views of mental health professionals (social workers and psychologists) and legal professionals (attorneys and family advocates) with regard to the divorcing family and parenting plans.

1. INTRODUCTION

The objective of this article is to ascertain the views of mental health professionals (social workers and psychologists) and legal professionals (attorneys and family advocates) (hereafter professionals) with regard to the divorcing family and parenting plans. Article 33 (1) and (2) of the Children's Act 38 of 2005 (hereafter Children's Act) explain that co-holders of parental rights and responsibilities of a child may agree on a parenting plan determining the exercise of their respective rights and responsibilities in respect of the child and furthermore make certain provisions of who can facilitate intervention with the divorcing family when drafting parenting plans. It is stated that if parents experience difficulty in agreeing on a parenting plan when it is being prepared, the parties must seek the assistance of a family advocate, social worker or psychologist; or mediation through a social worker or another suitably qualified person. Thus the preparation of parenting plans is assigned to the above-mentioned professionals.

Bastow (2009:2), Hartson and Payne (2006:125), Pretorius (2008:15), Ramolotja (2000:2) and Robinson (2009:79) indicate that professionals working in the divorce field face numerous challenges. The researcher agrees and has experienced in practice that working with divorcing

families is demanding. Families are often confrontational and present with a lot of anger that easily transfers into the intervention process, which makes it challenging for the professional to structure the family's life post-divorce within a parenting plan. Against this background, the general goal of the study was to develop substantive guidelines that should be comprehensive and clear on the basic structure and general content of child-centred parenting plans that will assist the professional in practice. In order to achieve this goal, the researcher attempted in this article to find answers to critical questions to obtain a holistic view of where the professional finds him-/herself when working with divorcing families and the experiences and challenges that they face in preparing a parenting plan.

In Article 2, answers will be given to specific questions (Addendum 2) obtained from various professionals who work with divorcing families and parenting plans.

2. PROBLEM STATEMENT

Emphasis was placed on the development of parenting plans by including the concept of parenting plans in section 33 of the Children's Act. Section 33(2) states that if the co-holders of parental rights and responsibilities in respect of a child are experiencing difficulties with exercising their rights and responsibilities, those persons, before seeking the intervention of court, must first seek to agree on a parenting plan determining the exercise of their respective rights and responsibilities in respect of the child. Professionals are thus now faced with numerous divorcing families that are in need of assistance of a well-structured and practical parenting plan that is suitable for the needs of their family or mediation where they experience difficulties in exercising their rights and responsibilities.

Section 33 of The Children's Act reads as follows with regard to parenting plans:

(1) The co-holders of parental rights and responsibilities in respect of a child may agree on a parenting plan determining the exercise of their respective rights and responsibilities in respect of the child.

(2) If the co-holders of parental rights and responsibilities in respect of a child are experiencing difficulties in exercising their rights and responsibilities, those persons, before seeking the intervention of a court, must first seek to agree on a parenting plan determining the exercise of their respective rights and responsibilities in respect of the child.

(3) A parenting plan may determine any matter in connection with parental rights and responsibilities, including-

- (a) where and with whom the child is to live;*
- (b) the maintenance of the child;*
- (c) contact between the child and-*
 - (i) any of the parties; and*
 - (ii) any other person; and*
- (d) the schooling and religious upbringing of the child.*

(4) A parenting plan must comply with the best interests of the child standard as set out in section 7.

(5) In preparing a parenting plan as contemplated in subsection (2) the parties must seek-

- (a) the assistance of a family advocate, social worker or psychologist; or*
- (b) mediation through a social worker or other suitably qualified person.*

Parenting plans are a fairly new concept for professionals practicing in South Africa. Not all professionals have necessarily received thorough training in the area of facilitating the intervention process with a divorcing family and with drafting child-centred parenting plans. The researcher is of the opinion that the professional working with parenting plans needs to be informed regarding all aspects with which families are confronted in a divorce. This will assist them to draft high-quality plans when they are structuring such plans, or to facilitate mediation with the family. Article 5(a) of the Act refers to “assistance”: this means that the professional will be of help or assistance (HR.Org, 2010:1) to the divorcing family with the structuring of the parenting plan. Article 5(b) of the Act refers to “mediation”: this is a form of alternative dispute resolution (ADR), and aims to assist two (or more) disputants to reach an agreement. Mediators use appropriate techniques and/or skills to open and/or improve dialogue between disputants, aiming to help the parties reach an agreement (with concrete effects) on the disputed matter. Normally, all parties must view the mediator as impartial (HR.Org, 2010:1). The professionals will thus aim to mediate a parenting plan with the divorcing family.

Forensic Specialty Council (2007:1), Hartson and Payne (2006:9) and Swerdlow-Freed (2010:1) point out that when it comes to parenting plans, families and attorneys trust that mental health professionals have a background in child development, child psychology, family and marriage relationships, experience in custody evaluations, and some understanding of aspects of relevant law. The researcher agrees with Hartson and Payne's (2006:9) opinion that it is equally important that legal professionals have the same insight as mental health professionals, as they too work with families going through a divorce and draft parenting plans. The concept of parenting plans is a new and challenging situation in South Africa, since professionals have limited experience with regard to parenting plans. The researcher will therefore attempt to partially draw on her own experience as suggesting guidelines pertaining to parenting plans.

It is imperative to obtain insight in the professionals' experience and a thorough understanding of how the professionals facilitate intervention with divorcing families and how they structure parenting plans. These views will ultimately give the researcher the ability to design guidelines for professionals to assist them when facilitating intervention with divorcing families and in delivering high quality child-centred parenting plans. There are also the challenges of different roles that the professional has to perform: firstly, the role of giving assistance and secondly, the role of mediating.

The research question is formulated as follows: ***What is the professional's experience of working with divorcing families and drafting parenting plans?*** The researcher aimed to answer this question through the critical analysis of questionnaires and telephonic interviews with the participants.

3. OBJECTIVE OF THE ARTICLE

The objective of this article is to ascertain the views of mental health professionals (social workers and psychologists) and legal professionals (attorneys and family advocates) with regard to the divorcing family and parenting plans.

4. RESEARCH METHODOLOGY

A phenomenological study was used as research design. Creswell (2009:115) and Babbie (1998:281) regard a phenomenological study as a study that describes the meaning of experiences of a phenomenon, topic or concept for various individuals. Eventually, the researcher using this approach reduces the experiences to a central meaning or the essence of the experience, and the product of the research is a description of the essence of the experience being studied. The focus is thus to describe professionals' views with regard to the divorcing family and parenting plans.

The researcher initially planned to gather data by means of interviews, but changed direction after pilot testing. Participants, especially the legal professionals, indicated that completing a short questionnaire would be more time effective for them than scheduling an interview, due to the busy schedules and time constraints they face in private practice.

A questionnaire was elected as a means of information collection (Addendum 2). The researcher designed the questionnaire and arranged ten questions for the participants to answer. The purpose of the questions was to give the researcher an array of views of situation in which professionals are confronted with divorce-related matters in private practice when they are working with the divorcing families and drafting parenting plans. The questionnaire contains open questions that gave the participants the opportunity to freely express their views. The questions were designed to be brief and clear, and the vocabulary and style of the questions were made to be easily understandable to the participants. The questions were formulated with care so as not to reflect the bias of the researcher. Every question made reference to only one idea at a time and all questions were formulated to be relevant to the research subject.

A purposive sampling technique was used in choosing the participants. In purposive sampling the researcher must first think critically about the parameters of the population and then choose the sample case accordingly (Babbie, 1998:195; Strydom & Delport, 2005b:329). The sampling size was set at a minimum of 20 professionals from various provinces who met the population criteria and who were obtained from a database that refers clients to the researcher in private practice. A pilot study was facilitated with five participants possessing the same characteristics as those of the main investigation.

The following criteria were set for the selection of participants:

- (a) The participant must be qualified in the field of social work, psychology or law.
- (b) The participant must work in the field of forensic investigation, family law and/or divorce-related matters.
- (c) Participants had to be from the provinces of Gauteng, North West Province and the Western Cape.

The questionnaire was initially electronically mailed to five professionals to complete and to make comments on the structure and content of the questionnaire. This was used as a pilot testing of the questionnaire. Based on the feedback, the researcher made the following changes to the questionnaire:

- (a) Redirect the focus: It became clear that the focus should not only be on the parenting plan, and therefore general questions on divorce were also added to obtain a holistic view from professionals working with divorcing families and parenting plans.
- (b) Structural change: The questionnaire was structured so that it could fit on one page and did not include lines where respondents could type in their thoughts.

The researcher sent out 33 questionnaires to colleagues who referred cases to the researcher in private practice. Twenty four questionnaires were returned over a period of two months and 23 questionnaires were used for data analysis (response rate = 72%). To obtain further insight into the findings and to discuss some issues more in-depth, the researcher telephonically contacted four of the participants (one from each professional group) to discuss their views. The professionals were selected by choosing one completed questionnaire from each professional group where the researcher identified that the participant took time to think about the questions and completed the questionnaire thoroughly, with well-constructed answers.

The researcher collected data in a qualitative manner and analysed and presented information according to themes (Grinnell & Unrau, 2008:401). Themes were written down and the researcher calculated the number of participants who identified with the themes. A table was drafted to indicate a research profile and a figure was designed for each question to summarise the

information gathered according to the questionnaire. Consequently the information was analysed to draw conclusions on professional views regarding the subject matter. In addition, the researcher searched for correspondences between the responses by the groups of professionals, such as responses by the mental health professionals and the legal professionals, to establish whether they had similar or different views on some of the questions.

5. RESULTS AND DISCUSSION

The section to follow will focus on the research findings, which will be presented in tables and charts. Findings will be compared with literature and will be elaborated with further discussions.

5.1 Profile of participants

Table 1 contains information of the research participants concerning their profession, qualifications and the province they represent, to create a context of the findings.

Table 1: Profile of professional participants

Participant	Profession	Qualification	Province
PROFESSIONAL FIELD: SOCIAL WORK			
1	Social worker	BA(SW) (Stell), MA (Unisa)	Western Cape
2	Social worker	BA(SW) (Unisa)	Gauteng
3	Social worker	BA(SW), MSD (UP), DPhil (Stell)	Gauteng
4	Social worker	BA(SW),MA (Stell)	Gauteng
5	Social worker	BA(SW) Hons (Wits)	North West
6	Social worker	BA(SW), MA(SW), PHD (Stell)	Western Cape
PROFESSIONAL FIELD: PSYCHOLOGY			
7	Psychologist	BA Psych, MA (RAU)	Gauteng

8	Psychologist	BA Psych (UJ) MA(UP)	Gauteng
9	Psychologist	MA Clinical Psych (Unisa)	Western Cape
10	Psychologist	BA Hons Psych (Wits), MA Psych (Unisa)	Western Cape
11	Psychologist	BCHD BA Hons Psych MA (UP)	Gauteng
12	Psychologist	B Psych, BA Hons, MA Psych (UJ)	Gauteng
13	Psychologist	B Psych, MA, PhD (Stell)	Western Cape
14	Psychologist	BA Hons Psych (Wits), MA Psych (Unisa)	Gauteng
PROFESSIONAL FIELD: DIVORCE LAW			
15	Attorney	LLB (Unisa)	Western Cape
16	Attorney	LLB (UCT)	Western Cape
17	Attorney	LLB (Stell)	Gauteng
18	Attorney	LLB LLM (UP)	Gauteng
19	Attorney	LLB (Stell)	Gauteng
20	Attorney	LLB, LLM (Stell)	Western Cape
21	Attorney	LLB (UJ)	Gauteng
22	Attorney	LLB (RAU)	Gauteng
PROFESSIONAL FIELD: LEGAL ADVOCACY			
23	Family Advocate	LLB, LLM, LLD (UCT)	Gauteng

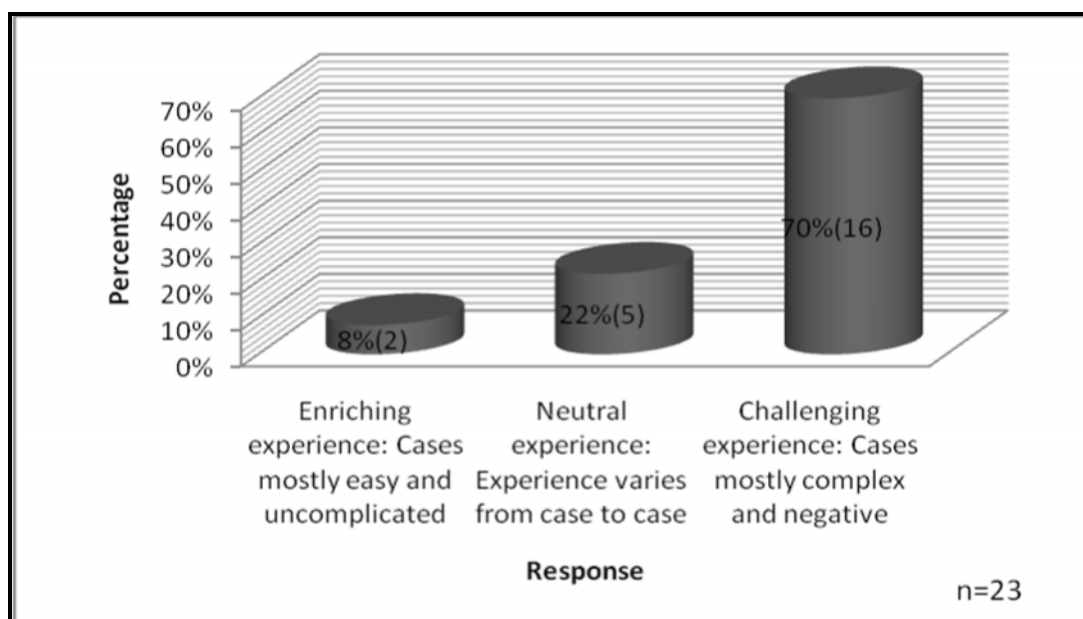
The profile indicates that the participants include six (26%) social workers, eight (35%) psychologists, eight (35%) attorneys and one (4%) family advocate. Eight (35%) of the participants represent the Western Cape; 14 (61%) are from Gauteng and one (4%) from the North West Province. The majority of participants represent the area of Gauteng, as the researcher practices in Gauteng and receives most referrals from professionals practicing in the Gauteng area. Information regarding the professionals shows that the professionals have obtained their qualifications from diverse universities and that most of them obtained postgraduate qualifications. Thus, the participants are in a position of authority to comment on these issues and to give credible input, based on their academic qualifications and professional experience. The 10 themes that will be discussed in the

section below will focus on the professionals' views of divorcing families and will in specific focus on the parenting plan.

5.2 The professional's experience of divorce matters within practice

It was important to establish the professionals' experience and views in working with the divorcing family and when drafting parenting plans. This gave the researcher insight on whether the professional finds it difficult to facilitate intervention with divorcing families or whether it is experienced as a simple, clear-cut process. The following question was posed to the participants: *How do you as a professional experience divorce matters within your practice?* Figure 1 reflects the professionals' experience of divorce matters. The researcher divided the responses into three themes, namely (a) Neutral experience – experience varies from case to case; (b) Challenging experience – cases mostly complex and negative; and (c) Enriching experience – cases mostly easy and uncomplicated.

Figure 1: The professionals' experience of divorce matters within practice



The majority (70%), or 16 of the 23 participants, were of the opinion that the professionals' job to facilitate a divorce process is challenging, that a divorce as such is a difficult experience and that cases are mostly complex and negative. Most professionals relate divorce to a negative experience that can be rather traumatic to the family and to society as a whole. The written responses of the

observations made by professionals may be paraphrased as follows: *Divorce can be a long, drawn-out battle filled with intense conflict that is challenging to all parties due to the hostile environment and the acrimonious feelings. This is a complicated time for most individuals as divorce comes with numerous challenges and it can be a rather terrifying experience and cause a lot of damage. Individuals are usually demanding, angry and difficult, which can make the process very complex. Their emotional state of mind creates a difficult working environment for the professional.*

Below is a summary of responses obtained in the telephonic interviews with participants from the various professional fields:

Clients are often very hostile and angry in the process and they are constantly on the defence as they want to promote their own position. Furthermore, in mediation environments clients often place pressure on professionals to get what they perceive to be fair, while in reality it is often not as fair and just as they see it. When you are working in the field of divorce, you are often confronted with intense conflict situations which are not always easy to control and in which negative emotions can quickly escalate, only to be misdirected towards the helping hand – the professional. The environment in which professionals work can be challenging because of the severe conflict that parents often bring into the process of mediation.

Five of the participants (22%), however, indicated that they have a neutral experience and that their experience varies from case to case. Two of the participants (8%) felt that working with divorce cases is an enriching experience and that most cases are easy and uncomplicated. It is therefore evident that the majority of professional participants are of the opinion that facilitating a divorce process is a challenging task and that overall, divorce is a negative and difficult process.

Kelly (2005:250), Mitcham-Smith (2007:370), Samir and Jones (2008:1) and Stahl (1999:181-193) support the participants' views and stress two points in particular:

(a) Facilitating a divorce process as a professional is a challenging task.

A growing concern for mental health professionals working in a family court setting is the rising number of lawsuits and licensing board complaints being made against them. Angry, litigious

parents threaten the well-being of mental health experts. Facilitating a divorce for a family can become a complicated account, because when parents do not hear what they want to hear, they can easily feel resentful towards the professional and try to discredit the professional (Kelly, 2005:250; Mitcham-Smith, 2007:370). It is not uncommon for a parent who felt that he/she has “lost” the case to try to discredit the evaluation and to suggest that the evaluator was biased or incompetent. A parent or his/her attorney may believe that an evaluation was done poorly, but there may also be a legitimate reason for requesting a review or a new evaluation. Differentiating between legitimate concerns about an evaluation and unfounded complaints by the losing parent is the most difficult task facing the professional who is attempting to help the family (Mitcham-Smith, 2007:370; Samir & Jones, 2008:1).

(b) Overall, divorce is a difficult and negative process.

In divorce cases, there are many families that can be described as high-conflict families. Many high-conflict families may experience intermittent outbursts of anger or violence. Even when they do not exhibit chronic violent patterns, these families are so caught in conflict that they routinely go back to court to solve what should be relatively simple problems. They may have problems scheduling holidays and vacations; they may argue during exchanges; they cannot communicate about child-related issues or decide on day care providers; they disagree on the times and places for exchanging the children; they argue about who will attend parent-teacher conferences, arrange and pay for health care, or attend the child’s extracurricular activities; and they may disagree on activities for their children (Mitcham-Smith, 2007:370; Samir & Jones, 2008:1). Within these high-conflict families divorce can overall be a traumatic experience for all parties involved. In many ways, it appears that the life of the child must stop while the arguments between the parents continue. For many of these families, every issue becomes a potential source of conflict (Kelly, 2005:250; Mitcham-Smith, 2007:370; Samir & Jones, 2008:1; Stahl, 1999: 181-193).

A significant finding is that the majority of professionals experience divorce as an overall negative and challenging process, although a small number of professionals do not share this experience but view the process in a more positive light. It can therefore be argued that it is possible for professionals to have a more positive experience of working with divorcing families and of structuring parenting plans. The focus should therefore be on how to create a more positive experience for the professional working in this field. If guidelines can be set to assist the professional to make the divorce process positive and constructive and to enable the professional to

manage the process better, it can be beneficial to both the professional and the divorcing family. If the negative, challenging and difficult experience can be reduced for professionals, it may become possible to develop intervention and parenting plans that are more focused and representative of the divorcing family. The section below will focus on the parents' attitude and mindset when professionals work with them in a divorce matter.

5.3 The parents' attitude and mindset when professionals work with them in a divorce matter

The researcher found it important to establish how the professional experiences the parents' attitude and mindset, as this affects the intervention process when parenting plans are being structured. The following question was posed to the participants: *What is the parents' attitude and mindset when you are working with them in a divorce matter?* Figure 2 reflects the attitude and mindset of parents from a professional point of view.

Figure 2: Divorcing parents' attitude and mindset from a professional point of view

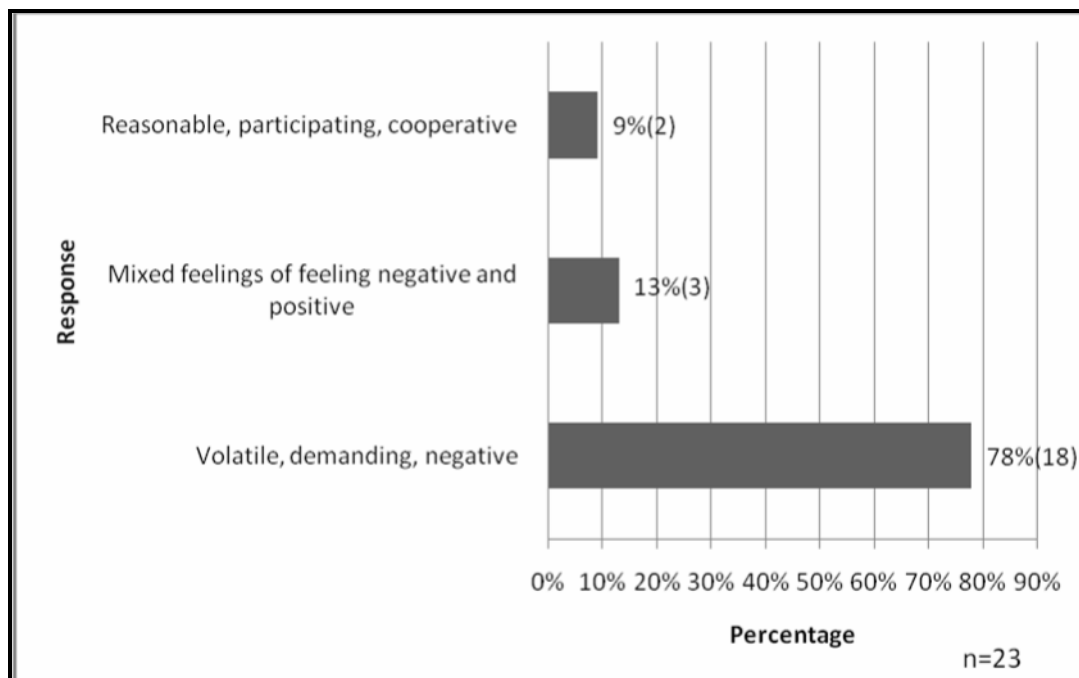


Figure 2 points out that according to the professionals, parents mostly feel and present to be quite volatile, demanding and negative in the divorce process. Eighteen of the 23 participants (78%) indicated that the divorcing parents present with predominantly negative feelings. Three of the participants (13%) explained that the parents often experience mixed positive and negative feelings,

while only two participants (9%) specified that the divorcing parents can be reasonable, participating and cooperative and that the parents try to be amicable. It became apparent in the answers by the participants that even parents who are predominantly positive in their approach and who try to focus on the best interest of their children sometimes present with negative feelings. This is because parents' own unresolved feelings and emotions often make it difficult for them to work with their ex-partner in the intervention process, which may result in complications and unconstructive behaviour.

Below is a summary of telephonic responses provided by the participants from the various professional fields:

Often people who are getting divorced try to control the person they are divorcing and this makes intervention and the structuring of parenting plans difficult. Rationally, people are often aware that their demanding and controlling behaviour is not conducive to the process, but this is still the status quo in many cases. If you couldn't change your spouse when you were married to them, there is no way you can force change on them post-divorce; yet people still attempt to do this in their recommendations made for the parenting plan. You can't win by demanding, yelling or saying bad things about your ex. Anger only intensifies the conflict in the situation and then both sides dig their heels in and the child loses. Often the divorcing parents' attitude and mindset is rather pessimistic and negative and very seldom parents come across as being positive and motivated with regard to the divorce "administration" and the organisation post-divorce. This makes working with divorcing parents a daunting task for the professionals.

Hartson and Payne (2006:107) as well as Thayer and Zimmerman (2001:29) refer to "conflict addiction" that can occur in just a few or in many areas of the parenting relationship. It is indicated that decision making, basic values, the exchange of information, parent alienation, organising the lives of children and money often create conflict between parents. Conflict addiction can be so seductive that parents continue to fight even as the children struggle with their own development. Some parents fight over which doctor their children should see rather than take them to the doctor; others fight over the children's possessions to the degree that the children reject these items. Parents may be so antagonistic that transition becomes difficult, stressful and embarrassing to the children. Intense conflict between parents after divorce puts children at risk for behaviour problems,

aggression and depression. Children react to high-conflict, post-divorce problems in accordance with their developmental stage, but the level and intensity of parental conflict is the best predictor of adjustment to divorce. Children rate conflict between their parents as one of the greatest stressors that they face following their parents' separation. The best predictor of positive adjustment following divorce was the cooperation between ex-spouses. Children adjust better when parents minimise the children's exposure to discord.

Based on the research finding that the overall attitude and mindset of the parents are negative, it can be deduced that in most cases, working with divorcing parents can be challenging because of parents' own emotional difficulties that they face during the divorce and which they transfer into the process. The parents' attitude and mindset should thus be considered by the professional who is facilitating intervention with the divorcing family. The implications of these research findings is that the professional must have the knowledge and skills to facilitate intervention such as mediation with the divorcing family, as intervention can be a very emotional, conflict-ridden and difficult task. Because the parents' attitude, mindset and relationship style should be taken into consideration, a mental health professional could be better equipped to facilitate intervention, as they are trained to work with individuals that are facing life issues. However, as legal professionals are also appointed in the Children's Act to structure parenting plans, all professionals can benefit from being better equipped to deal with intensely emotive families and to facilitate conflict management mediation and strategising. Guidelines can thus be helpful to establish parameters, for instance to establish the best interest of the child above the negative feelings that the parents bring into mediation when parenting plans are being structured. It is important that when high-conflict situations arise in intervention, the professional is able to shift from a facilitating role to a mediation role. Professionals ought to be able to shift into different roles in intervention, as this forms part of their training. Below is an analysis of the professional's interviewing of children, which forms a significant part of this study.

5.4 The professional's interviewing of a child

The researcher sought to find the professional's experience/view of the child in an interview, as the professional's analysis of the child should guide him/her in the structuring child-centred parenting plans.

The following question was posed to the participants. *How do you perceive the child when interviewing the child in a divorced matter?* Figure 3 reflects the professionals' perceptions of the child in an interview in a divorce process.

Figure 3: The professionals' experience/view of the child in an interview in a divorced matter

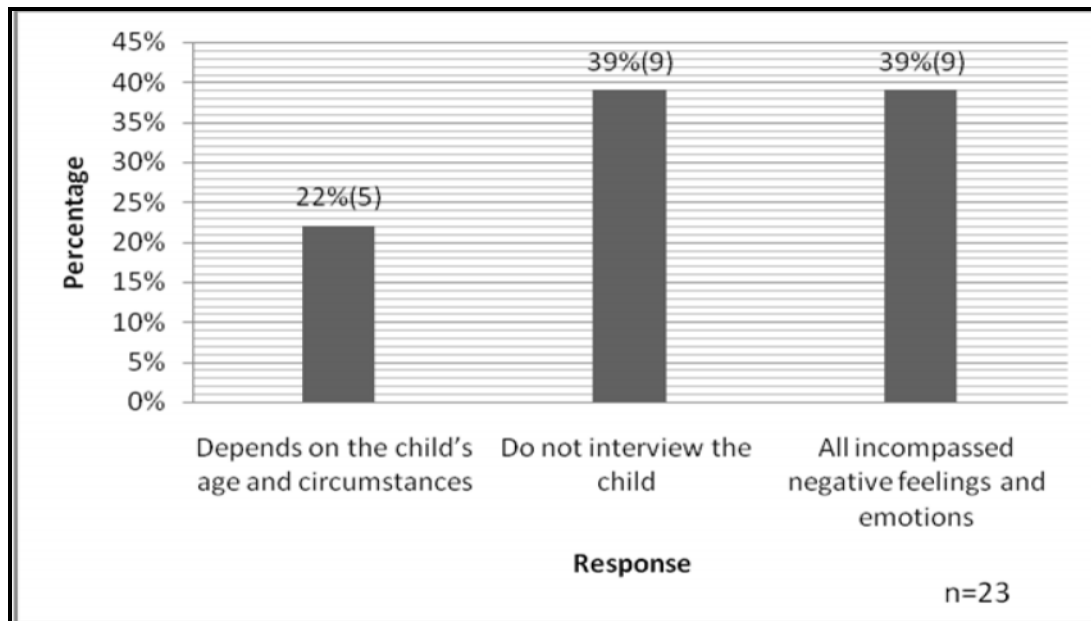


Figure 3 shows that 39% (9) of the 23 participants indicated that their experience of children in interviews is that the children are overall pessimistic and predominantly lack any enthusiasm about life in general. Professionals described the children's emotional state of mind and their experiences by using words such as *"feeling hurt, nervous, scared, and worried; experiencing fear, anxiety, anger, frustration; experiencing feelings of responsibility; feeling in the middle of conflict; and a sense of instability"*. 22% (5) of the participants indicated that the child's experience depends on the child's age and circumstances. A startling finding is that 39% (9) of the participants stated that they did not interview the child. These nine participants who did not facilitate interviews with children were all legal practitioners.

Below is a summary of telephonic discussions facilitated with the participants from the various professional fields:

Children are the victims of divorce and are by and large very negatively affected by divorce. The children from divorcing families are often in need of therapy as they are often emotionally devastated by the changes in their life. The children's emotional experience of divorce should be considered when a family intervention is being facilitated. Attorneys and advocates choose not to consult with the children as they do not feel comfortable to interview children. The mental health professionals indicate that they are much more experienced and trained in interviewing children. According to mental health professionals, legal professionals should refer children to mental health professionals for interviews unless the legal professionals have received adequate training for this purpose. The mental health professionals especially feel that it is important that the focus of intervention remains on the child's experience and on how to help the child post-divorce with the negative emotions that they have to deal with.

Cale (2009:1) and Thayer and Zimmerman (2001:32) emphasise that children are the victims of the conflict between the parents and divorce and these authors confirm the participants' indications that the child who is being interviewed often projects feelings of negativity. The children are not the intended victims, but they invariably suffer from the conflict they witness, as well as the conflict they don't see. The conflict of divorce keeps parents angry with each other, leaving fewer emotional resources available for the children. Children of divorce have many common concerns, some of which are loyalty issues, abandonment concerns, self-esteem and self-blame.

Hartson and Payne (2006:36), Lyster (2007:75) and Pretorius (2008:2) explain that children are a crucial part of understanding the family dynamics and the relationship between family members. Many evaluators are used to conducting interviews with adults, but have little or no experience of working with children. This is because a large percentage of professionals never gain much experience of working with children during their training or professional careers. Yet, the Constitution of the Republic of South Africa, 1996 and the Children's Act emphasise the child's right to be heard in matters affecting themselves (Situational Analysis of Children in South Africa, 2009:6).

In preparing a parenting plan it is of paramount importance to focus on the child. Focusing on the child includes the promotion of the child's rights and the best interest of the child, as well as the

promotion of the development and functioning of the child as a human being. This includes the promotion of freedom of expression and taking the views of the children into consideration in all decisions or recommendations that affect them. Article 4 and 7 of the African Charter on the Rights and Welfare of the Child (ACRWC) must be considered when the child is taken into consideration in the drafting of a parenting plan (Situational Analysis of Children in South Africa, 2009: vi). Article 4 reads:

In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, and opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

Article 7 reads:

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

With due consideration of the children's age, maturity and stage of development, they must be given an opportunity to express their views, which must be taken into account when intervention is being facilitated. Children's reactions are dependent on many variables, including the age of the child, the intensity and chronic nature of the conflict in a divorce, the degree of violence or fear of violence, for how long the child has been exposed to the conflict, and the psychological health of the child. In general, a history of aggression and conflict in the family has been strongly and consistently associated with emotional, behavioural, and social problems (Hartson & Payne, 2006:36; Lyster, 2007:75; Pretorius, 2008:2).

The implication of these research findings is that most children who are interviewed in a divorce process are confronted with overwhelming negative feelings and as a result can become reactively depressed to the situation that they find themselves in. This is often not captured in parenting plans, as professionals often do not even interview the children in when intervention is facilitated.

An alarming number of professionals indicated that they do not interview the children at all in this process: they therefore cannot draft a child-representative parenting plan, but nevertheless structure parenting plans that is conveyed as being child-centred and as considering the best interest of the children. The finding that legal professionals feel that they work primarily with the parents and choose not to interview children or choose to outsource interviews with the children to mental health professionals should be addressed. This practice results in parent-centred parenting plans because the legal professional does not have first-hand information on the children's thoughts, experiences, emotions, needs and wants. Guidelines should encourage training for legal professionals to enable them to feel more confident to interview children, as it forms a significant part of the intervention process and of structuring a parenting plan (see Article 4 and 7 of the African Charter on the Rights and Welfare of the Child (ACRWC)). If legal professionals are not equipped to conduct interviews with children, they should not be in the position to draft parenting plans, because failure on their part to interview the children can result in inaccurate recommendations and structures in the parenting plan they are drafting. Such a plan will not be child-centred and will not be in the best interest of the children. To further illustrate the importance of obtaining first-hand information from the child in interviews, the section below will focus on the parents' and the children's knowledge of the divorce process.

5.5 Knowledge of the parents and the children with regard to the divorce process

For the purpose of this research, it was necessary to understand whether parents and children were informed and thus knowledgeable regarding the divorce process. The following question was therefore posed to the participants: *Do you find the parents and the children to be knowledgeable respecting the divorce process?* Figure 4 displays the parents' and children's level of knowledge pertaining to the divorce process as perceived by the professionals.

Figure 4: Parents' and children's level of knowledge pertaining to the divorce process

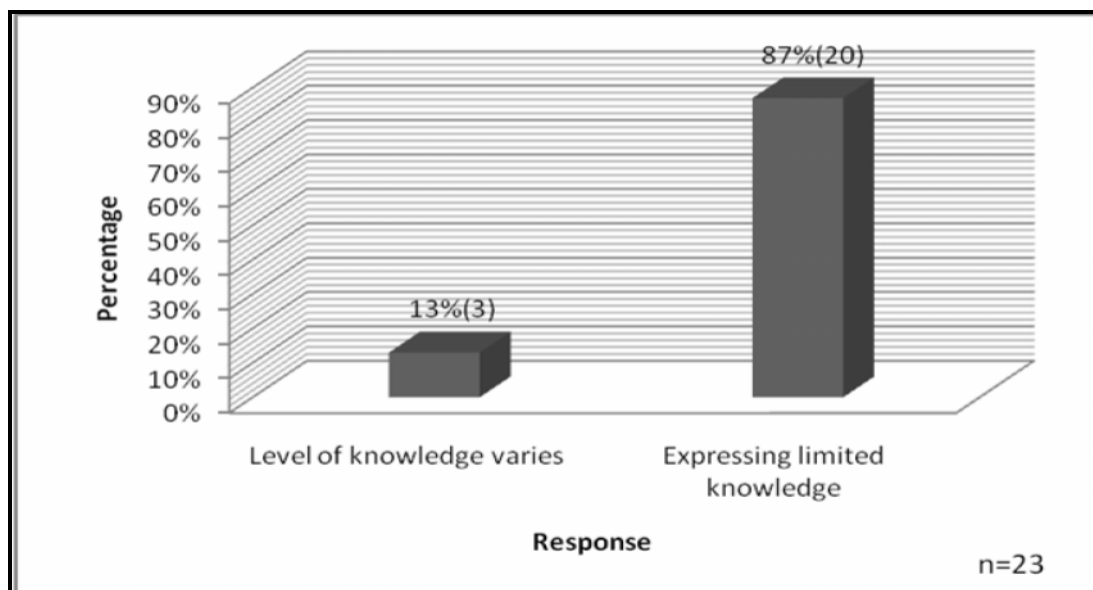


Figure 4 shows that 87% (20) of the 23 participants indicated that they, as professionals, find the divorcing family (the parents as well as the children) to have limited knowledge with regard to the process and procedures of divorce. One participant explained the situation as follows:

Parents and children are seldom educated about the divorce process. Many times parents are not aware of the impact their own handling of the divorce process has on the children. They also seldom know that there are different options in dealing with divorce, for example mediation, seeking counselling, speaking to an attorney, or structuring a parenting plan. Many times children are kept in the dark because parents feel they will not understand the process of divorce and parents do not want to involve them in the administration of the divorce. Children often feel excluded from the process and do not know what is really going on, except that their parents are not together anymore.

13% (3) of the participants indicated that the level of education pertaining to the process of divorce varies from case to case. The professionals report that some families are informed to some degree, but that most families come across as having limited knowledge about the actualities of a divorce.

Below is a synopsis of the responses obtained in telephonic interviews which were facilitated with the participants from the various professional fields:

Mostly parents and children have limited knowledge on the facts of divorce and how the process of divorce works. Parents are often ill informed and wait for the day that they consult with the appointed professional to be informed on how things will work from there on. The lack of knowledge that parents have regarding the divorce process, negatively transfers on the children that consequently lead to children not knowing what is going on. As the separation of parents/partners is such an emotional process, emotions override the process and not much thought is given to the administrative process of a divorce.

Kelly (2005:237) and Mitcham-Smith (2007:368) describe divorce as a difficult process which initially often has a negative impact on family members. This negative impact can cause emotional difficulties, and it often happens that in the turmoil of divorce, family members are not fully informed about what is happening. Parents and children that go through a divorce are often not knowledgeable about what to expect in such a process.

Research findings suggest that the majority of parents and children have a lack of knowledge, and are not fully aware of the realities, implications and the process of intervention that are associated with divorce. The high incidence of ill-informed divorcing families may be ascribed to, among others, the intense emotional impact that a divorce has on a family and the confusion that it creates for the family structure, which may cloud the family's vision. A divorce process is such an emotionally difficult and confusing time in people's lives that they often find it difficult to gather information regarding the administrative process of divorce, because of the stress they may experience and the constant state of turmoil that divorcing families are in. A divorce process where the divorcing family members are ill informed and do not have adequate knowledge about the divorce process, can easily be followed by complications post-divorce. Their input and decisions can be detrimental to their functioning post-divorce, which is demoralising for society as a whole because it can progressively lead to a more dysfunctional society. In contrast, knowledgeable parents and children can assist the professional during intervention, as they know their rights and responsibilities and their expectations are more realistic. Their input can be presented in a well representative parenting plan for the divorcing family.

Research findings stress that there is a need to educate families on the divorce process and to empower them with knowledge, although the findings do not necessarily indicate whose responsibility it is to educate the divorcing family. Educational resources provided by the professional can be helpful in the process, for example educational pamphlets, basic information DVD sessions and educational sessions, as this should make the family more knowledgeable and will assist the professional to structure the parenting plan with more ease (Kelly, 2005:237; Mitcham-Smith, 2007:368). Below is a discussion focused on topics that often create conflict when parents talk to professionals about their children.

5.6 Topics that often create conflict when parents talk about the children

For the purpose of this research, it was important to establish whether there are specific topics which create conflict between parents when they are talking about the children. If these areas can be identified, they can be highlighted when guidelines are compiled for professionals with regard to the drafting of a parenting plan to limit high-conflict situations. The following question was posed to the participants: *What are the topics that mostly create conflict when parents talk about the children?* Figure 5 displays topics pertaining to the children that typically create conflict for the parents.

Figure 5: Topics pertaining to children that create conflict between parents

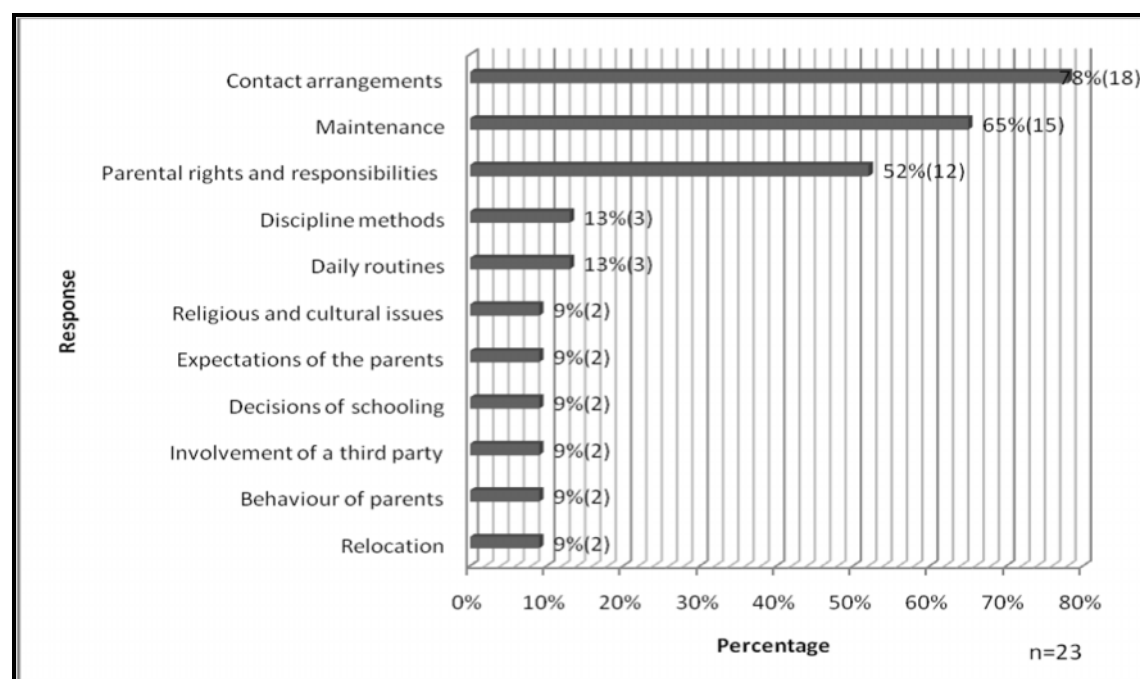


Figure 5 illustrates that the participants identified 11 topics that they experience to create conflict between adults when discussing their children. It is clear in Figure 5 that the 3 topics that create most conflict are contact arrangements, maintenance and parental rights and responsibilities. 78% (18) of the participants indicated that contact arrangements are often a source of conflict between parents. 65% (15) of the participants indicated that discussion about maintenance can become volatile and create a high-conflict situation. 52% (12) of the participants reported that the topic of parental rights and responsibilities is often a source of conflict and can become challenging.

The following is a paraphrase of responses obtained in the telephonic interviews facilitated with the participants from the various professional fields:

The participants confirmed that parental rights and responsibilities, contact arrangements and maintenance are the most contentious issues for parents in an intervention process. The professionals explained that discussions of financial matters nearly always turn volatile. They also reported that parents often confuse issues of responsibilities, rights and contact with maintenance and they put a price to the child. Contact with parents can also become very complicated, as most parents do not want to let go of the children and see the parent who spends more time with the children as the winner. High-conflict issues often result in very hostile conversations in which parents become very angry, even to the point of shouting at each other. Under these conditions, the consultation is non-productive and it becomes extremely difficult for the professional to make recommendations for a parenting plan. The professional may also be uncertain about which topics to include in a parenting plan, due to the severe conflict that the family members experience.

Lyster (2007:42) and Stahl (1999:94) confirm that there are numerous topics that can create conflict for parents. Some topics are more sensitive than others. Contact, for example, can become a contentious issue, as the parent who sees the children less will most likely feel that he/she has “lost the battle”.

Research findings show that maintenance, rights and responsibilities, and contact are the main sources of conflict, and it therefore follows that these topics should be managed carefully by the professional. These topics create conflict, for they make a parent feel like the “winner” or the “loser” in the process. For example, the parent who is responsible for the majority of the financial expenditure, has less input with regard to decisions on a daily basis and has less contact with the children may feel like the “loser”. This will often result in conflict, and due to the detrimental effect that conflict can have on children and the parents, it is imperative to address the identified high-conflict areas in a parenting plan to avoid parents being positioned in a win-lose position. A win-win situation should rather be promoted in intervention to address the three main areas of conflict through suggestions that make both parents feel good about the scenario of their possible situation post-divorce. Issues that were found to be less controversial in divorce negotiations in general should, however, not be dismissed in the structuring of parenting plans either, as there are different levels of conflict reactions for parents and all conflict-ridden topics should be addressed. The section below will focus on aids that can assist professionals in making decisions when they work with a family going through a divorce.

5.7 Aids that assist the professional to make decisions when working with a family going through a divorce

The researcher posed the following question to the participants to establish the aids which professionals use to make decisions when they are working with a family going through a divorce: *What aids do you use to make decisions when working with a family that is going through a divorce?* Figure 6 displays the aids professionals use when making decisions.

Figure 6: Aids professional use to make decisions when working with a family going through divorce

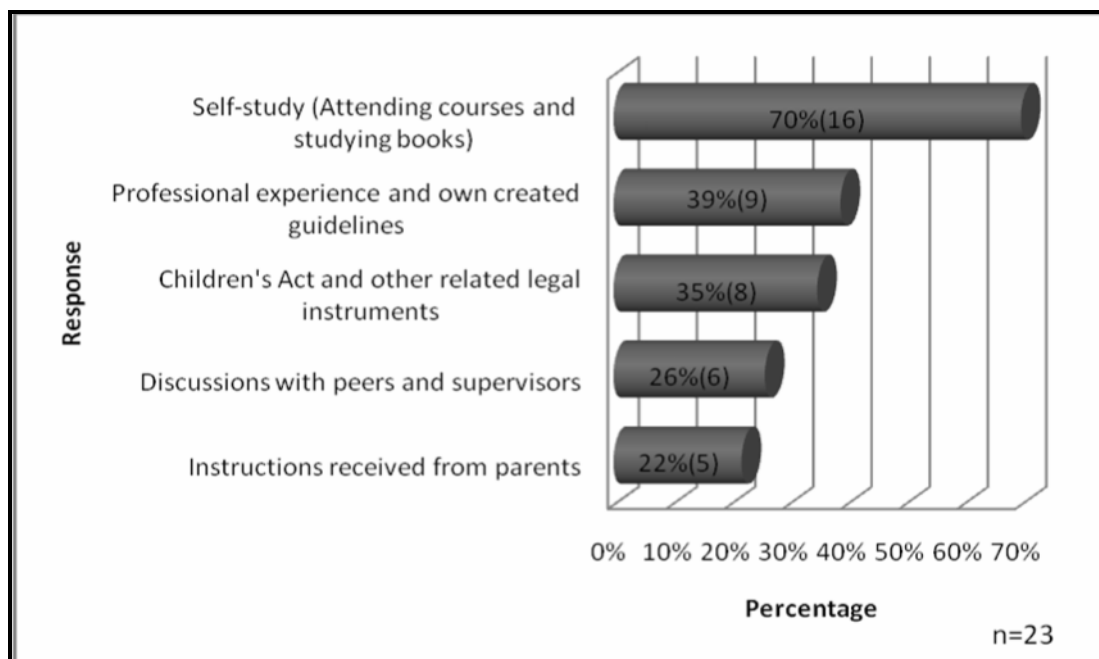


Figure 6 indicates that the participants identified five aids they use for decision making when they are working with divorcing families. Figure 6 points out that a 70% majority of the participants (16) base their decision making on self-study such as attending courses and reading books. 39% (9) of participants make use of their own professional experience and create their own guidelines; whereas 34% (8) of participants rely on the Children's Act and other related legal instruments when they need guidance. 26% (6) of the participants make use of discussions with peers and supervisors to assist them in making decisions. Lastly, 22% (5) of the participants use the instructions received from parents when they need to make decisions for the divorcing family. The five participants who indicated that they take instruction from the parents were all legal professionals.

Responses obtained in telephonic interviews with the participants from the various professional fields may be summarised as follows:

The participants agreed that in general professionals are often poorly trained in the field of working with divorcing families and are dependent to self-study to obtain as much knowledge as possible for working with divorcing families and structuring parenting plans. Aids such as books on divorce can be very helpful, but should not be a substitute for a qualification at an accredited academic institution. Aids that are available to professionals

are often limited and may be outdated. Professionals should thus take responsibility to ensure that they receive adequate training to work with divorcing families and they should use other resources, such as books, as guidelines to add value to their already well-established knowledge.

The Forensic Specialty Council (2007:1) and Swerdlow-Freed (2010:1) explain that anyone who works in the field of divorce needs training in child development, family assessment, problems of divorce, the functioning of the court, and the special ethical issues related to this work. It is imperative to network with one another to learn as much as possible about this burgeoning field. International literature (Forensic Specialty Council, 2007:1; Stahl, 1999:153) point out that there are limited programmes that are specifically designed to train evaluators in this demanding and difficult work. The South African situation on training has improved over the years but there are still limited courses and aids focusing on divorce-related intervention, especially training pertaining to parenting plans.

Research findings indicate that there are limited aids available to guide professionals. Because of such limited aids, professionals may often not have the necessary knowledge to facilitate intervention and structure parenting plans, with the result that substandard plans will be drafted. As parenting plans are a new concept in South Africa, professionals are in need of guidance and resources to assist and guide them. This study revealed that the aid that professionals are most likely to use as a guideline in this process, is self-study (courses and books). Although it is expected of a professional to continue with self-study to empower him-/herself with knowledge and insight, this method is theory-based and cannot replace practical training. Furthermore, it is essential that professionals should use theory that is not outdated and that they should always keep abreast of the latest developments in theory. The research findings show that 22% of professionals (all being legal professionals) rely on the parents to guide them and that they follow instructions and input from the parents. Legal professionals often regard the parents as their clients and feel that they represent the parents – under these circumstances it is not possible to structure an adequate parenting plan, since the goal of facilitating a parenting plan is to improve the functioning of the family and not to promote the position of one or both parents. No evidence could be found that professionals are guided by the child's input, needs, wishes and best interest. This is not an ideal situation, as it defeats the purpose of structuring parenting plans, which, according to the Children's Act, must

promote the child's overall well-being post-divorce. Plans which are drafted with the input of the parents and not the children will benefit the parents, not the children. The section below will focus on topics which were identified in parenting plans drafted by professionals who work in the field of divorce.

5.8 Topics identified in parenting plans drafted by professionals

Stahl and Drozd (2006:133) and Hartson and Payne (2006:125) explain that a parenting plan is much more than a communication, visitation, and travel schedule, although these are important components of the plan. With every child, there are issues of bedtime or curfew, sports or activities, chores or allowance, suitable movies or TV. The plan must address which issues of child rearing and decision making are to be shared. If there is no parenting plan or agreement, there is no procedure for resolving new issues that arise. All aspects of interaction relating to the child that can be structured to facilitate child rearing should form part of the parenting plan. A parenting plan must be developmentally appropriate and must also be practical; that is, families must be able to make the plan work in terms of job schedules, school, day care and activities.

Section 33 of the Children's Act states that:

a parenting plan may determine any matter in connection with parental rights and responsibilities, including-

- (a) where and with whom the child is to live;*
- (b) the maintenance of the child;*
- (c) contact between the child and-*
 - (i) any of the parties; and*
 - (ii) any other person; and*
- (d) the schooling and religious upbringing of the child.*

The Act states that such a plan “*may determine any matter*”, thus suggesting that any other topics can also be covered in parenting plans. Topics reflected in a parenting plan are very significant as it serves as a guideline for the divorcing family to function post-divorce. Families are often in total dismay post-divorce and need a structure such as a parenting plan to keep their family functioning

together. As topics reflected in a parenting plan are essential in the structure of any agreement, the researcher posed the following question to the participants: *What are the topics you focus on when compiling a parenting plan?*

The topics which were identified by the research participants to be their focus can be grouped into the following four categories:

- 1) *Topics as suggested by the Children's Act:* The rights and responsibilities of the parents, including where and with whom the child is to live; the maintenance of the child; contact between the child and any of the parties; and any other person; and the schooling and religious upbringing of the child.
- 2) *Topics focussing on organisation regarding children:* Transport and travelling arrangements; organisation of birthday parties; organisation of children's extramural activities.
- 3) *Topics focussing on relationships with others:* Forming relationships with new partners; building relationships with extended family members.
- 4) *Topics focussing on decision making:* Medical and health considerations; structuring parental roles; decisions with regard to parental communication.

In the following paragraph, a synopsis is given of information obtained in the telephonic discussions facilitated with the participants from the various professional fields:

Different professionals chose to include different topics in a parenting plan. Professionals mostly use their own discretion and experience to decide which topics to include in a parenting plan. Topics are apparently included in accordance with what the professional and the divorcing family view as important in their specific case and are identified while intervention occurs with the divorcing family members.

It is also helpful to have a wide variety of topics available for the family to choose from. It is essential that the selected topics should be in line with the family's needs, as all families are different and each case must be approached in an individual manner. All families are unique

and have different needs and this should guide the process of the selection of topics, as it should act as an indication of what should and should not be included in a parenting plan. It is crucial that selected topics guide the family post-divorce and ensure optimum functioning for the family. Certain topics, however, have universal importance and should always be included in any parenting plan. These are the issues that are dealt with in the Children's Act, namely the parental rights and responsibilities, including where and with whom the child is to live; the maintenance of the child; contact between the child and any of the parties, and any other person; and the schooling and religious upbringing of the child.

Hartson and Payne (2006:125) and Lyster (2007:67) suggest that the following topics be included in a standard parenting plan: where children should reside; medical, dental and vision care; negative comments or remarks; consistency in raising children; holidays; educations; insurance; making decisions; resolving problems; exchanging of information; child care; special occasions and family events; vacations; outside activities; transportation between parents' homes; improving transition times; maintaining contact with grandparents, relatives, and important friends; psychiatric and other mental health care; religious training; separating the adult relationship issues from the parenting issues; making routine changes; making big changes; and explaining the agreement to the children. In some cases, serious pathology is associated with the family dynamics, like domestic violence or substance abuse by the parents, and this must be addressed in the parenting agreement. Topics that should be covered if they are relevant to a particular case may include domestic violence; child abuse; child neglect; alcohol or drug abuse; undermining of the parent-child relationship; and denying access to the children.

The research findings indicate that there are various topics that professional's value as important and that must be included in a standard parenting plan. Results show that a number of topics may be more relevant for certain families than others, but certain topics ought to receive priority when a parenting plan is being structured, such as those covered by the Children's Act. Additional topics may then be added according to the needs of the divorcing family in question. The findings in this research show that it is imperative to provide further guidance to professionals regarding the mandatory topics to be included in any parenting plan (those identified in the Children's Act) and the optional topics (those not included in the Children's Act), which may be selected by the professional and the divorcing family in

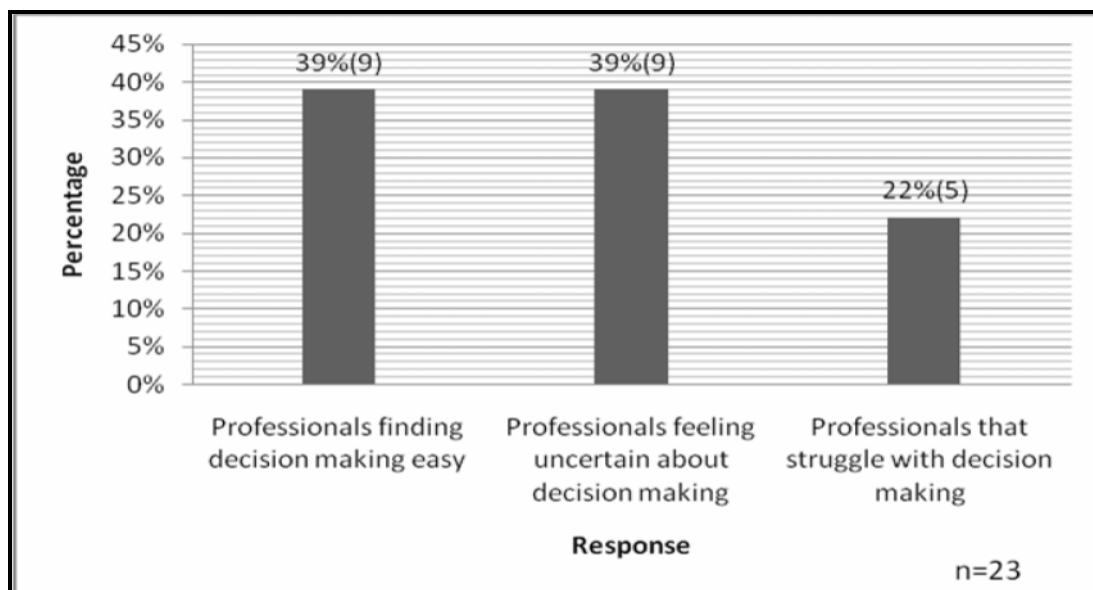
accordance with the family's specific requirements and dynamics. However, it remains the responsibility of the professional to give the family assistance with regard to selecting relevant topics for their specific parenting plan.

Research findings furthermore indicate that topics range from broad spectrum aspects and general arrangements to more specific and special issues. The findings indicated that various topics are included in parenting plans: some are seen by the professionals as very important and others as less significant. It does, however, appear that professionals feel that a broad range of topics is necessary to compile a parenting plan that is workable and understandable for a family going through a divorce. This research found that professionals suggest a wide variety of topics for inclusion in parenting plans and that they use their own discretion when selecting topics for a parenting plan for the divorcing family. This method may yield parenting plans that are not always representative of the divorcing family's needs, but that are rather representative of what the professional considers to be important. Guidelines can thus be useful to assist professionals to identify and select topics that are representative of the needs of each unique family. The following section will focus on the decision making process for professionals when they are structuring a parenting plan.

5.9 Making decisions when a parenting plan is being structured

The researcher sought to establish whether professionals find it easy or difficult to make decisions when they are structuring parenting plans to consequently establish the need for set guidelines to assist the professional with structuring parenting plans. The following question was therefore posed to the participants: *Do you struggle to make decisions or recommendations when drafting a parenting plan?* Figure 7 gives insight on professional decision making.

Figure 7: Professional decision making in the structuring of parenting plans



According to Figure 7, 39% (9) of the 23 participants find it easy to make decisions for the divorcing family when they are tasked with structuring their parenting plan. These participants included both mental health and legal professionals. Yet, 39% (9) of the participants also indicated that they feel uncertain about decision making. This uncertainty indicates that making decisions and recommendation in the drafting of a parenting plan is not always easy for the professional. 22% (5) of the participants clearly indicated that they find it difficult to make decisions.

Below is a synopsis of insights obtained in telephonic discussions which were facilitated with the participants from the various professional fields:

Professionals who indicated that decision making is easy explained that they feel confident that they as professionals can make the correct decisions for the divorcing family. Other professionals explained that the decision making process during intervention with the divorcing family is not a straightforward process, as various factors should be taken into consideration, such as which parent will be better able to care for the children, what is really in the best interest of the children and how this affects the parents and the family unit. Professionals experience uncertainty when parents are not cooperative and truthful about their circumstances; or when parents attempt to get the professional to side with them and to make recommendations in their favour. Professionals who are not working in a multi-

disciplinary team often feel isolated and under pressure, as they are solely responsible to make important decisions for the family. Because these decisions and recommendations have a life changing effect on the family, professionals who are acting alone may easily feel overwhelmed by this sense of responsibility. Moreover, parents may become very malicious and may make unreasonable demands in such a process, which may make it difficult for the professional to remain focused on objective recommendations. The professionals furthermore indicated that decision making will always be complex where people are involved, because people's input, emotions, perceptions and realities should all be taken into consideration when decisions are made about their futures.

The Forensic Specialty Council (2007:1) notes that decision making and the development of a parenting plan are difficult and often very challenging, due to the multifaceted nature of divorce and the divorcing family. The decision making process of professionals are often affected by divorcing families' inter-family conflict that are projected into the intervention process. Professionals are then left to make decisions under very difficult circumstances.

As the research findings point out, decision making regarding parenting plans can be challenging for professionals, as it places a heavy responsibility on them. Due to the responsibility placed on the professional and the high-conflict environment in which they must meet this responsibility, professionals are in need of specific skills to make the decision making process easier. To this end, guidelines need to be identified to assist the professionals with the responsibility of the decision making process. The features of a well-structured guideline to assist the professional with compiling a parenting plan are discussed in the following section.

5.10 The need for a well-structured guideline to assist the professional with compiling a parenting plan

The researcher found that there are limited guidelines that can assist the professional with compiling a well-structured parenting plan. The researcher needed to establish whether professionals experience a need for a guideline to assist them with the intervention process and with the structuring of parenting plans. The following question was posed to the participants to gather

the necessary information: *Do you think a well-structured guideline is needed to assist the professional with compiling a parenting plan?*

All participants indicated that it would be helpful if a structured guideline were available to guide them in preparing a parenting plan, as long as this was not rigid. Participants gave the following motivations for a structured guideline:

- It will help everyone to standardise the parenting plan and will prevent parents from shifting from one professional to another to get a parenting plan that suits their needs rather than those of their children;
- By working towards specific goals, parents and children are likely to experience fewer problems and will hopefully make a healthier adjustment to the divorce process.

Below is a summary of information in this regard that was provided in the telephonic discussions with the participants from the various professional fields:

Professionals working with parenting plans need specific guidelines, as parenting plans are a rather new concept in South Africa and assistance are needed to guide the professional to make the correct decisions and recommendations in the intervention process and to draft the parenting plans for the divorcing family. Professionals feel that they must rely on their own discretion when preparing a plan and often feel uncertain about the structure of the content, details and information that the plan should reflect. A guideline will be very helpful, as this will assist the professional to ensure that all factors have been considered and that they are delivering high quality plans.

Research findings clearly show that professionals need a structured guideline to assist them with compiling a parenting plan. Such a guideline is necessary primarily because the structuring of parenting plans for families in South Africa is a rather new concept and professionals may require guidance for the preparation of these plans, as they are not yet familiar with this concept.

The next section will offer a comparison of the views of mental health professionals and legal professionals. This will assist the researcher to identify guidelines for professionals that will enable them to work together in divorce matters and to draft parenting plans for the divorcing family post-divorce that are workable, practical and child-centred.

6. COMPARISON OF THE VIEWS OF MENTAL HEALTH PROFESSIONALS (SOCIAL WORKERS AND PSYCHOLOGISTS) AND LEGAL PROFESSIONALS (ATTORNEYS AND ADVOCATES)

As both mental health and legal professionals work with divorcing families and structure parenting plans, the researcher found it important to do a comparison of the views of these groups of professionals with the prospect to assist professionals in areas of strengths and weaknesses with specific guidelines.

Table 2: Comparison of the views of mental health professionals and legal professionals

Themes	Mental health professionals	Legal professionals
The professional's experience	In general, mental health professionals experience working with divorce challenging. They indicated that as professionals, they often have to deal with confrontational, high-conflict situations that make intervention difficult. Professionals reported that they feel that they lack the skills to deal with such confrontational situations.	In general, legal professionals experience working with divorce matters easier than health professionals, because they are better equipped with skills to deal with high conflict situations.
Parental attitude and mindset	Parents often confuse the therapeutic and forensic objectives of consultations, and this places the mental health professional in a difficult position. The professional experiences parents to have a need for someone to listen to their emotional experience of the divorce. Under such circumstances, parents may confuse the role of the professional as a mediator with that of a therapist. In general, professionals experience parents to present with emotional difficulty that they would like to express in mediation. Parents can also become volatile and unreasonable if they feel that they are not being heard; and parents often present with a confused state of mind.	Legal professional experience the majority of the parents that seeks legal counsel to be volatile and unreasonable. The parents are very much focused on their own needs and often have lost focus of the children's best interest. They are focused on winning their case against their ex-partner even though the expressed goal might be to structure a parenting plan through mediation. Parents in general are experienced to be confrontational, negative, self-seeking, bad-tempered and confrontational.
Interviewing children	Mental health professionals are very much focused on the child. They mostly	Legal professionals experience that they are not adequately trained and do not have the

	interview the children to obtain the children's position. Professionals take a child-centred approach and not a parent-centred approach, and attempt to be the voice of the child. In general, professionals experience children to be very emotional and overall negative when they are being interviewed. The interviewed children are often emotional and consumed by negative emotions.	necessary skills to facilitate interviews with children. In principle, they do not interview the children in the intervention process, but choose to work in multidisciplinary teams where they refer the children to mental health professionals for assessments.
Knowledge of the divorcing family	Both mental health and legal professionals experience the majority of families that go through a process of divorce to have a lack of knowledge about the process. The divorcing families are in general rather ill-informed about the intervention process and about what will take place post-divorce. Parents and children are often consumed with emotions and struggle to shift their minds to deal with the more clinical and administrative side of the process of divorce.	
High-conflict topics	Mental health professionals experience special issues to be a source of conflict, for example details regarding school and extramural activities; contact and transport arrangements; telephone contact; birthday arrangements; the buying of presents; etc.	Legal professionals experience that financial matters are the main source of conflict in their cases, for example the expenditure and maintenance of the children.
	Parental rights and responsibilities and contact arrangements were found to be the topics that create most conflict for both mental health and legal professionals.	
Aids used as guideline	Mental health professionals rely on certain resources as a guideline in the process. For example, they will often discuss their cases with co-professionals; will attend forensic courses and make use of supervision or a multi-disciplinary team to guide them in the facilitation of intervention with a divorcing family.	Legal professionals often take instruction from their clients; the client usually being a parent. This is problematic when a parenting plan is drafted, as the professional may then be biased towards the parent who is his/her client. Parenting plans should always be representative of the family, with the main focus being on the child – this is difficult to achieve when the professional also represents one of the parents. Legal professionals mainly rely on aids such as legal instruments, books and self-education to guide them in the facilitation of intervention with a divorcing family.
Selected topics	Mental health professionals in general structure a comprehensive plan that includes detailed and specific guidelines for the divorcing family to follow post-divorce. Professionals focus on topics that should assist the family with their functioning, communication, organisation, planning and operation post-divorce. The focus is seldom on maintenance or any other financial matter and professionals are in general of the opinion that financial matters should be dealt with by legal professionals, as this is not the area of expertise of mental health professionals.	Legal professionals focus mainly on the financial commitments and maintenance, parental rights and responsibilities, contact arrangements, school arrangements and medical arrangements of the divorcing family. Other, more detailed matters and arrangements are often not included in the parenting plans structured by these professionals.
Professional decision making	Mental health professionals experience the decision making process as difficult and in general feel uncertain about the decisions	Legal professionals experience the decision making process as less difficult than the mental health practitioners.

	that are made when the final plan is drafted. Professionals often get caught up in the emotional experience of the divorcing family, who confuse the professional's role of a mediator with that of a therapist. This emotional involvement can create additional pressure for the professional. Professionals also often doubt the validity of information that they receive from the divorcing family, because experience has taught them that families are often not truthful about their circumstances. Decisions based on family members' perceptions can therefore easily result in inaccurate proposals, and this complicates the decision making process for the professional.	Legal professionals in general focus on two or three important administrative aspects and do not make provision for complicated and comprehensive parenting plans. Their plans often focus on rights and responsibilities, contact arrangements and maintenance. They remain very much focused on avoiding emotional involvement in the dynamics of the divorcing family, and this makes the decision making process easier. Professionals do not assume a therapeutic role and limit their emotional input. Because they remain emotionally uninvolved and neutral, the decision making process is easier for them.
The need for a structured guideline	All professionals experience a need for a structured guideline, as this can make the facilitation of intervention easier and can assist in compiling feasible parenting plans for the divorcing family.	
Topics represented in a standard parenting plan	Mental health and legal professionals suggest that parenting plans should be representative of each unique divorcing family and topics should be selected accordingly, in order to assist the divorcing family with their functioning post-divorce.	

Table 2 shows that certain areas of the intervention process and the structuring of parenting plans the mental health professionals feel more confident in, while other areas the legal professionals feel more confident. Findings indicate that mental health professionals require assistance and training to deal with high-conflict situations; to prevent role conflict between the role of mediator role and the role of therapist; to equip them with education and more skills for addressing financial matters and maintenance issues regarding the children; and to empower them in terms of decision making in general, so that they can make recommendations for parenting plans with more confidence. Research findings furthermore indicate that legal professionals should obtain assistance and training to remain focused on the best interest of child standard and to include the child in the intervention process; to equip them with skills to interview children and to facilitate intervention with the children; and to broaden their focus of what should be included in a parenting plan, so that they do not primarily focus on maintenance issues. Findings indicate various strengths and weaknesses in the abilities of mental health and legal professional with regard to structuring parenting plans, and both professions can benefit from the other's skills and knowledge.

Wachtel (2006:1) suggests that there should be an interconnected relationship between the legal system and mental health care providers, because of the increasing number of divorces. It is

imperative that mental health and legal professionals join forces and work together in delivering high quality recommendations for the divorcing family post-divorce. The following section will focus on a discussion with regard to findings in Article 2. The researcher will draw conclusions and make recommendations with regard to guidelines to assist professionals with working with divorcing families and with the structuring of parenting plans.

7. CONCLUSIONS AND RECOMMENDATIONS

The objective of this article was to establish the views of mental health professionals and legal professionals with regard to divorcing families and parenting plans. The responses provided by participants in the questionnaire that was used for this purpose, made it possible to obtain a holistic view of where the professionals find themselves in working with divorcing families and the experiences and challenges that they face in preparing a parenting plan. In the next paragraphs, a conclusion of the research findings is discussed and based on these results, guidelines will be recommended by the researcher.

7.1 Conclusions

Based on the research findings and on supporting literature, it may be concluded that mental health and legal professionals who work in the field of divorce and who have to structure parenting plans face a daunting task, because the high levels of interpersonal conflict of the divorcing family get transferred into the intervention process. Mental health professional and legal professionals who have to structure parenting plans, perform different roles in the process of structuring parenting plans and both mental health and legal professionals try and draft parenting plans to the best of their ability. The professionals do not necessarily feel entirely equipped to structure representative and child-centred parenting plans, because these plans are a relatively new concept in South Africa, with which professionals are not yet familiar.

It can also be concluded that the interviewing process of children has not yet been mastered by all professionals working in the field of parenting plans. Interviewing of children is predominantly facilitated by mental health professionals, whereas legal professionals seldom focus on interviewing the children in intervention. It may be concluded that both groups of professionals are aware of and

frequently discuss the best interest of child standard and the focus that should be on the children in a parenting plan. Yet, not all professionals promote the best interest of the child in their plans due to a lack of skills, pressure by the parents, or out of ignorance about how to promote the children's interests in such a plan. For this reason, professionals often work in multidisciplinary teams so that plans can be more representative of the divorcing family and so that the best interest of the children can be promoted through input from various professionals.

The conclusion can be made that professionals are placed in a very responsible position when they have to draft parenting plans for divorcing families and that they experience a need for training to equip them with the necessary skills and knowledge for this task, including well-developed decision making abilities, the ability to deal with situations of intense conflict, the competence to use available resources, and the ability to set clear boundaries. Parents' and children's lack of knowledge pertaining to the divorce process can also place additional pressure on the professional, as he/she may receive insufficient input from the family as a result of their ignorance about the process – this may in turn result in parenting plans that are not fully representative of the divorcing family. The conclusion can thus be made that the structuring of parenting plans is a challenging job for professionals and guidelines are needed to assist the professional to facilitate intervention with the divorcing family and to deliver high quality, child-centred and representative parenting plans.

Based on the above conclusions, a number of guidelines are suggested to professionals in the next section.

7.2 Recommended guidelines

On grounds of the findings concerning professionals' experience of divorce matters in their respective practices, the following guidelines are suggested:

- Professionals must receive adequate training on how to manage high-conflict situations, to assist the professional with working under difficult and challenging circumstances. This applies to mental health professionals in particular, as legal professionals are better equipped to deal with conflict scenarios than mental health professionals.

- Professionals have to use preventative techniques to limit conflict in the divorcing family unit. This may be achieved by addressing the conflict by giving workable, realistic and practical solutions to the family. Recommendations in parenting plans should not heighten conflict but should address the conflict situation so that it may be solved in an amicable agreement between parties, with the inclusion of conflict resolution mechanisms for the family in question.

Based on the research findings relating to the parents' attitude and mindset when professionals work with them in a divorce matter, the following guidelines are suggested:

- Professionals should take an impartial position to neutralise conflict and to facilitate a tranquil environment in which intervention can be facilitated and parents' anger can be resolved. The divorcing family should be informed by the professional that aggression by the parties will not be tolerated in consultations and that the professional policy for working with divorcing families and for drafting parenting plans is one of cooperation.
- Professionals must perform their work in accordance with a contract that is made between them and the divorcing family, and they must explain their policy in the initial consultation with the divorcing family, so that all parties may understand exactly what to expect of the intervention process.

The following guidelines are suggested in response to findings concerning the professional who has to interview a child:

- Professionals ought to position themselves as representative of the child and should counteract any form of parental pressure or bullying in cases where parents are demanding or manipulative.
- Professionals working in the field of divorce should be familiar with the interviewing of adults and children.
- Professionals must undergo the necessary training to enable them to have empathy with the child in the intervention process and to realise when to refer the child for therapeutic counselling. They should also acquire the necessary skills to facilitate an interview with a child, as interviewing a child is a central part of making recommendations in a parenting plan. Interviews with children must provide information on the child's perspective on issues

such as parental consistency, discipline, behaviours that encourage or discourage the child's efforts to achieve age-appropriate independence, etc.

- Legal professionals need training to obtain skills for the facilitation of interviews with children. Even when legal professionals decide not to facilitate comprehensive interviews with children it is still important to at least meet with children and to have a discussion with the children to obtain a holistic view of the family when working with parenting plans.

The following guidelines are suggested based on the knowledge of the parents and the children regarding the divorce process:

- Professionals ought to include an educational consultation in the intervention process where the professional educate the divorcing family about the administrative process of divorce, legal aspects of divorce, family members' rights and responsibilities, and the process they will go through during the intervention.
- Professionals should be transparent about the process and should inform all parties on what to expect in the intervention process as well as post-divorce.

Based on the research findings respecting the topics that create most conflict when parents talk about the children, the following guidelines are suggested:

- Professionals must be sensitive for topics that can lead to a high conflict situation, but should also include these topics in parenting plans to resolve potential high-conflict scenarios for the family.
- Professionals need to encourage parents to work together and reach a joint agreement on topics. It is imperative that the professional emphasise to the parents that if no agreement is reached on these topics, it will have an everlasting effect on their family functioning and that the conflict pertaining to these topics can create serious dysfunction for the family unit.

The findings pertaining to the aids assisting the professional in making decisions when working with a family going through a divorce, informed the following suggestions:

- Professionals must attend regular consultation with co-professionals and discuss their cases, to debrief and to remain objective in difficult situations.
- Professionals need to be encouraged to yearly update their knowledge and expertise and to attend at least one course or workshop a year facilitated by an expert in the field.
- Professionals ought to be encouraged to refer to the resources they have used in support of their recommendations. This will make professional recommendations more credible.
- Professionals should maintain their skills, keep themselves abreast of developments in research and law, and establish links with other professionals involved in the same work.
- Professionals must be equipped with the necessary mediation skills to facilitate mediation between parties as to minimize high conflict situations between the divorcees.

In accordance with findings about topics that are reflected in parenting plans that are drafted by professionals, the following recommendations are made:

- Professionals should focus on the divorcing family's needs when selecting topics for the parenting plan and should not limit the parenting plan to only focus on a few topics. It is imperative that all topics are included that can possibly assist the divorcing family's functioning post-divorce.
- The family (parents and children) ought to share the responsibility of identifying their needs and with the assistance of the professional these needs will be related into relevant themes and incorporated into the parenting plan.

Based on the research findings regarding decision making when parenting plans are being structured, the following guidelines are suggested:

- Professionals must be empowered to make decisions and not feel uncertain about the decisions that they make.
- Professionals must take the following aspects into consideration when making decisions, so that they may feel confident with the decisions that they have made:
 - a. Aim to deliver an unbiased opinion;
 - b. remain focused on the family's functioning and dynamics;
 - c. focus on the best interest of child standard;

- d. aim to minimise conflict post-divorce;
 - e. focus on addressing the needs of the divorcing family; and
 - f. include all possible and relevant topics.
- Professionals bear in mind that not all information given by family members is necessarily truthful and should not underestimate the potentially distorting effect of an individual's perception. The professional should be aware of this phenomenon, so that it does not confuse or distract the professional.

Research findings indicate that there is a need for well-structured guidelines to assist the professional with compiling a parenting plan and professionals must work in multi-disciplinary teams to share their expertise with each other and to assist each other with structuring a template that can be used when drafting a parenting plan.

Based on findings with regard to topics that ought to be included in a standard parenting plan, the following guidelines are suggested:

- Professionals must present the family with a wide variety of topics available to choose from. It is essential that the topics selected should be in line with the family's needs as all families are different and needs to be dealt with in an individual manner.
- Professionals ought to always include topics as stated in the Children's Act namely the parental rights and responsibilities including where and with whom the child is to live; the maintenance of the child; contact between the child and any of the parties; and any other person; and the schooling and religious upbringing of the child.

The comparison of the views of mental health professionals and legal professionals leads to the following guidelines:

- Mental health professionals must receive assistance and training to deal with high-conflict situations and with conflict between the role of mediator and the role of therapist. They need to be equipped with skills for addressing financial matters and maintenance issues regarding the children; and to be empowered with regard to decision making in general, so that they can make recommendations for parenting plans with more confidence.
- Legal professionals should obtain assistance and should receive training in the following areas: to remain focused on the best interest of child standard and to include the child in the

intervention process; training regarding the interviewing of children and obtaining the necessary skills to facilitate intervention with the children; and broadening their focus of what should be included in a parenting plan, so that the focus of the parenting plan is not primarily on maintenance issues but on all topics that are relevant to the family in question.

The research was guided by the following research question:

What is the professional's experience of working with divorcing families and drafting parenting plans?

This research question has successfully been answered in Article 2, as the researcher has identified guidelines to assist professionals to assist them when they are working with divorcing families and structuring parenting plans.

In Article 3, the objective will be to ascertain parents' and children's needs with regard to the future of the child in a divorce matter.

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ARTICLE 3

PARENTING PLANS REPRESENTATIVE OF THE DIVORCING FAMILY'S NEEDS

Abstract

Effective parenting plans for the divorcing family are built on the needs of the family members and the representation of these needs in the parenting plan. If not, parenting plans will be redundant, as families will not be able to use these parenting plans to structure their lives post-divorce. This will lead to further dysfunction in the divorcing family members' lives post-divorce. The needs of the divorcing family are thus of utmost importance when professionals structure a parenting plan. The papers in this research focus on the needs of the divorcing family – both those of the parents and the children.

1. INTRODUCTION

The objective of this article is to ascertain the needs of the divorcing family (parents and children) and to present these needs in the structuring of a parenting plan. A **need** is defined as something that is necessary in order to live a healthy and functional life (MACMILLAN DICTIONARY, 2010:1). The researcher has found limited literature that identifies the needs of the divorcing family that ought to be taken into consideration when professionals structure parenting plans. Yet, it is of cardinal importance to establish these needs, as this information must form the core of the parenting plan, together with the best interest of child standard. It is imperative that a parenting plan is representative of the divorcing families' needs and that it can be used by the family post-divorce. It should not merely focus on textbook knowledge and suggestions of the professional which may be experienced by the family as impractical and unrealistic. A parenting plan should be a document that can be applied successfully by the family; not a redundant document without any use.

According to Neuman, (1998:30) Thayer and Zimmerman (2001:101) and Walsh (2003:100), parents and children have specific needs that must be met post-divorce. However, often parents and children do not convey their needs to the professional who is facilitating the intervention process and the needs are then not represented in the parenting plan. Certain factors may also complicate

the process of including the divorcing families' needs in parenting plans; for example, the state of turmoil in which family members find themselves may make it difficult for them to communicate their needs effectively; intense conflict between family members can prevent family members from being honest about their needs; family members may not have the necessary skills to communicate and express their needs; and ineffective interviews that professionals facilitate with the members may obstruct the process of identifying the relevant needs.

Article 3 will explore and present the needs of parents and children in a divorcing family. Insight in the needs of the divorcing family ought to assist the professional with the structuring of representative parenting plans.

2. PROBLEM STATEMENT

The needs of the divorcing family are often unknown, dismissed or not clearly visible in parenting plans. The dismissal and/or misrepresentation of needs are problematic, as the researcher believes that these needs partly form the core of a parenting plan, together with the best interest of child standard. Professionals may not always be fully aware of the needs of the parents and children of the divorcing family. In the crisis brought about by a divorce, the needs of the family are often overlooked in the stressful and chaotic environment that is associated with many divorce cases. Under such circumstances, it is common to find unfeasible parenting plans which are not representative of the divorcing family. It is therefore of the essence to gain knowledge of the needs of the parents and children, as this will ultimately assist and guide professionals to prioritise the divorcing families' needs, including the needs of the children, so as to structure plans that comply with the requirements of the Children's Act 38 of 2005 (hereafter Children's Act).

The best interest of child standard focuses on protecting the children's feelings, needs and rights and must be included in parenting plans (Thayer & Zimmerman, 2001:101). Connell (2008:13) and Thayer and Zimmerman (2001:101) point out that many parents and their attorneys fight for plans that are representative of the parents' needs. Parents would for instance often express a need to see their children more and would therefore demand a 50/50 shared contact arrangement with regard to the children. This attitude ignores the best interests of child standard, and plans that are

tailored to such an attitude will be parent-centred instead of child-centred. In contrast, the Children's Act requires the following:

(4) A parenting plan must comply with the best interests of the child standard as set out in section 7.

The plan that is written must take into account the needs of the children (if the child is able to express his or her views) and reflect what the children view as important for their development and functioning post-divorce, as this will enable the professional to structure child-centred plans that are set in the best interest of the children. The parents' needs must not be dismissed, however, because parents ought to be empowered and their needs must be considered together with those of their children (Situational Analysis of Children in South Africa, 2009: vi).

Article 12 of the Convention on the Right of the Child (CRC) makes provision for a child to be heard through a representative in judicial or administrative proceedings. Article 12 determines that

(1) State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. (2) For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The Committee on the Rights of the Child (hereafter CRC Committee) describes article 12 as a unique provision, which "addresses the legal and social status of children, who, on the one hand lack the full autonomy of adults but, on the other, are subjects of rights".

Articles 4 and 7 of the African Charter on the Rights and Welfare of the Child (ACRWC) also state that the child has a right to be heard, which implies that a child's views must be taken into consideration when a parenting plan is being drafted (Situational Analysis of Children in South Africa, 2009: vi). The first reads:

In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, and opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

The latter states that:

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

In many cases children are often not given the opportunity to express their views, as children are not included in the intervention process and their needs remain unheard (Thayer & Zimmerman, 2001:101). The intervention process has to be inclusive of the needs of the parents as well as the children. These needs ought to be considered according to the best interests of child standard, so that child-centred parenting plans may be compiled that are representative of the divorcing family.

The following research question was formulated to guide this research: ***What are the needs of the divorcing family, and are parenting plans representative of the divorcing family's needs?*** The researcher aimed to answer this question through a critical analysis of the forensic assessment reports and by studying the confirmatory e-mails received from parents whose reports were analysed. This assisted the researcher to draft guidelines for professionals to structure parenting plans that are representative of the divorcing families' needs and in accordance with the best interests of child standard.

3. OBJECTIVE OF THE ARTICLE

The objective of this article is to ascertain the needs of the divorcing family (parents and children) and to establish whether parenting plans are representative of the families' needs.

4. RESEARCH METHODOLOGY

For the purpose of Article 3, an instrumental case study was selected as a research design. Mark (1996:219) explains that the instrumental case study is used to elaborate on a theory (the best interests of child standard) or to gain a better understanding of a social issue (the needs of the parent(s) and children post-divorce). In this article, the researcher used an explorative research approach. Bless and Higson-Smith (1995:42) explain that the purpose of exploratory studies is to gain insight in a situation, phenomenon, community or person. This approach is typically used when the subject of study is relatively new and unstudied (Rubin & Babbie, 2001:123). Through this exploration, the researcher aims to create an understanding of the needs of the divorcing family related to parenting plans, which is a relatively new phenomenon in South Africa.

Data was collected by means of a document study through which official documents were used. The forensic assessment reports were collected from the researcher's practice at Intercare Medical and Dental Centre in Fourways, Gauteng (Addendum 3). She has been in private practice for the last six years, specialising in the field of divorce and focussing on divorcing families, forensic assessment and the structuring of parenting plans. The forensic assessment reports were compiled based on interviews with the parent(s), a psycho-emotional assessment with the children and observational sessions with the children and the parent(s). A purposive sampling technique (Strydom & Delport, 2005b:329) was used to select these documents. The sampling size was set at a minimum of 20 files, and the criteria for inclusion in the study were, firstly, that forensic assessment reports had to form part of the case files in the timeframe 2007 to 2009 (as this is the period in which the researcher compiled parenting plans); and secondly, that the plans had to specifically focus on (a) divorce mediation, (b) divorcing families with children and (c) the structuring of parenting plans. 20 files that complied with the research criteria were selected. The three main questions that needed to be answered through data analysis were the following: (a) What are the children's needs? (b) What are the parents' needs? (c) Did the parenting plans take the divorcing family's needs into consideration?

The data was managed by allocating a number to each selected file, to ensure anonymity. A profile of participants that contained information about the year the family consulted with the researcher, the number of years the couple were married, the age of the biological mother and father, the number of children in the family, and the gender and age of the children was included in the table. Each file was studied and notes were made to enable the researcher to deduce information and to

organise data according to themes. Nine themes were identified. A table was drawn, with two sections summarising the raw data that reflected the needs of the parents and the children. Figures were used to represent the themes, and literature was gathered to support the themes and to draw further conclusions.

In the next phase, the researcher sent e-mails (Addendum 4) to all participants whose files were selected for the research study, inviting them to participate in the study. Five divorcing families replied and completed the electronic form. The e-mail also requested the families to give their interpretation of their case according to the nine identified themes, if they were willing to participate in the study. The aim was to obtain more insight regarding their respective needs and wishes and to check whether the interpretation of the file was correct. E-mails were sent to the parents and they were asked to discuss the e-mail with the children, to enable the children to also give their input. After receipt of the reply by e-mail, a follow-up e-mail (Addendum 5) was sent to the parents to enquire whether they felt that the family's needs were indeed represented in the parenting plans that the professionals structured. These electronic forms were used to add value to the research study and to check the credibility of the researcher's interpretation of the files. A co-professional was appointed to assist in studying the files and to read the e-mails to confirm the data analysis process to ensure valid interpretation of the data. To follow is the results of the data analysis.

5. RESULTS

5.1 Profile of participants

Table 1 contains information about the research participants, and particularly the year the family consulted with the researcher, the age of the biological mother and father, the number of children in the family, and the gender and age of the children.

Table 1: Profile of research participants

Files	Year of case analysis	Years married	Age of the biological mother	Age of the biological father	Number of children	Gender of the children	Age of the children
File 1	2007	10	40	42	2	Female Female	4 8
File 2	2007	19	42	45	2	Female Male	17 15
File 3	2007	11	35	38	2	Male Male	6 9
File 4	2007	14	36	38	2	Female Male	12 8
File 5	2008	6	34	36	1	Male	4
File 6	2008	11	34	35	2	Male Male	7 9
File 7	2008	14	37	38	1	Female	12
File 8	2009	13	34	36	1	Female	11
File 9	2009	8	42	59	1	Male	5
File 10	2009	15	38	45	2	Female Male	15 10
File 11	2009	8	30	36	2	Female Female	5 7
File 12	2009	7	36	55	1	Male	5
File 13	2009	7	27	36	2	Female Male	2 6
File 14	2009	7	40	51	1	Female	4
File 15	2009	15	40	36	1	Female	13
File 16	2009	10	34	44	1	Male	8
File 17	2009	8	32	35	2	Female Male	6 4
File 18	2009	15	35	41	3	Female Female Male	13 11 9
File 19	2009	12	32	35	2	Female Female	8 10
File 20	2009	8	35	37	1	Female	5
		X=10.9	X=35.65	X=40.9	X=1.6	F= 18 (56%) M= 14 (44%)	X=8,375

Table 1 allowed the researcher to deduce detailed information regarding the divorcing family. The profile indicates that the couples were married to each other for an average of 10.9 years before they decided to divorce. The South African Divorce Rate (2010:1) indicates that irrespective of the population group, most South African couples who got divorced were married for five to nine years. McCloud (2006:1) ascribes the tendency for marriages to last 10 years on average to the cyclical process of marriage. The sample in this study correlated to a fair degree with the findings in literature.

The average age of the 20 biological mothers who formed part of the research study is 35.65 years. The South African Divorce Rate (2010:1) indicates that the median age at divorce in 2008 was 38 years for women. A 2.35 year age difference is found between that age and the age reported in this study. The average age of the 20 biological fathers who formed part of the research study is 40.9 years. The South African Divorce Rate (2010:1) indicates that the median age at divorce in 2008 was 41 for men. A relatively correlated age difference of 0.1 was found. It seems that couples are frequently in their middle life when they decide to file for a divorce. The decision to divorce is influenced by situational factors, and incompatibility appears to be more predictive of divorce in later life than individual personality factors, for example neuroticism or disagreeableness (Divorce: Trends and Consequences, 2010:1).

In this research study, 32 children were affected by 20 divorce cases. The average number of children in the divorcing families that formed part of the research study is 1.6. The South African Divorce Rate (2010:1) indicates that between one and two children in a family are affected through divorce. Findings indicated that 44% of the children were male and 56% female. The researcher did not find any literature indicating that more female children than male children are affected by divorce, but overall there are more girls than boys in the South African population (STATS SA, 2010:1). The average age of children in the divorcing families that formed part of the research study is 8.375. Findings in this research suggest that older parents and younger children than described in literature are confronted with divorce. Based on these findings it is clear that parenting plans should have a long-term focus, as children are often very young when parents divorce and need to be helped through various developmental phases post-divorce with a well organised plan. Furthermore, plans should be sensitive to different life cycles of parents and children, to ensure that the life expectations of all individuals are met according to their particular life stage.

The income bracket of the parents was not included in the table. The researcher did not ask the parents to state their income, but it may be assumed that most of these families are in the middle to high income bracket, based on the fact that they reside in the socio-economic affluent northern suburbs of Johannesburg; and on the fact that the families could afford private consultation fees. The section below will focus on the nine themes that were deduced from the presentation of the divorcing family's needs. The researcher will firstly focus on the needs of the children.

5.2 Needs of the children

According to literature (Lyster, 2007:13; McGraw, 2009:1) children's psychological needs which are triggered by emotions are greatly increased during and after a divorce. During and after a divorce, children are caught in the midst of an economic and emotional roller coaster, experiencing guilt, fear and confusion. If parents are consciously focused on and sensitive to their children's needs during and after a divorce, they will do a better job of meeting these needs. It is imperative that the child's needs are represented in a parenting plan, as this will help the child to feel heard by the divorcing adults and to initiate feelings of security. This will in turn result in the optimum functioning of the child post-divorce. The researcher wanted to ascertain whether children's needs were sufficiently explored and included in parenting plans. The section below will focus on the first theme that was identified based on information received from the children, namely a child's need to have fewer concerns and not to worry.

5.2.1 The need not to worry

During the document study, the theme of worrying strongly emerged. It became apparent that children often have various concerns during the divorce process and that there is a definite need for the children not to feel so overwhelmed with a sense of worrying. The children indicated that they frequently worried about: (a) whether they would be allowed to still see and speak to both their parents; (b) financial matters; (c) where and with whom they are going to stay; (d) who is going to help them with practical things like school and homework; (e) what is going to happen to their parents; (f) whether their parents still love them; and (g) new arrangements, for example who will fetch them from school and where are they going to sleep. Some children mentioned several worries while others mentioned only one or two. Figure 1 presents the concerns (worries) that children experience.

Figure 1: Aspects children worry about in a divorce process

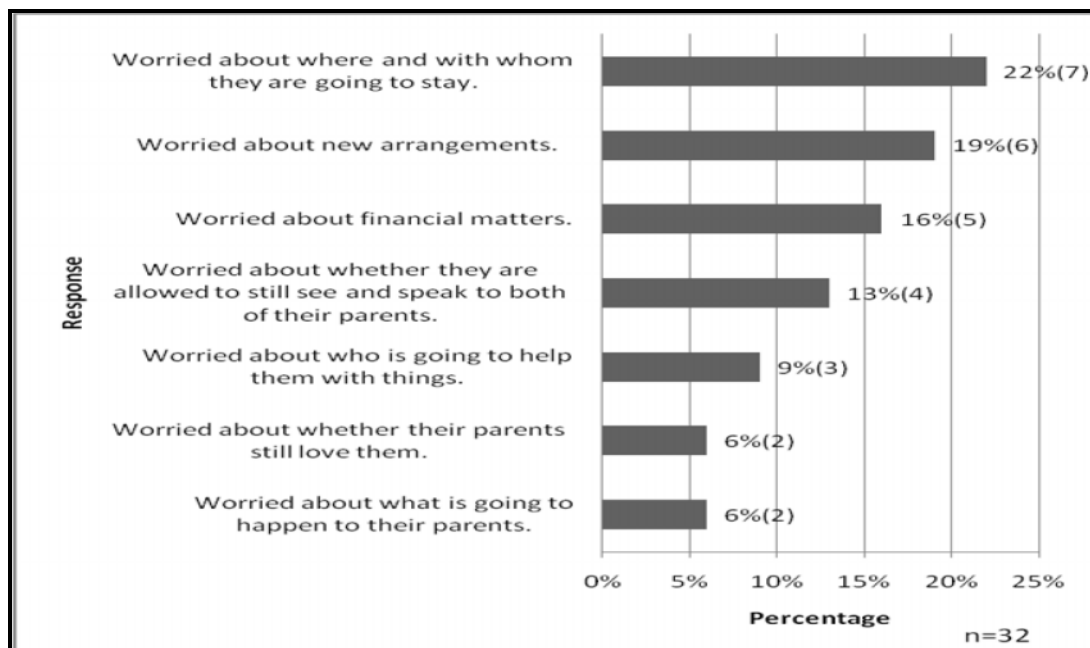


Figure 1 focuses on the concerns that children experience when parents decide to divorce. The first three categories state the main concerns of the children and show that 7 (22%) of the sample indicated that they worry mostly about where and with whom they are going to stay. 6 (19%) of the sample worried about new arrangements and 5 (16%) stated that they worried about financial matters. It can be concluded that children's concerns are mostly about whom is going to care for them post-divorce and whether there will be enough resources to care for them in their new environment. Overall, it seems that children are confronted with various worries which can cause anxiety when they are going through a divorce. In the confirmatory e-mails, a mother remarked the following with regard to her child's need to have less concerns (worries):

When my 9 year old son started visiting his father he would call me constantly on the cell just to say hi, literally a minimum of 25 calls a day. I took the calls because I knew it would pass until he was settled as he is a child that often experiences anxieties and feels worried. He would call me first thing in the morning, it could be 5:30am, my phone was always on, I never complained as he needed to know I was there for him. I would always call at 6pm on the dot every night when he was away so he felt secure.
(File 6.)

Hartson and Payne (2006:47) as well as McGraw (2009:1) explain that aspects children worry about in a divorce highlights a child's fear of losing their sense of security and belongingness. Children feel insecure and anxious in a changing environment, such as a divorce, and are concerned whether their basic needs are going to be provided for – such as a house to stay in, food to eat and money to pay for clothes. Acceptance and sense of belonging are one of a child's greatest needs, because their self-concept is very likely in a fragile and formative stage, especially if they are at a young age when going through a divorce. They will try to gain approval because their sense of belonging to the family has been shattered. Children also tend to personalise things and blame themselves. If mom and dad are fighting and divorcing, the children personalise it and will have thoughts such as *"If we didn't make so much noise; if we didn't need shoes ..."* Children need acceptance. They need to know that they are important and that they are a priority.

With divorce, there are numerous changes and findings indicate that children's concerns are often valid and relevant post-divorce. Going through a divorce seems to be stressful for children and may lead to a heightened level of anxiety. Especially primary school children – who make up the majority of children in the sample – often worry and when they may find it more difficult than older children to go through a divorce, due to younger children's heightened levels of experienced anxiety and insecurity, along with their underdeveloped problem solution skills. The children's concerns impact on their functioning post-divorce and the children present with unfortunate concerns and developed anxiety.

The next theme that was identified is the need for children not to lose either of their parents post-divorce. This theme is discussed below.

5.2.2 The need not to lose either of their parents post-divorce

The theme of a fear of abandonment strongly emerged during the document study, as children felt a strong need to be with both their parents post-divorce. The children indicated a fear of losing either or both their parents after their parents' divorce. The children expressed a concern about what is going to happen to them post-divorce – where will they live; will they see their mother and father regularly; will the one parent perhaps move away; will the parents only want to divorce each other or are they also divorcing the children? Figure 1 shows that 12% of the children indicated that they

are worried about whether they will be allowed to still see and speak to both their parents. Figure 2 also highlights children's need for contact with both their parents and the need not to lose either of their parents post-divorce. It can be deduced that children going through a divorce experience an overwhelming experience of concern of being abandoned by their parents and not having contact with them.

Figure 2: The children's need not to lose their parent post-divorce

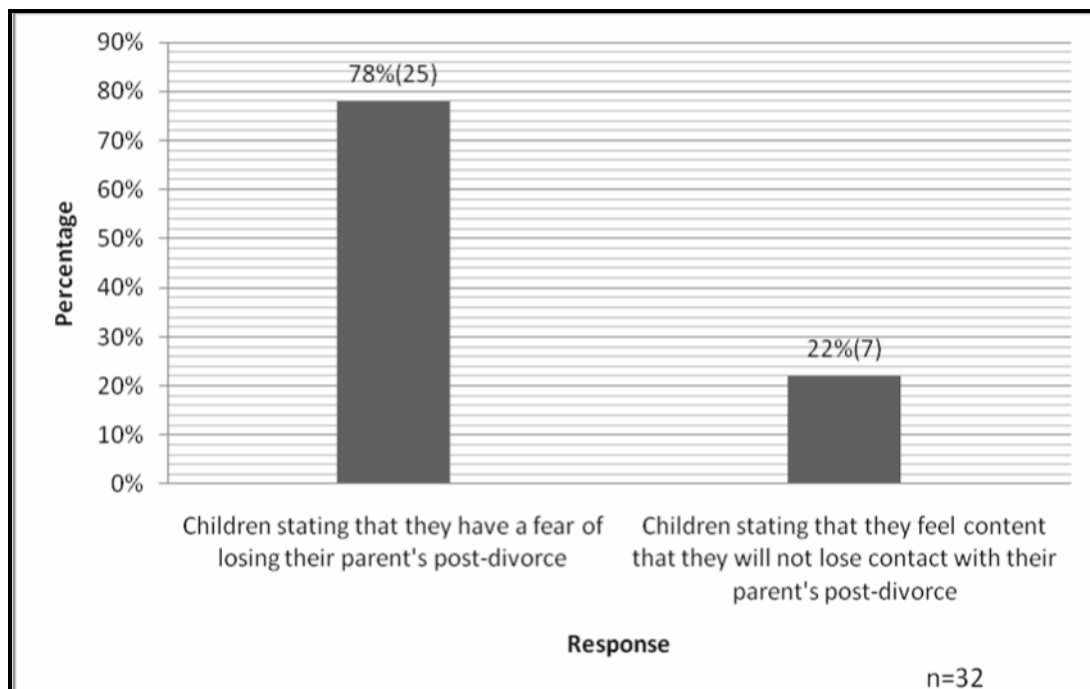


Figure 2 reflects that 78% (25) of the children felt scared of losing their parents post-divorce. 22% (7) of the children made no mention of any fear with regard to losing contact with a parent post-divorce. Thus, the majority of children experience fear of losing a parent post-divorce. In the confirmatory e-mails, a mother reported the following about the child's need not to lose either parent post-divorce:

My son (four years old) has always been an anxious child and during the divorce process only become more anxious and insecure. He would often ask me whether he would still be able to see his father. When with me he would miss his father and shout out in an anxious excited voice "daddy daddy" whenever he saw a white bakkie or

truck on the road next to us, thinking it was his father. He would speak about the father as though he had just seen him even though he did not have contact with his father for long periods of time. (File 5.)

Bennett (2009:1), Lyster (2007:138) and Thayer and Zimmerman (2001:112) explain that the failure of parents to divorce amicably means that children often permanently lose touch with a parent, usually the father. It is also a reality that due to the unpleasant experience of divorce and the high-conflict situation between parents, contact can become complicated and children often end up not seeing one of the parents on a regular basis. This might be as a result of parental alienation syndrome, where a parent, because of his or her own unresolved problems, restricts the child's contact with the other parent. Some parents try to restrict the relationship that their children have, or might have, with the other parent, sometimes because of lingering anger or pain from the separation or divorce. Or when communication breaks down and conflict heats up, one parent might stop adhering to the children's contact schedule and will not allow the children to have time with the other parent. The child's need to see both parents post-divorce is often not fulfilled, due to conflict between the parents. The fear of losing contact with one parent post-divorce, as illustrated in Figure 2, therefore often becomes a reality, and it leaves the children feeling isolated, lonely and rejected by their parents.

Research findings points out that children fear losing contact with their parents and this often has a detrimental effect on parents and children having a functional relationship post-divorce. Contact often becomes a high-conflict matter between parents and children are used by the parents as pawns that create stress for the children. Contact arrangements between parent(s) and children are thus often not reflective of the best interest of child standard and are overridden by the conflict within the parental relationship. The following section will focus on the child's wish for their parents not to be in conflict with each other and furthermore to be exposed to less arguments and fights.

5.2.3 The need for parents not to be in conflict with each other

Conflict is a recurring theme that emerged when the researcher analysed the children's experience in a divorce matter. The children mentioned repeatedly that they yearned for their parents to fight

less, that they hoped that their parents could get along and that there would not be so many arguments. It appears that it is important for children in a divorcing family to be exposed to less conflict. The children in the sample explained that (a) they cannot cope with the conflict between the parents as it made them feel insecure; (b) when their parents argue they pretend that they did not hear the argument as they do not know how to act when seeing their parents again; (c) they try to stop the arguments as they don't want their parents to fight and (d) they lie in bed at night crying themselves to sleep as they don't want their parents to fight the whole time. Figure 3 shows the percentage of children who are exposed to high-conflict scenarios.

Figure 3: Conflict in the households of the divorcing families

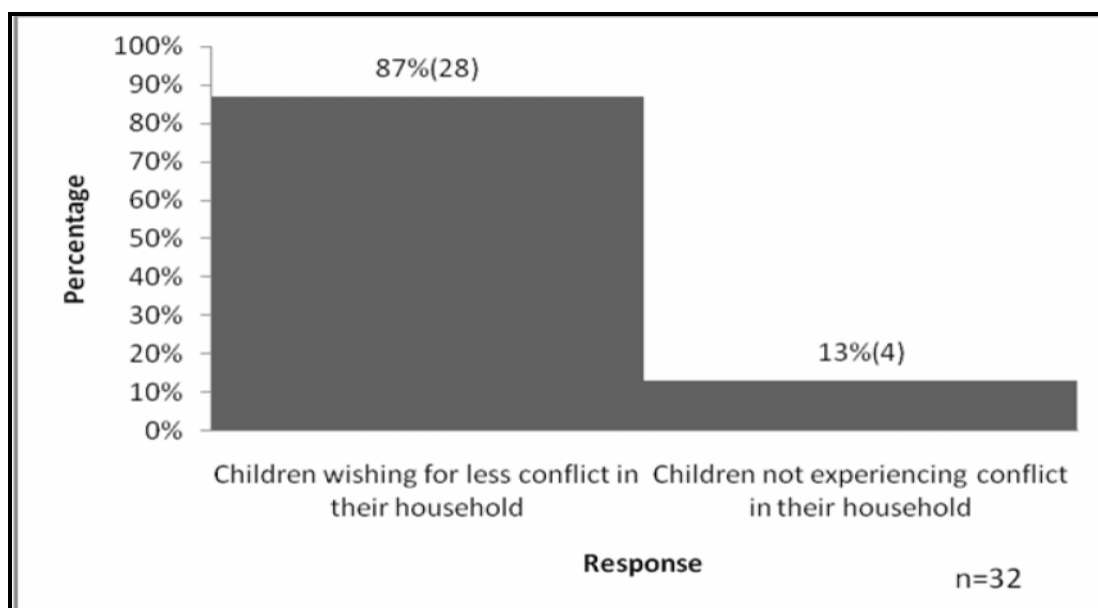


Figure 3 clearly indicates that the majority of children (28 children, or 87% of the sample) experienced conflict in their households and wished for the conflict to diminish. Only 4 (13%) of the children did not refer to conflict in their households. The researcher is of the opinion that this absence of conflict may be ascribed to various factors, such as parents who prevent conflict scenarios in front of the children; parents who may have dealt with the problems in a more effective manner; or parents with personality types that do not get involved in volatile, high-conflict situations. In the confirmatory e-mails, a father provided the following information with regard to the children and conflict:

The mother and I did our best not to fight in front of the kids. One night when dropping the children off, we had an argument and the mother tried to hit me over the head with a vase in front of the kids. This was almost 3 years ago. My daughter, about 6 months ago, mentioned this exact event to me in detail and asked why mommy tried to do this. She also asked why we were fighting and it made her sad that we were fighting and that mommy was naughty. (File 1.)

Ahrons (2001:1), Emery (1999:35), Kelly (2000:970), Stahl (2000:1) and Thayer and Zimmerman (2001:46) suggest that there has been a great deal of publicity about the negative impact of divorce conflict on children. The children exposed to conflict, both in marriage and after divorce, experience some of the most significant problems. If parents continue fighting after divorce, children can become disillusioned and disgusted. When parents divorce, children at least hope the fighting will cease so that they can get some peace in their lives. Many times children say that they would not mind the divorce so much if their parents could be able to be amicable with each other. After the divorce, all that children really want is for their parents to act grown up, leave them in peace, and let them love the other parent. Instead, when conflicts worsen, children are left with many wounds. These wounds and prolonged frustration can include feelings of disillusionment, fear, insecurity, vulnerability, and other similar emotions. Children develop loyalty conflicts and become afraid to love both their parents or to express their love for one parent in front of the other parent. Many of these children form an alignment with one parent in the hope to feel less anxious and insecure. This is often the case in alienated children, who feel that they cannot have a relationship with both parents because they cannot handle the stress. Divorced children frequently feel that they have failed or blame themselves when their parents stay in conflict, and they feel even more insecure when they cannot prevent the arguments.

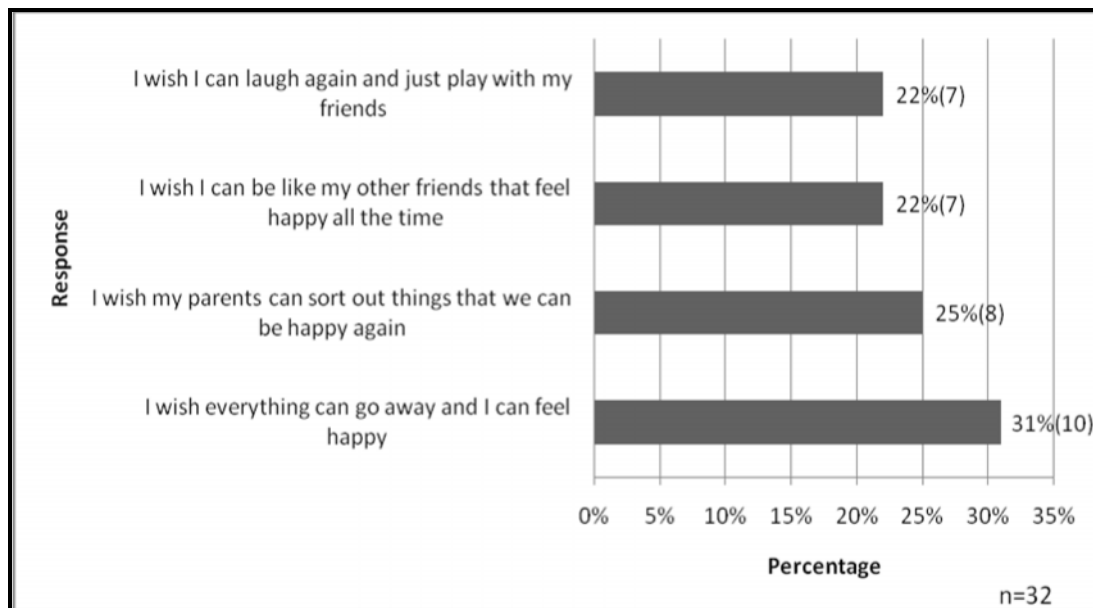
The research has identified themes that suggest that children in divorcing families are being exposed to high-conflict scenarios. It very seldom happens that children are not exposed to some form of conflict during a divorce process and this can cause dysfunction, not only for the child but for the whole family unit.

In the section below, the theme of being happy again is discussed.

5.2.4 The need to be happy again

In the forensic assessment reports it emerged that children often mentioned during their assessments that they would like to be happy again. Children find the process of divorce difficult and this consequently creates stress for children, which can result in depression-related feelings (Walsh, 2003:103). Children expressed the wish to be happy again with regard to the following aspects: (a) to laugh again and just play with their friends; (b) that everything can go away and that the child can feel happy; (c) that the parents can sort out things so that the family can be happy again; and (d) that the child can be like his/her other friends who feel happy all the time. Figure 4 reflects the children's need to be happy again.

Figure 4: Children expressing their need to be happy again



In Figure 4 there are four categories indicating the 32 children's experience of unhappiness and their need to be happy again. The four categories all represent the children's need to "just be children"

and to be able to live a happy and carefree life as children. In the confirmatory e-mails, a father explained what his daughter conveyed to him with regard to her level of happiness:

We felt very unhappy when you and mommy used to fight the whole time and especially when mommy moved in with her boyfriend. All that we wanted is for you and mommy to be together again that we can be happy again. Not one of our friends' parents were divorced and we felt very alone. (File 17.)

According to DeBord (1997:1); McGraw (2009:1) and Walsh (2003:103), children of all age groups are affected by divorce in a way that creates unhappiness for the child. Children experience the intense desire to feel happy and to not experience overwhelming negative feelings post-divorce. Infants may not understand divorce, but they too can be affected by divorce. Infants may lose their appetite, have an upset stomach and spit up more, which can be an indication of unhappiness. Preschool children from three to five years of age frequently believe they have caused their parents' divorce. For example, they might think that if they had eaten their dinner or done their chores when told to do so, Daddy wouldn't have gone away. Preschoolers may fear being left alone or abandoned altogether. They may show baby-like behaviour, or may become uncooperative, depressed or angry. All of these reactions are an indication that the children are experiencing feelings of unhappiness. School-age children are old enough to understand that they are in pain because of their parents' separation. They are too young, however, to understand or to control their reactions to this pain. They may experience grief, embarrassment, resentment, divided loyalty and intense anger, but these feelings will often be accompanied by intense feelings of unhappiness. Adolescents also experience an overwhelming feeling of unhappiness and may experience anger, fear, loneliness, depression and guilt.

Research findings indicate a high level of unhappiness among children whose parents face a divorce. This is concerning, as unhappiness may result in depressive feelings that make functioning for children post-divorce even more difficult. According to the research findings and literature, it is imperative for professionals to assess the children's emotional functioning, so as to determine how to address the child's feelings of unhappiness and to ensure optimum functioning of the children post-divorce. Below, the children's need for their parents to stay together and to not get divorced is discussed.

5.2.5 The need for parents to stay married and not to get a divorce

A theme that emerged in analysing the forensic assessment reports is the need children have for their parents to remain in the marriage. It was found that often children would express that they hope that their parents would change their minds and that they would reconsider the divorce. It seems that the children want the family unit to stay intact and often fantasise that their family will not go through a divorce but that something will happen that will make their parents change their minds and stay married. Figure 5 indicates children's ideas regarding their parents having to stay together.

Figure 5: The children's need for parents to remain married

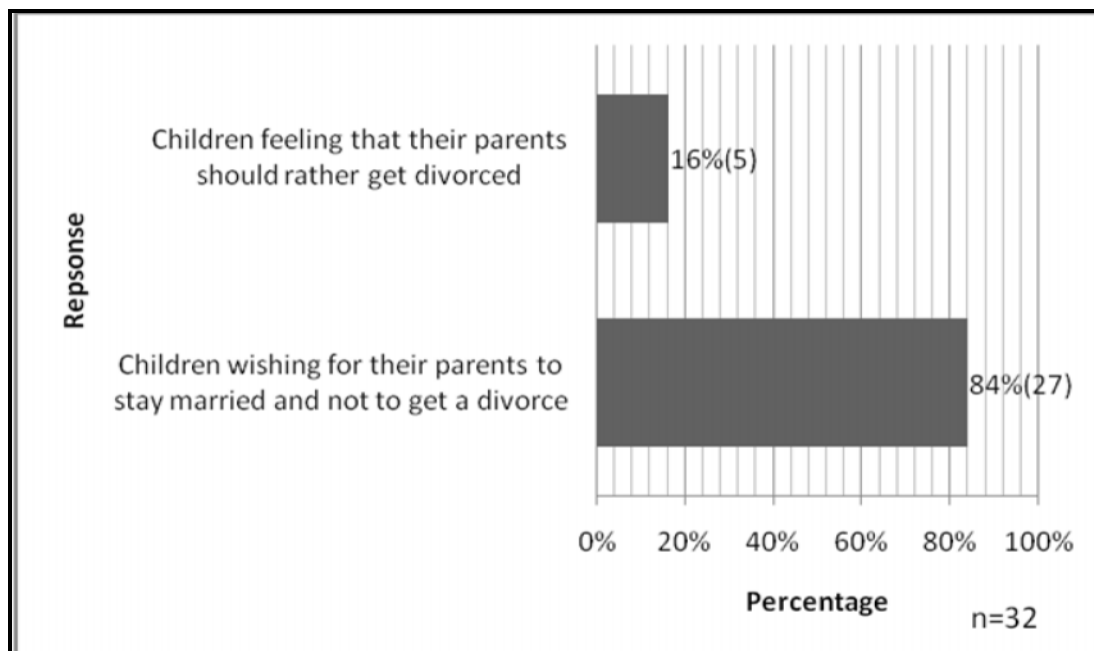


Figure 5 reflects that 27 (84%), the majority of children, expressed the hope that their parents would stay married and not get a divorce. Only 5 (16%) of the children indicated that it would be better for their parents to get a divorce. In the confirmatory e-mails received, a mother stated the following regarding the need children may have for their parents to stay together:

In the last 6 months before the divorce (finalised in 2009) my son (5yrs) often began to open up more and say he wanted me to stay married to his dad. He wanted me to go with him on visits when seeing his dad. He would create a scenario for his dad and me

to talk to each other. He often asked if I loved his dad, when I said no, he looked for a little bit of hope and said "maybe a little bit". (File 12.)

Desrochers (2004:1) as well as Hetherington and Stanley-Hagan (1999:130) report that even years after a divorce, children may still fantasise that their parents will reunite. This is especially the case with young children, as they often want their family back and do not fully understand what has happened or what has caused their parents' separation. Divorce comprises a series of transitions or stages for both adults and children. These stages are similar to the stages Elisabeth Kubler-Ross described for patients with terminal illnesses: denial, anger, bargaining, depression, and acceptance. During a divorce, children experience these stages quite differently from adults. In the denial stage, the children simply fail to believe that their parents, the adults who provide them with a safe home, shelter and food, could ever part. During this time, the children reassure themselves that their parents will stay together, or if they are already separated, that they will soon reunite. This reunion fantasy often persists for years. Denial is followed by anger, the second stage. Children can be furious at their parents for not trying harder to stay together, for permitting the divorce to happen, for ruining their lives, and for dashing their dreams of the future as they had it planned. Acting-out behaviour often accompanies the anger (Desrochers, 2004:1; Hetherington and Stanley-Hagan, 1999:130).

According to Desrochers (2004:1) and Hetherington and Stanley-Hagan (1999:130) children enter the bargaining stage by trying to undo the damage by changing their own actions. If they get better grades, perform their daily chores without complaining, or quit fighting with their siblings, the absent parent will return home to stay. In the depression stage, there is a pervasive sadness that permeates every aspect of the child's life. They are sad and tired every day at school and at home. Children who reach this stage and who appear to be driven to succeed in some way must be watched closely, as they might be suffering the most. Finally, acceptance occurs when the children have gained the emotional experience and distance to see that perhaps the divorce was for the best and that their parents are happier living apart than they would have been living together. This stage usually occurs only in older children or even young adults.

Research findings indicates that the majority of children fantasise about their parents staying married. These children will feel disappointed post-divorce when they realise that this wish is not being realised. Thus, it seems that children often have unrealistic needs for their parents to not separate. The researcher suggests that this frequently occurs when children find it difficult to accept change in their families; when children struggle to accept the finality that comes with divorce; and when children do not understand the full implications of divorce. The section to follow will focus on the parents' needs for themselves and/or for their children.

5.3 The parent's needs for themselves and/or for their children

Hetherington and Kelly (2002:35), Mart and Bedard (2005:1) and Walsh (2003:101) have found that divorce is one of the most stressful events that an individual may experience. Some stress is inevitable, given resulting transformations in marriage and family relationships, and shifts in daily routines, roles, activities, and social relationships (Mart & Bedard, 2005:1; Walsh, 2003:101). There may be challenges to the way that people view themselves, with some reporting a sense of being off-balance or adrift, and no longer certain of who they are or what they want. Even those who are relieved to be free of an unhappy marriage may be apprehensive about the future and the many stressors they are encountering. Many parents have to re-evaluate their needs post-divorce (Hetherington & Kelly, 2002:35). Specific needs of parents should be considered by professionals, as this may give them insight into the divorcing family when they are structuring parenting plans. Four themes were identified after the responses had been analysed: the need to provide children with a healthier environment and reduce exposure to unpleasant experiences post-divorce; the need to start a new and more fulfilling life post-divorce; the need to reduce conflict post-divorce; and the need to have limited contact and communication with the ex-partner post-divorce. What follows is a presentation and discussion of these themes.

5.3.1 The need to provide children with a healthier environment and reduce exposure to unpleasant experiences post-divorce

In the forensic assessment reports, the parents express the need that they as parents and their children ought to be living a healthier life that is not filled with negativity, hostility and exposure to unpleasant fights between themselves and their ex-partners. Parents expressed a need that children would have a healthier and more pleasant environment, and specifically that the children would (a)

live a happy and healthy life; (b) not be exposed to an all-consuming negative environment; (c) be in an environment that is relaxed and that can be healthy for their upbringing; and (d) live a life that is pleasant and happy, and where they have a chance to be free from all the unpleasantness of the family dysfunction. Figure 6 illustrates the above-mentioned aspects with regard to a healthier and more pleasant environment.

Figure 6: The parents' need to provide their children with a healthier environment and reduce exposure to unpleasant experiences

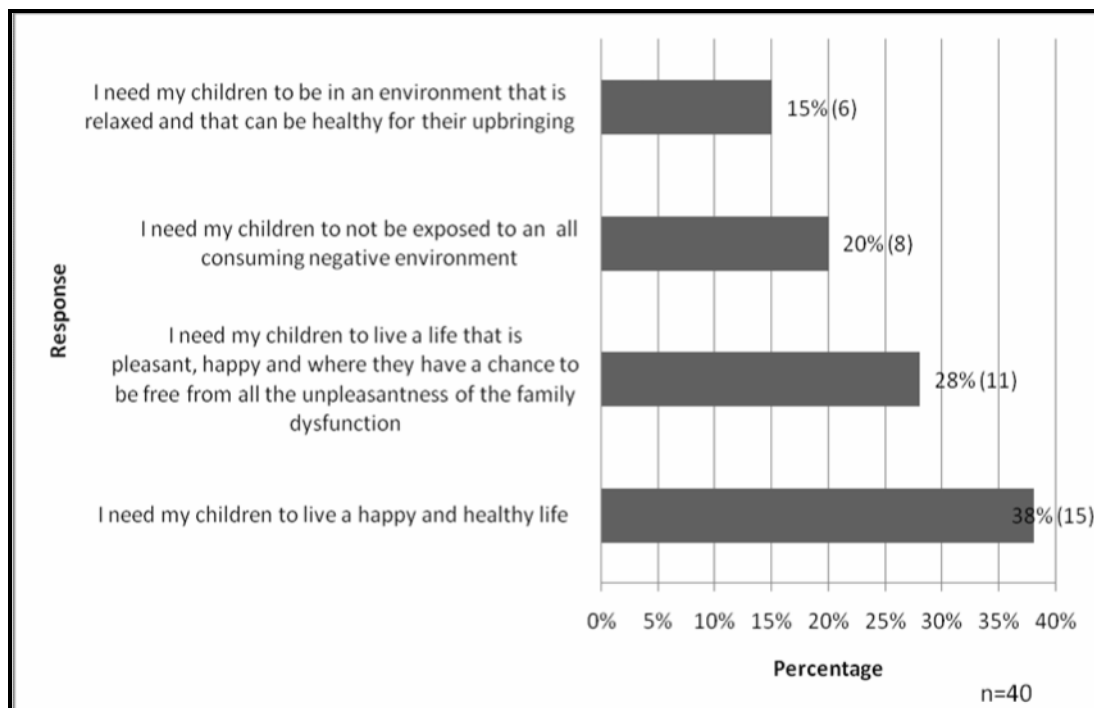


Figure 6 reflects the parents need for children to live an overall more functional life post-divorce. This is similar to the needs experienced by the children, which also included a need to have a more functional life post-divorce. It emerged that parents believe that they should provide their children with a changed environment post-divorce that is more conducive to delivering healthier and functional children. In the confirmatory e-mails received from the parents, a father offered the following with regard to the need for a healthier and more pleasant environment post-divorce:

When experiencing divorce, it is surely a gut wrenching experience. It draws every last bit of life you have in you and drains you emotionally. In my experience, your children are the only ones that you offer unconditional love. Having said this, you know your

children have suffered, and you want to move forward offering your children a much healthier and emotionally balanced environment. You want to protect them from all of the negative experiences you have and guard them from all of the ugliness involved.
(File 18.)

Literature (McGraw, 2004:30; Meyer, 2010:1; Walsh, 2003:132) supports this finding and indicates that life post-divorce can lead to a healthier, happier and functional situation for both the parents and the children. However, this depends on the commitment of the parent to create a healthy and functional altered family unit post-divorce. By identifying this particular need, the parents reveal that they are committed to having their children live happier lives post-divorce. However, this commitment is often not met post-divorce, as parents continue to live in high-conflict situations with each other. This affects the happiness of their children and works against the best interest of child standard (Meyer, 2010:1; Walsh, 2003:132).

It may therefore be concluded that in spite of the need expressed by the sample that their children should live in a happy and healthy environment, this need is not always fulfilled. Parents may become self-centred post-divorce and focus more on their own happiness than that of their children, as parents are often bewildered and in a stage of recovery post-divorce, which can cloud their judgement. Professionals thus have the duty to remind parents of their children's needs and best interest and to focus on their children's wellbeing. The next section will focus on the parents' need to start afresh and live a more fulfilling life post-divorce.

5.3.2 The need to start a new and more fulfilling life post-divorce

In analysing the forensic assessment reports, parents' need to start a new and more fulfilling life post-divorce emerged. It was found that the parents experienced their married life to be empty and that they felt that there was more to life than what they had experienced in their marital life. Parents referred to seeking a new life post-divorce where they could reach their potential and find themselves (who they really are and what they really want). Figure 7 illustrates these findings.

Figure 7: Parents seeking a new and more fulfilling life post-divorce

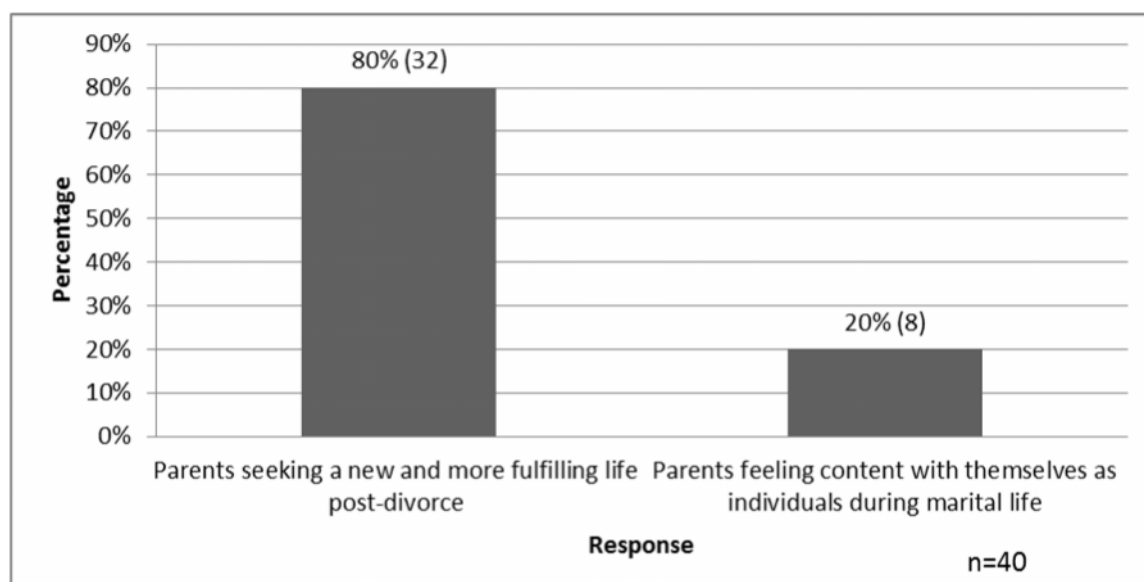


Figure 7 shows that 32 (80%) of the sample hoped to have a chance on a new and more fulfilling life post-divorce. This is an indication that parents have a need to change their lives post-divorce, with the focus on living a more rewarding, functional and positive life. In the confirmatory e-mails received from the parents, a mother mentioned the following with regard to having a new and more fulfilling life post-divorce:

I had a horrific past with my ex-husband as he is a bad person. I would like to move on, be confident, date and then eventually remarry, I don't ever want to be connected to him again as he suppressed my individuality to the point where I did not know who I am anymore. He has only brought pain and suffering and disappointment, chaos, rejection to both my son and I. I need to break free, I'm ready to fly and be the spirited and lively person I used to be 15 years ago. (File 16.)

Dimeck (2010:1), Thayer and Zimmerman (2001:612) and Walsh (2003:132) explain that divorce is one of the most traumatic experiences a person can go through, but that this does not mean the potential for a happy and more fulfilling life has ended. A divorce can leave a parent completely worn out and drained of desires to go on with life, but it is not the end of everything. A parent must

realise that it is the end of one period or chapter in life and that there is opportunity for a new beginning. Parents should accept their current situation as is, and build life to what they want it to be post-divorce. When a divorce occurs, parents should seek to grieve the loss of the marriage and to successfully go on with their lives and the lives of their children, and they should focus on the wish that life post-divorce would be more fulfilling not only for themselves but also for their children. Parents have every right to go on with their lives after divorce: the expectation is that there will be a new relationship, which hopefully will provide new love, caring, and understanding for the parent and children.

Based on the finding that the majority of parents would like to move on with their lives, it ought to be considered how this need will affect the children post-divorce and what impact this will have on the child. The researcher is of the opinion that all parents have the right to move on with their lives. but that the best interests of child standard must be considered together with the parents' need. The parents' needs can at times override the children's right to form part of the parent's new and more fulfilled life and can leave the children feeling isolated post-divorce. The section below will focus on the parent's need to reduce conflict for their own sake and that of their children.

5.3.3 The need to reduce conflict post-divorce

In the forensic assessment reports it was found that parents experienced their marital relationship as a relationship filled with constant conflict. The theme of conflict was mentioned throughout the reports and parents identified it as a highly problematic issue for their own and their children's functioning. Figure 8 illustrates the parents' need for a reduction in conflict post-divorce.

Figure 8: The parents' need to reduce conflict post-divorce

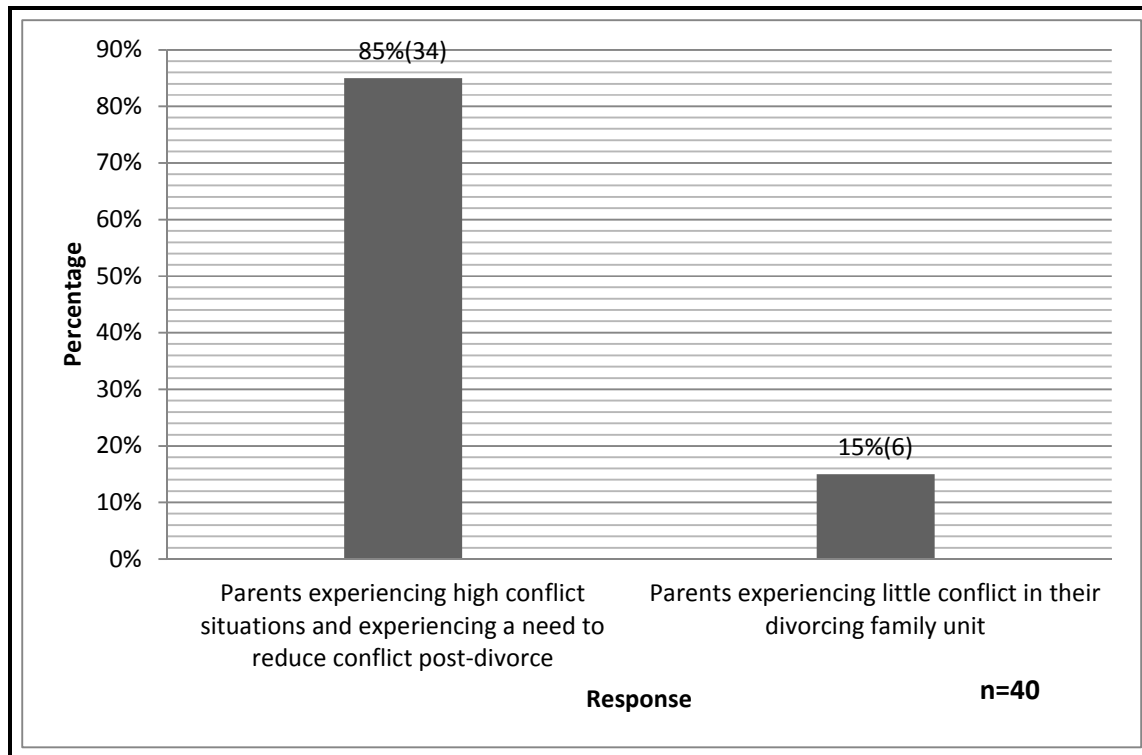


Figure 8 shows that most divorcing families exhibit symptoms of high-conflict divorces. 85% of parents expressed a need to have less conflict in their lives and would prefer not to be exposed to conflict, as the high-conflict situation has created dysfunction for themselves and their children. In the confirmatory e-mails received from the parents to validate the analysed information, a father stated the following with regard to the need to reduce conflict post-divorce:

I do all I can to protect the children from the emotions I feel and to protect them from fighting and conflict that they have been exposed to in our marriage. No matter how much I feel their mom is a bad person, I have to swallow my pride and take into consideration that all I am doing if I bad mouth their mom, is I am letting my children carry the guilt/emotion. Sometimes it is very testing, but I have to look at the bigger picture. (File 18.)

Duchen and Dennill (2005:3) and Thayer and Zimmerman (2001:26) explain that conflict is not an “on” or “off” phenomenon, and that it is a typical aspect of most relationships. Conflict can be

contextualised in terms of its severity. It comes from the push and pull of wills and personal agendas. It comes from old wounds and memories, from fear and loneliness, and from a loss of identity and dreams for the future. Conflict can even feel very self-protective and safe. When there is simply a disagreement, conflict is not problematic. However, as coercion begins and resistance escalates, the tug-of-war begins to develop. This tug-of-war leads to hostility and then serious conflict. At its worst there is active warfare, which involves sabotage, spying, positioning, threats and attacks. While these are terms of war, they occur between divorcing and divorced parents as well. Due to the nastiness that conflict brings to family functioning, the researcher believes that a plan needs to be prepared to prevent parents and children from being exposed to additional conflict post-divorce.

According to this research finding, the need to reduce conflict post-divorce remains a problem as conflict reduction often does not materialise. The conflict obstructs the best interests of child standard, as conflict is never in the best interest of the children. Conflict in divorcing couples is an enormous problem and is usually not solved by ending the marriage; rather, it continues post-divorce and can even be worse than the conflict experienced in the marriage. This conflict affects the whole family. Parenting plans ought to include rules to deal with conflict constructively, as this is a major problem in divorcing families. The section below will focus on the parents' need to have limited communication and contact with their ex-partner post-divorce.

5.3.4 The need to have limited contact and communication with the ex-partner post-divorce

According to the research sample, parents would like to carry on with their life post-divorce and attempt to focus on the future and not the past. In the reports, parents indicated (a) that they wished they never had to talk to or see their ex-partner again and (b) that they wanted to talk to and see their ex-partner only when they really had to discuss something about the children; (c) while some reported that they still had an amicable relationship with their ex-partner and that they still did things together. Figure 9 will focus on the parents' needs regarding contact and communication with their ex-partner post-divorce.

Figure 9: The parents' need to have contact and communication with their ex-partner post-divorce

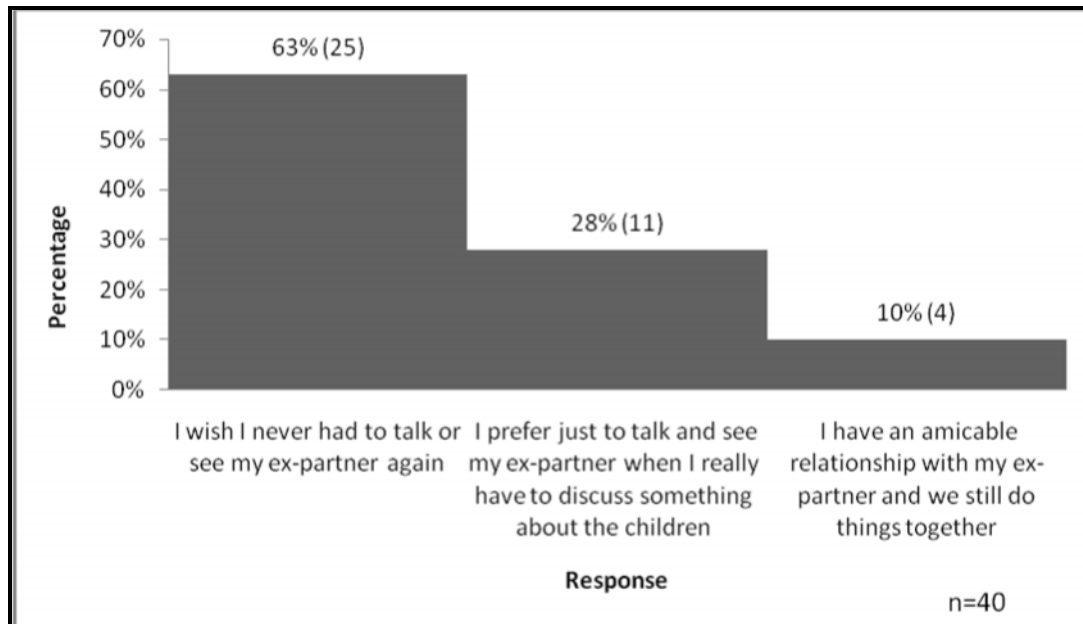


Figure 9 indicates that the majority of parents (63%) prefer not to communicate or have contact with their ex-partners post-divorce. 28% of parents indicated that they would prefer to talk to and see their ex-partner only when they really had to discuss something about the children. 10% of parents still have an amicable relationship, but as seen in Figure 9, this is not the norm with regard to post-divorce relationships. In confirmatory e-mails received from the parents, a mother shared the following about her need to have limited contact and communication with her ex-husband:

I would like to have no contact. I tried in the past to have an amicable and friendly relationship with him, but he twists around the truth and communication always ends up in a nasty situation. I believe he plays abusive mind games, lies and I feel that as little contact with him as possible makes my life much easier. I am not interested in any type of relationship with him. This is not easy for the children, [but] with contact comes conflict that always ends in a continuous stressful situation that is [a] very negative experience for the children. (File 13.)

Elder (2010:1), Thayer and Zimmerman (2001:57) and Walsh (2003:106) have found that communication and contact post-divorce can be difficult for most couples, as they would like to move on with their lives and do not necessarily want to have contact with their ex-partner. A breakdown of communication is often a factor in the decision to divorce. After a divorce, overall levels of physical contact, conflict and emotional attachment between spouses typically diminish rapidly. Ex-spouses' ability to communicate with each other after divorce typically does not improve; however, if there are children involved, parents will need to have some form of communication with each other. Contact is not necessarily needed, but communication will have to take place in some form. Some parents would like to have contact, although not always for the right reasons. Parents insisting on regular contact and communication with the ex-spouse often experience insecurity and fear of letting go, and they try to remain in control of their ex-partner through regular contact, and to drive their own agenda post-divorce (for example getting back together or keeping the other parent from moving on with his/her life). Effective and limited communication is healthy post-divorce and it is imperative to set boundaries regarding contact and communication between parties. Limited contact and communication may be a means to limit further anxiety for the divorcing family. Ideal post-divorce family life would seemingly involve minimal conflict between parents who are able to engage in a cooperative, supportive role with regard to each other's involvement with the child. Instead, most ex-spouses develop a pattern of disengagement or parallel parenting, characterised by little collaboration or communication.

Research findings indicate that parents anticipate to have limited contact with their ex-partner and this will consequently have an effect on the children. The effect may be negative or positive, depending on the nature of the relationship of the parents and whether communication is enriching or demoralising, and how well parents learn to manage the conflict, and behave in a responsible manner for the sake of their children. While some parents have the ability to talk amicably to each other, others do not have this ability. Communication arrangements post-divorce can thus be complex due to the status quo of the parents' relationship and might have a negative effect on the children. As a result, the need of the parent may negatively impact on the children.

5.4 An evaluation of the needs of the parents and those of the children

The needs of the parents and the children have been identified in the above section. In Table 2 an evaluation will be given of similar and conflicting needs of the children and the parents.

Table 2: Evaluating the needs of the children and the parents

Children/Parents	Healthier environment	New life	Reduce conflict	Limited contact
Less worrying	√			
Losing a parent				X
Stop conflict			√	
Happiness		√		
Stay married				X

√ = Similar needs

X = Conflicting needs

Table 2 illustrates that children and parents share the needs for starting a new life and for a healthier environment with reduced conflict. Both groups also want to worry less and to experience feelings of happiness. Conflicting needs are found where children do not want to lose a parent, whereas parents would like to have limited contact with each other. Children would also ultimately like their parents to stay married, but parents would ideally not have contact with each other. When a parenting plan is being drafted, it is thus challenging to meet all family members' needs, because conflicting needs will emerge. However, it is important that parenting plans are representative of the family's needs, explore all the needs identified by the family and are not in conflict with the best interest of child standard.

5.5 Parenting plans representative of the needs of the divorcing family

Figure 10 gives an overview of the experiences of the research sample about whether their needs were reflected in the parenting plans they received from professionals.

Figure 10: The divorcing family's needs represented in a structured parenting plan

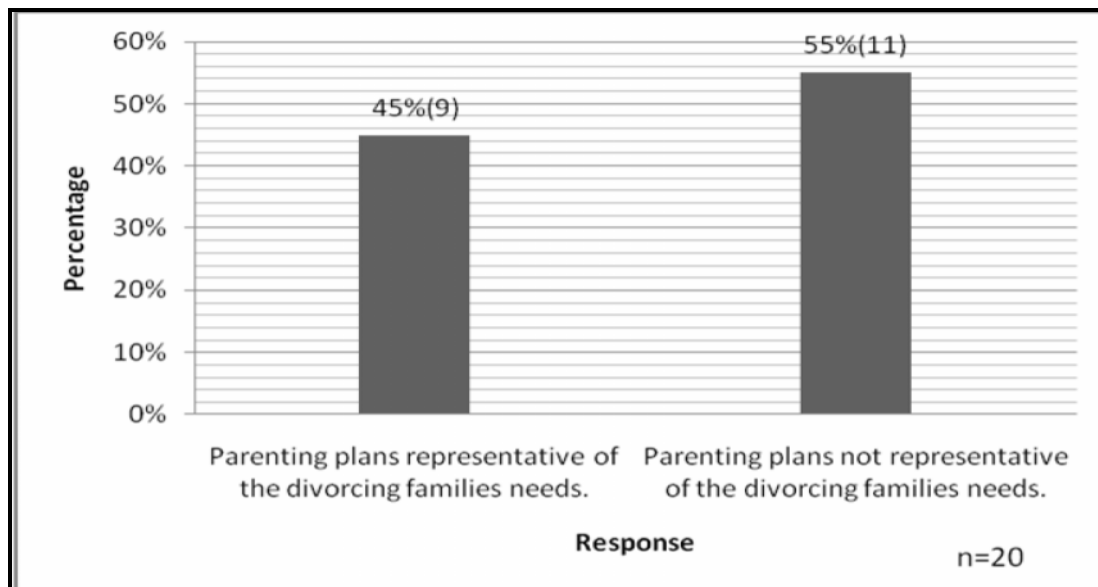


Figure 10 reveals that the majority of families (55%) felt that the parenting plans they received from professionals were not representative of their needs, whereas 45% of the sample believed that the parenting plans were representative of their needs. This finding confirms that professionals are often not aware of the divorcing family's needs and thus create parenting plans based on their own thoughts and ideas, rather than on the needs of the family. This is problematic, as non-representative plans where parents do not agree with recommendations such as when to have contact with their children, will be disregarded by parents. The parenting plan may then become partially or entirely redundant.

Sanders, Markie-Dadds and Turner (2003:19) stress that it is important that parenting plans are representative of both the parents and the children's needs and that the plan promotes the best interest of the children and focuses on empowering the parent(s). Reports of clinical trials (Sanders, *et al.*, 2003:19) documenting the effects of parenting and family intervention programmes often

mask the complexity of the therapeutic process issues involved in successful family intervention. In addition to relevant theoretical and conceptual knowledge on family relationships, psychopathology, lifelong human development, principles and techniques of behaviour, and attitude and cognitive change, practitioners must be interpersonally skilled. Professionals require well-developed communication skills, with advanced-level training in the theory and principles of family intervention. Without this theoretical and conceptual knowledge, professionals may structure parenting plans for families that are not representative of their needs and that will lead to family dysfunction rather than family optimisation.

Research findings as well as existing literature thus confirm that it is important for family optimisation that parenting plans are representative of the family's needs, and that this can only materialise when professionals are well trained, skilled and equipped to facilitate family intervention pertaining to parenting plans. It was found that parenting plans are often not representative of the needs of the family members, because professionals are not well trained to facilitate intervention with divorcing families and to structure parenting plans.

The next section will provide the conclusions and recommendations with regard to the findings in Article 3.

6. CONCLUSIONS AND RECOMMENDATIONS

The objective of this article was to identify the needs of the divorcing family (parents and children) and to establish whether parenting plans are representative of the family's needs. These findings made it possible for the researcher to formulate certain conclusion and to make recommendations accordingly.

Article 3 focused on nine themes regarding the divorcing family's needs. Five of these themes pertained to the needs of the children and the remaining four pertained to the needs of the parents. The children's needs are (1) the need not to worry; (2) the need to not lose either parent post-divorce; (3) the need for parents not to be in conflict with each other; (4) the need to be happy

again; and (5) the need for parents to remain married. The parent's needs were identified as (1) the need to provide children with a healthier environment and to reduce exposure to unpleasant experiences post-divorce; (2) the need to start a new and more fulfilling life post-divorce; (3) the need to reduce conflict post-divorce; and (4) the need to have limited contact and communication with the ex-partner post-divorce.

Based on the research findings pertaining to the needs of the children, it is concluded that the children of divorcing families in the first instance need to feel secure post-divorce. Although this need might seem obvious, it has often been overlooked by professionals dealing with divorcing families and drafting parenting plans in the past. With the inclusion of parenting plans in the Children's Act and the requirement that a parenting plan must comply with the best interests of the child standard, children's needs will receive the necessary attention and measures can now be implemented to let children feel more secure post-divorce. The provision of a sense of safety should enable children to live a more functional life post-divorce than prior to the new Act. In light of the high divorce in South Africa and the high number of children who are affected by divorce, this is essential.

The study has found that children experience that their interests are not necessarily prioritised. They find themselves in a position where they are drenched with worry, a fear of loss, a fear of being placed in the middle of conflict, and an overwhelming sense of unhappiness. Thus, the intention to promote the best interests of the child standard during a divorce, as reflected in the Children's Act, has not yet become a reality for many South African children going through a divorce. Even though all legal instruments aim to assist children during a divorce, the children have not necessarily experienced this sense of safekeeping.

Based on the research findings pertaining to the parents' needs, it can be concluded that the divorcing parents have a basic need to live a more purposeful life post-divorce, not only for themselves but also for their children. The researcher has found that this crucial need does not always materialise, due to the high-conflict situation that arises between parents in a divorce and because parents at times place their own needs above those of their children. As a result, the best interest of child standard is not met and children are negatively affected by the parents' decisions post-divorce. According to Article 9 of the African Charter on the Rights and Welfare of the Child

(1990:4), a parent ought to give children guidance and direction, but this is not always the case, as parental conflict between parents in divorce matters can often thwart this ideal.

The research findings furthermore showed that the parenting plans drafted for the divorcing families often do not reflect the needs of the divorcing family and that the plans are thus not useful post-divorce. The researcher found that this happens as professionals are not necessarily always aware or informed about the divorcing family's needs. It can be deduced that parenting plans are not always representative of the divorcing family's needs.

Professionals face numerous challenges in structuring effective parenting plans that promote the children's and parents' needs post-divorce. Firstly, the plan ought to clearly define the needs of the family. Secondly, the professional must identify whether the needs of the family are set according to the best interest of child standard.

It is also recommended that parenting plans (1) with the objective of including the needs of the divorcing family and (2) which are built on the best interest of child standard ought to:

- include information on the interviews with all relevant family members, including the children, and on the suggestions following from discussions to assist the family post-divorce;
- give realistic advice on how these needs will be met post-divorce;
- develop insight on how their family ought to operate post-divorce;
- empower the family to focus on their life post-divorce;
- encourage the divorcing family to facilitate positive change in their life; and
- resolve conflict, as conflict needs to be reduced not encouraged.

The research was guided by the following research question: ***What are the needs of the divorcing family and are parenting plans representative of the divorcing family's needs?*** This question was successfully answered in Article 3.

In Article 4, substantive guidelines will be developed for professionals on the procedures to be followed in the compiling of parenting plans and on the requirements that such plans should meet.

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ARTICLE 4

GUIDELINES FOR PROFESSIONALS FOR THE STRUCTURING OF PARENTING PLANS

Abstract

The Children's Act 38 of 2005 makes parenting plans obligatory. Consequently, a need has arisen for guidelines that will assist professionals with preparing parenting plans. Accordingly, the paper focuses on guidelines for professionals in structuring parenting plans. Clear and comprehensive guidelines are given to the professional, which include a three-phase model for structuring a parenting plan, specifications for a parenting plan and ethical standards professionals should adhere to when working with parenting plans.

1. INTRODUCTION

Every year, many families go through a divorce and numerous children are affected by this process (STATS SA, 2008:2). Because many children are affected by divorce, many parents are accordingly responsible for their children's well-being post-divorce and are in need of a well-structured parenting plan. The Children's Act 38 of 2005 (hereafter Children's Act) makes parenting plans obligatory. With the emphasis that is placed on parenting plans in the new Act, it is important to educate professionals on preparing parenting plans. The objective of this article is to provide professionals with guidelines on the basic process, structure and general content of a parenting plan. The researcher has devised guidelines to provide the mental health professional (psychologist and social worker) and the legal professional (attorney and family advocate) (hereafter professionals) with researched-based guidelines to assist them with structuring parenting plans that are well organised, practical, child-centred, developmentally appropriate and representative of the divorcing family.

2. PROBLEM STATEMENT

A range of problems have been identified in the research study on the subject matter of parenting plans, which present challenges for the professionals working in the field of divorce and structuring

parenting plans that are compiled according to the best interest of child standard. These problems arise because parenting plans are a fairly new concept for professionals practicing in South Africa.

In the past, it was experienced that the rights of children did not receive the necessary attention in divorce cases, but under the Children's Act, these rights must now be prioritised in parenting plans. The following rights need to be focussed on: (1) the child's rights to parental care; (2) the child's right to be protected; and (3) the child's right to legal representation; and overall, (4) the child's best interest should be prioritised. The professional must use these four points of section 28 of the Constitution to create a focus on the rights of the child in the parenting plan. Professionals ought to be cognisant of the two international legal instruments as well, namely the United Nations Convention of the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). These two instruments are comprehensive instruments that set out the rights and define the universal principles and norms for the status of children. The professional can use these instruments as a guideline to fully understand and incorporate the rights of the child and thus to promote the rights of the child. The Situational Analysis of Children in South Africa (2009:3,4) supports this guideline and emphasises that relevant international and regional law should be considered in the drafting of parenting plans, as the South African government had signed and ratified the United Nations Convention of the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). This places a duty on the government to adhere to these documents, which means that there is a duty on the professional to protect the children accordingly.

In addition, Bastow (2009:2), Hartson and Payne (2006:125) and Pretorius (2008:15) argue that it can be a challenging process for professionals to facilitate intervention with the goal of structuring parenting plans. Ramolotja (2000:2) and Robinson (2009:79) explain that there are numerous obstacles for the drafting of parenting plans. Professionals must be knowledgeable about how to deliver high-quality parenting plans; how to deal with the complexities pertaining to intervention with divorcing families; as well as how to structure parenting plans according to the best interest of child standard. In accordance with literature, the researcher is of the opinion that working in the field of divorce can become a rather daunting task, due to the complexities of each case. Professionals thus need guidelines for dealing with these complexities. Guidelines structured according to problems that emerged in the research study will be presented. The recommended

guidelines must ultimately enable the professional to deliver high quality, feasible parenting plans that are child-centred.

The research for this article is guided by the following research question: ***What guidelines can be provided to structure a parenting plan?*** Based on research findings, guidelines will be presented for the basic process, structure and general content of a parenting plan, to assist the professional with drafting parenting plans that concentrate on the best interest of child standard.

3. OBJECTIVE OF THIS ARTICLE

The objective of this article is to provide professionals with guidelines for the basic process, structure and general content of a parenting plan.

4. RESEARCH METHODOLOGY

The research design selected to achieve this objective was intervention research. De Vos (2005a:394) defines intervention research as studies that are carried out for the purpose of conceiving, creating and testing innovative human services approaches to prevent or ameliorate problems or to maintain quality of life. The D&D model was applied in the intervention research. The D&D model is a phase model consisting of the following six phases: (1) problem analysis and project planning; (2) information gathering and synthesis; (3) design; (4) early development and pilot testing; (5) evaluation and advanced development; and (6) dissemination. Articles 1-3 represent phases 1 and 2 of the D&D model and Article 4 represents phases 3 and 4 of the model. However, the study does not include a pilot testing, and does not implement phases 5 and 6 of the D&D model. At a later stage, further research can be initiated by facilitating a pilot study to enable the researcher to focus on advanced development and to disseminate the suggested guidelines to a larger target audience. Based on literature and findings as presented in Articles 1, 2 and 3, the researcher will devise clear and comprehensive guidelines to provide the professionals with researched data and information to assist them with structuring parenting plans.

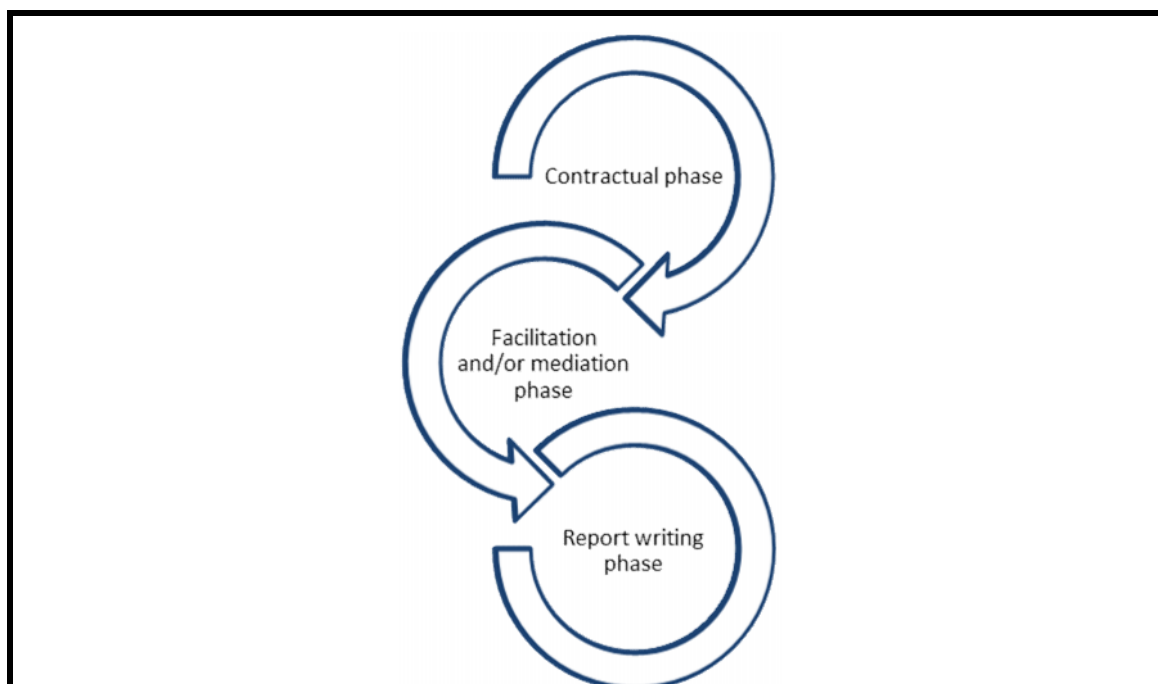
De Vos (2005b:368) points out that the analysis of findings can be difficult. When findings are being analysed and interpreted, both disciplined objectivity and lateral thinking are required. Thus, when

the findings were analysed and Article 4 was written, the following process was followed. Data was analysed and summarised according to problems that were identified throughout the research study. The guidelines are grounded in information gathered in the study pertaining to the legal context of a parenting plan; the professional views relating to the divorcing family and parenting plans; and the divorcing families' needs in a divorce matter. This enabled the researcher to propose guidelines which included a three phase model for structuring a parenting plan, parenting plan specifications and ethical standards professionals should adhere to when working with parenting plans.

5. THREE PHASE MODEL FOR STRUCTURING A PARENTING PLAN

Lyster (2007:178) and Gould and Martindale (2009:25) suggest guidelines that professionals ought to use for facilitating the intervention process and compiling a parenting plan. Based on these guidelines, the researcher created a three phase model to assist the professional in the process of working with a family with the end goal of structuring a parenting plan. The three phase model is illustrated below.

Figure 1: Three phase model



In the following sections, it will be indicated how the three phases can assist the professional who is working with a divorcing family in need of a parenting plan.

5.1 Contractual phase

When professionals are working with a divorcing family, it is advised that they should draft a contract with the family before the intervention starts. Professionals should also discuss their policy during the initial consultation with the divorcing family, so that all parties are clear on their expectations and the rules of the intervention process. Professionals need to protect both themselves and their clients, because many parents are prone to display a negative and angry attitude and mindset during the process. It is therefore important that professionals firmly position themselves in the process by working according to an agreed upon contract stipulating the professional's role, tasks and job description, as well as the expectations of all parties in the intervention process.

Professionals need to explain to the parents that to make changes and amendments to an agreed upon parenting plan is not an easy task. The Children's Act sets the following conditions and requirements for any amendments:

(6) (a) A parental rights and responsibilities agreement registered by the family advocate may be amended or terminated by the family advocate on application (i) by a person having parental rights and responsibilities in respect of the child; (ii) by the child, acting with leave of the court; or advocate may be amended or terminated by the family advocate on application- (iii) in the child's interest by any other person, acting with leave of the court.

(b) A parental rights and responsibilities agreement that was made an order of court may only be amended or terminated on application (i) by a person having parental rights and responsibilities in respect of the child; (ii) by the child, acting with leave of the court; or (iii) in the child's interest by any other person, acting with leave of the court.

(7) Only the High Court may confirm, amend or terminate a parental rights and responsibilities agreement that relates to the guardianship of a child.

It is therefore important that parents take the process of structuring a parenting plan seriously and understand the intervention process. Lyster (2007:178) observes that when meeting the divorcing

family, the scope of the intervention must be determined by the professional. The scope of the parenting plan and intervention should be determined in accordance with the nature of the question or issues raised by the referring person or the court, or are inherent in the situation. It is important that clear rules are set in the contract and to inform the divorcing family with regard to the conditions that are set when a parenting plan is being structured. The following introductory statement could, for example, be used in the contract:

Box 1: Example of introductory statement

In order for this intervention to be of help to you and your family, the following conditions must be met. I, as a professional, realise that these conditions may seem very stringent and formal. However, it has been my experience that very clear agreement at the start of this kind of intervention will help you and your family by ensuring the fairness of the intervention and by minimising potential confusion or disagreement.

A contract ought to stipulate the following aspects: (1) the interview process; (2) what to expect in intervention; (3) confidentiality matters; (4) fees; (5) timing; and (6) signature of agreement. The above-mentioned six aspects of a contract will be discussed below, starting with the interview process.

(1) *The Interview process:* It is the responsibility of the professional to state that he/she will need to interview all members of the immediate family. This includes the mother, father and children. In the contract, the parents will provide the contact details of the immediate family members and any additional person who can add value in the process. In cases where the children are under five years of age, it will be decided what type of intervention is appropriate for the children to obtain the necessary information, for example play therapy sessions. The professional may also need to contact other parties who are important for a complete understanding of the family and the current situation.

The interviews which are facilitated to draft a parenting plan are usually scheduled as follows: (a) an initial consultation with both parents where the need of a parenting plan is discussed, the contract is signed and a parenting plan template is given to the parents to complete at home (2 hours); (b) a

separate consultation with the children, to obtain information from the children about their perspective and needs post-divorce (1-2 hours); (c) a follow-up consultation with both parents where the professional will discuss both parents' input in the completed parenting plan template, where agreements and disagreements will be discussed, and where answers will be sought for disagreements (2 hours); and (d) a final feedback consultation with both parents and the children. In this consultation, the final parenting plan is delivered and the implementation of the parenting plan is explained (2 hours). The intervention will involve a minimum of four sessions but more sessions should be scheduled if needed.

(2) *What to expect in intervention:* The main aim of the first meeting is to gather the details of the divorcing family and to discuss the contract. The professional should discuss with the parent the rules of engagement in the intervention process, for example no shouting, no swearing and to maintain a respectful relationship with all parties in intervention. It must be made pertinent to the parents that the best interest of the child will remain the focus of the process when structuring a parenting plan. The professional will further discuss the process pertaining to a parenting plan and will explain in detail to the parents the goal of a parenting plan. Professionals should inform the divorcing family about the administrative process of divorce, legal aspects of divorce, family members' rights and responsibilities, and the process they will go through during the intervention. Professionals must also encourage the divorcing family to be as open and honest about the needs of their family and their family dynamics, as this will assist the professionals to draft high quality and feasible parenting plans. In addition, professionals must be transparent about the process and inform all parties about what to expect in the intervention process as well as post-divorce.

After the contract has been discussed and signed, a parenting plan template will be discussed with the parents and each parent will be handed a copy for them to study and complete at home separately. This template, completed by the parents, will be returned to the professional during the follow-up consultation. The professional will combine the parental input into a draft parenting plan. Thereafter, a consultation will be facilitated with the children. It is imperative that the children are interviewed in an age-appropriate manner where they can give input into the process in matters that bear an effect on their daily functioning, for instance contact with parents, schools, extra support, etc. The information obtained from the children will be included in the draft parenting plan. Afterwards, a consultation will be facilitated with the parents and in this consultation the

professional will discuss the draft parenting plan as per the input the parents have given in their completed templates and based on the interviews facilitated with the children. Problem areas will be discussed with the parents and solutions will be sought in an attempt to come to an agreement. After this consultation, the professional will draft the final copy of the parenting plan and will do a feedback consultation with both parents and the children. A final copy of the parenting plan will be handed to the family. The professional will explain in detail how this parenting plan will be implemented post-divorce to optimise the divorcing family's functioning and the steps that must be followed for this document to become a legally binding document.

(3) *Confidentiality matters:* Confidentiality matters must be agreed upon in writing in a contract. In order to allow in-depth exploration of issues concerning the family, the parties must agree to a modification of the traditional rules of confidentiality. Restricted confidentiality will apply, meaning that the professional, at his or her discretion, must be able to disclose to one party what has been said by another. This does not mean that all information will automatically be disclosed or that certain information cannot be discussed in private. It means that the professional reserves the right to share the information if it is in the best interest of the family. Prior to beginning the intervention, the parties must agree on all sources of information to which the professional will have access. This would include, at the professional's discretion, counsellors, therapists, teachers, schools, legal documents and previously drafted parenting plans. The parenting plan will be available to the court and to other professionals involved in the divorce matter.

Box 2: Example of a confidentiality clause

The professional has informed all parties in the contractual phase of intervention that limited confidentiality will apply. The professional reserves the right to discuss any matter that has been mentioned in intervention openly with others. No secrets will be kept by the professional during intervention. This is ultimately done to work transparently and so that all members of the divorcing family may at all times be aware of what has been said in the intervention process and to prevent alignment of the professional with any family member.

(4) *Fees:* The professional needs to clarify financial arrangements in this meeting. Financial arrangements must be clarified and agreed upon prior to commencing intervention and structuring the parenting plan. The cost of the intervention to structure a parenting plan ought to be discussed.

The fees for depositions and court appearances needs to be discussed if the need arises in the case. In order to ensure that financial factors do not delay or complicate the intervention, the professional need to require a retainer of a certain amount at the time of the initial interview. Payment in full is required before the parenting plan can be released.

(5) *Timing:* The professional ought to give a time frame in which the parenting plan needs to be completed if all intervention works according to plan. Dates need to be allocated for the sessions so that all parties at least have some sense of when the process will be completed. The professional can include the following clause pertaining to the timing of the intervention process:

Box 3: Example of timing of intervention

It is usually (but not always) possible to provide the final written parenting plan within 2 months of the date of the initial interview. The professional will aim to provide the parenting plan within three months but will inform the parents if more time is needed to complete the process. The professional, however, undertakes to deliver the final parenting plan as soon as time permits and undertakes to take no longer than 3 months.

(6) *Signatures of agreement:* It is important that all parties involved sign the agreement: the parents, the children and the professional. If the children are too young to sign the document, they can make a scribble. If the children are still babies, the professional can write “too young to sign”.

5.2 Facilitation and/or mediation phase

The professional ought to adopt the appropriate role to assist the divorcing family with the process of structuring a parenting plan. This role depends on the family’s needs and the professional can either take on the role of a facilitator or that of a mediator. The professional will be directly involved in the divorce process, either as appointed by the court or as appointed in private practice by the parents to assist the divorcing family to settle their disputes and reach solutions that will help reduce conflict during the divorce process. The professional’s primary objective must be to give assistance to the divorcing family and to reach solutions with regard to issues on which they disagree. It is furthermore important that professionals motivate the family members to read or

watch educational material on the process of divorce and what to expect of the process of compiling a parenting plan. Lyster (2007:29) and Neuman (1998:14) stress these guidelines and suggest that in a divorce process it is important that the family unit in question are knowledgeable about the divorce process, their rights and implications of the decisions that they might make. Knowledgeable parents and children can assist the professional who is working with the family, as they know their rights and responsibilities, and therefore have much more realistic expectations. Knowledgeable parents and children can also give more insight during the process of drafting a parenting plan and this can lead to more effective, realistic and practical parenting plans for the divorcing family as a whole.

Professionals ought to facilitate discussions where children and parents can voice their concerns, identify important issues, and focus their efforts on meeting the family's needs (Lyster, 2007:178). The professional needs to strive to use the most appropriate methods available to address the questions raised in the intervention process, and must use multiple methods of data gathering, including, but not limited to, clinical interviews, observations and/or assessments. Interviews must be scheduled with all parties involved, all parties should be represented in the intervention process and emphasis should be placed on the participation of the child in the process (an all-inclusive policy should be followed). The professional may review potentially relevant reports, for example from schools, health care providers, child care providers, agencies, and institutions and should also consider whether further interviews with extended family, friends and other individuals are needed.

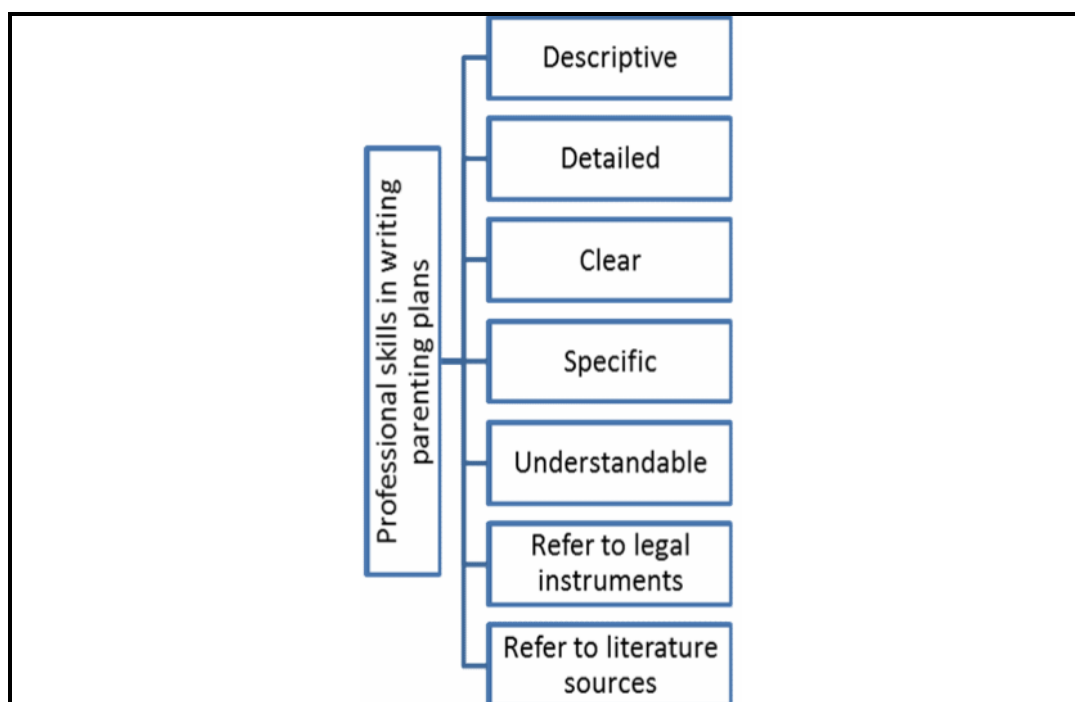
5.3 Report writing phase

Lyster (2007:178) explains that all records obtained in the process of conducting an intervention process should be properly maintained and filed and can also be tape recorded if the professional feels the need to keep detailed records of the intervention process. This is especially advisable in the case of high-conflict families. These records ought to be used when writing the parenting plan for the divorcing family. The professional should essentially focus on the style and content of the parenting plan. The plan should be written clearly and without jargon so that it can be understood by the court, other professionals and the clients. It should convey an attitude of understanding and empathy for all of the individuals involved – adults and children – and must be written in a way that conveys respect for each individual. The content of the plan ought to be well structured and organised and needs to include all necessary information and relevant topics for the divorcing family

to reach their optimum functioning post-divorce. The report needs to be typed up neatly in a clear format and be language edited by a language specialist to ensure a high quality document that can be accepted and approved by the court.

Thayer and Zimmerman (2001:99) suggest that professionals are required to draft successful parenting plans that can be routinely and effectively implemented. Highly complicated and technical, elaborative parenting plans need to be avoided. The professional ought to be well versed with legal instruments pertaining to children and the children's rights, as the best interest of child standard should remain key in drafting parenting plans. The use of legal instruments will add value to the process and enable professionals to compile high quality parenting plans. Results indicated that professional should be equipped to compile parenting plans and the professional could use the following illustration as a guideline when checking whether the structured parenting plan is of high quality.

Figure 2: Professional skills in writing a parenting plan



In writing parenting plans, professionals ought to adhere to the provisions stated in the Children's Act. The Children's Act plays an important part in determining the nature, content and necessity of parenting plans. Firstly, the best interests of child standard (section 7) and secondly, the contents and formalities with regard to parenting plans (sections 33 and 34) must be clearly understood. These two sections require parenting plans to be child-centred and in addition motivate professionals to deliver structured plans that are well organised. In support of the above-mentioned guideline, the Situational Analysis of Children in South Africa (2009: iv) indicates that the Children's Act has done a lot to improve the environment for the protection of children; has significantly improved in promoting rights and processing children's issues; and adopts a developmental approach that emphasises the State's role in the provision of social services to strengthen the capacity of families and communities to care for and protect children. These aspects reflected in the Children's Act must be adhered to by the professional, as this will give the professional direction when writing a parenting plan that promotes the child's overall well-being post-divorce. If professionals approach a parenting plan correctly, it can give a good sense of reality to parents on what to expect post-divorce.

6. PARENTING PLAN SPECIFICATIONS

Derived from research results the researcher created certain specifications to assist and guide the professional in compiling a parenting plan. A parenting plan format with instructions is given as a guideline to the professional. The researcher commenced by including topics identified by the Children's Act as matters that must at all times form part of a parenting plan.

The Children's Act states that a parenting plan may determine any matter in connection with parental rights and responsibilities, including-

- (a) where and with whom the child is to live;*
- (b) the maintenance of the child;*
- (c) contact between the child and-*
 - (i) any of the parties; and*
 - (ii) any other person; and*
- (d) the schooling and religious upbringing of the child.*

6.1 Where and with whom the child is to live

The researcher established that where and with whom the child is to live can be a topic that creates tension for the parents, and the professional ought to guide the parents on practical ideas that can work for the family and that are set according to the best interest of child standard. When considering where the children should primarily reside, the following needs to be considered. Who is the parent that primarily prepares and plans meals; baths, grooms, and dresses the children; buys, cleans and cares for children's school clothes; provides medical care and takes them to the doctor; arranges social activities; puts the children in bed, get the children ready for school; and provides discipline; provides religious, cultural and social education opportunities; teaches basic skills such as hygiene, dressing, academic, social, toileting skills, etc. The professionals ought to help parents be realistic with regard to residential arrangements. Parents should select information as suggested in Box 4.

Box 4: Example of where and with whom the child should live

Primary residency: Indicate the place where the children will primary live:

☐ Father ☐ Mother

Parenting time: Children, whenever possible and if age-appropriate, need to have frequent, continuing and meaningful contact with both parents. Each parent needs to complete the parenting time schedule and must make sure to include the beginning and ending days and times.

Children (indicate if this is for all children or if individual children have different arrangements) shall spend time with their **mother** on the following days and times, excluding holidays.

Weekends: ☐ every ☐ every other ☐ other (specify) _____

From _____ to _____

Weekdays: specify days _____

From _____ to _____

Other (specify) _____

Children (indicate if this is for all children or if individual children have different arrangements) shall spend time with their **father** on the following days and times, excluding holidays.

Weekends: ☐ every ☐ every other ☐ other (specify) _____

From _____ to _____

Weekdays: specify days _____

From _____ to _____

Other (specify) _____

If different parenting time schedules apply for any child, for example if one child attends boarding school, specify:

There is a different parenting time schedule for the following children:

_____ ; _____ ; _____

Give reasons and explain parenting time schedule:

Holiday contact: Parents must indicate the holiday structures that can be a workable arrangement. The following options must be considered.

☐ All short holidays will be alternated and long holidays will be shared equally between the parents. Every year the schedule will be swapped around, thus the short holidays that one parent had in the previous year will in the following year be awarded to the alternate parent and vice versa. Long holidays are shared equally (thus the days of the long holiday are counted and are split in Half 1 and Half 2). Parent 1 will have Half 1. Parent 2 will have Half 2. Every year it alternates, thus one parent will have all the first halves of all long holidays and the following year the other parent will have all the second halves of the long holidays.

☐ All short holidays and long holidays will be alternated between the parents.

If the above suggestions are not workable for your family, specify a workable arrangement:

Short holiday or mid-term break suggestion:

Long holiday suggestion:

_____ **Public**

holidays

☐ No special arrangements are made for public holidays as they will form part of the children's general weekly or holiday contact.

☐ Public holidays will be shared equally between the parents.

6.2 The maintenance of the child

Professionals need to discuss parents' financial responsibility with the parents. Expenses of the children are the responsibility of both parents. The parenting plan should state who will pay maintenance and include the amount to be paid by that parent. Usually maintenance calculations are done by a qualified legal professional, but mental health professionals can also do maintenance calculations if they are well trained in maintenance matters. Professionals should assist parents to be reasonable and realistic when discussing maintenance matters. See Box 5.

Box 5: Example of a resolution for financial disputes

If there are any financial disputes, agree to:

Always be reasonable, realistic and rational. Accept financial responsibility for your children. Do not look to your ex-partner for all financial support. Apply maintenance effectively and work out a budget for using it wisely according to the children's needs. Avoid discussions about financial disputes with or in front of the children. Approach a maintenance court as last resort if a financial dispute cannot be resolved.

6.3 Contact between the child and any of the parties and any other person

Children have the right to have contact with any other party and/or person if set according to the best interest standard of the child. This can usually be established through asking the child/parents/schools/significant others about the relationship they have with that party/person and to establish contact that needs to occur to maintain the relationship. Professionals should encourage these relationships by including the specifications in a parenting plan. See Box 6.

Box 6: Example of agreement for contact between the child and any of the parties and any other person

The child shall have the following contact with the following parties/person

☐ **Maternal grandparent:**

Day: _____ Time: _____ Place: _____

☐ **Paternal grandparent:**

Day: _____ Time: _____ Place: _____

☐ **Cousins:**

Day: _____ Time: _____ Place: _____

☐ **Church youth group:**

Day: _____ Time: _____ Place: _____

☐ **Therapist:**

Day: _____ Time: _____ Place: _____

If other parties/person: _____

6.4 The schooling and religious upbringing of the child

The first section will focus on schooling and thereafter the religious upbringing of the child. In order to give children the best educational opportunities post-divorce, structures must be put in place for schooling, and both parents' cooperation is required. This will give the children the security regarding their schooling that will make them feel safe with regard to their education. Professionals should assist parents with school-related arrangements, as indicated in Box 7.

Box 7: Example of school-related arrangements

Selection of schools

When children live primarily with one parent, the primary caregiver should follow the following procedure regarding the selection process of schools:

Well in advance, the primary caregiver needs to select three educational institutions that are relatively close to both homes, and are suitable institutions for the child in terms of the child's needs. If a boarding school is an option, information must be supplied on such an option. The primary caregiver shall collect all information (brochures, price schedules, etc.) and send it to the alternate parent. The alternate parent ought to consider the options within two weeks and must select one option, or supply another option with all gathered information. If an agreement is reached between the parents, they need to complete the school registration form and the primary caregiver will send it back to the school. The parent responsible for school fees will pay the registration fee. If no agreement is reached, the primary caregiver must select a school. If there is any animosity on the matter of schooling, a session must be scheduled with a mediator.

When children have a shared living arrangement where the children stay an equal amount of time with each parent, the following procedure will be followed:

Well in advance, each parent needs to select two educational institutions that are relatively close to both homes and are suitable institutions for the child in terms of the child's needs. If a boarding school is an option, information must be supplied on such an option. Each parent should collect all information (brochures, price schedules, etc.) on their selections and will send it to the alternate parent. Both parents need to consider all the options within two weeks and should select one option. If an agreement is reached between the parents, they need to complete the school registration form; one parent will send it back to the school and the parent responsible for school fees needs to pay the registration fee. If no agreement is reached, a session must be scheduled with a mediator.

School functions

Request that the schools send all documentation to both parents as soon as possible. It is every parent's own responsibility and right to attend school functions or not, as he/she may decide. This does not need to be conveyed to the alternate parent, but it is advisable that both parents, in their own capacity, attend school functions. If the school does not send documentation to both parents, the following procedure should be followed: The parent who receives correspondence from the school about school functions will inform the alternate parent as soon as information is received. To prevent documentation loss, the correspondence must be handed to the alternate parent when children are collected from or returned to that parent. If the parents do not meet with each other when collecting or returning the children, the alternate parent should be informed via SMS, e-mail or telephonically that documentation has been placed in the children's school bags, in an envelope marked for the alternate parent's attention.

The religious upbringing of a child is important and their belief can make them feel more secure post-divorce. It is thus important that parents act in the best interest of the child and do not unsettle the child by changing the formalities regarding the child's religious activities. Parents must

be guided by the professional to indicate their commitment regarding the children's religious upbringing on the parenting plan template. See Box 8.

Box 8: Example of arrangements for the religious upbringing of the child

- ☐ Religious matters must be decided upon when the children are old enough to decide for themselves. If the children wish to attend an institutionalised religious establishment, e.g. church, synagogue, mosque or temple, both parents will make all attempts to accommodate this.
- ☐ Both parents are religious and actively involved in their religious practices and will take the children with them to be involved in the same practiced religion.
- ☐ Neither parent gives consent for the children to participate in any religious practice.

In addition to the topics identified in the Children's Act, the researcher incorporated other important topics. The researcher could, however, not include all possible topics in this guideline, since an infinite number of topics can be included in a parenting plan. The objective of these specifications is to assist the professionals and the divorcing family to collect information without effort and to structure a parenting plan, with the ultimate goal being for the professional to deliver a final, high quality parenting plan agreement. The following section will focus on topics that this research has identified as significant, starting with the statement of competencies that professionals ought to include in a parenting plan.

6.5 Statement of competencies

Professionals ought to include a statement of competencies at the beginning of each parenting plan they structure, because this will contribute to the professional appearance of the parenting plan and inform the divorcing family, other professionals and the court of the expertise and experience of the professional that assisted the family.

Box 9: Example of statement of competencies

I, Miss/Mrs/Mr/Dr/Prof _____ (full name and surname) have obtained the following qualifications _____. I have been working with divorcing families and parenting plans for _____ years. I am in private practice/work for the following organisations _____. I have completed _____ parenting plans for divorcing families. My practice number/board registration number reads as follows: _____.

Professionals need to be encouraged to annually update their knowledge and expertise and to attend at least one course or workshop facilitated by an expert in the field. Additionally, professionals ought to maintain their skills, keep themselves abreast of developments in research and law, and establish links with other professionals involved in the same line of work. Gould and Martindale (2009:357) concur with these guidelines and add that professionals must at least have a post-graduate degree in a relevant field that includes formal education and training in child development, child and adult psychopathology, interviewing techniques, and family systems. In addition, by formal training or work experience, the professional should have a working understanding of the complexities of the divorce process, awareness of the legal issues in divorce in the professional's jurisdiction of practice, and an understanding of the many issues relating to legal, social, familial, and cultural matters.

6.6 Personal details of family members

Professionals must request the parents to provide all personal details of the family members, as all details need to be stated in the final parenting plan agreement. See Table 1 for an example of personal details of the divorcing family.

Table 1: Profile of clients' personal details

	Name and surname	Identity number	Age	Physical address	Contact numbers	Career	School and grade
Biological father							
Biological mother							
Child							
Child							
Child							
Child							
Child							

6.7 Decision-making

It is advisable that both parents participate in decisions affecting the health, education and welfare of their children. Professionals ought to make sure that parents understand their options with regard to decision-making. Parents must be guided by the professional to consider three options on the parenting plan template. See Box 10.

Box 10: Example with regard to decision-making

The parents must check each box that applies to them:

- ☐ Each parent shall make decisions regarding the day-to-day care and control of each child while the child is/are with that parent. Regardless of the decision-making responsibilities stated in this parenting plan, either parent may make emergency decisions affecting the health or safety of the children.

☐ Each parent shall have access to medical and school records pertaining to the children and be permitted to independently consult with any and all professionals involved with the children. The parents shall cooperate with each other to share information related to the health, education and welfare of the children.

☐ Each parent shall be responsible for getting records and reports directly from school and medical care providers (thus duplicates).

Parents need to be motivated to share the responsibility for making all major decisions for their children. If the parents cannot make certain decisions together, reasons why decision-making cannot be shared should be stated by the parents and a parent should be selected to make the decision. Professionals should explain to the parents, as set out in Table 2, the commitment the parents must indicate concerning the decision-making pertaining to the children and if not shared, the parents must indicate the responsible party and explain why decision-making is not shared.

Table 2: Choices with regard to parental decision-making

Decision-making	Shared	If not shared, state the reason why	Person Responsible	
			Mother	Father
Education (which school the children will attend, entry into special classes)				
Medical (medical procedures needed, medication to be taken, mental health treatment decisions)				
Dental (procedures needed, including orthodontics)				
Selection of child care providers When child is/are with mother When child is/are with father				
Extracurricular activities (arts and culture, sports)				
Religious upbringing				
Other (specify)				

6.8 Communication

Communication between parents is an important aspect that should be covered in a parenting plan, because communication ought to assist parents to meet the children's needs and to prevent children

from experiencing an overwhelming sense of worry, fear of abandonment; from continued parental conflict; from feelings of unhappiness; and from having unrealistic expectation about the parents' marriage. An important aspect of an effective parenting plan is allowing for the parents to communicate. Parents need to communicate information to each other concerning the children's needs and performances in different areas, such as the children's educational performance, medical occurrences, and/or the children's school or daily activities.

Professionals must guide the parents to commit themselves to a certain communication protocol. See Box 11 for an example of what should be included in a parenting plan template.

Box 11: Example of communication strategy

- ☐ Each parent shall inform the other parent as soon as possible of all school, sporting and other special activity notices and shall cooperate to ensure the children's consistent attendance at such events.
- ☐ Each parent shall always keep the other parent informed of his or her actual residential address, mailing address (if different from residential address), home and work telephone numbers and of any changes within _____ hours of such change occurring.
- ☐ Neither parent shall say or do anything in the presence or in hearing distance of the children that would in any way diminish the children's love or affection for the other parent and shall not allow others to do so.
- ☐ All court-related and financial communications between parents shall occur at a time when the children is/are not present and, therefore, shall not occur at times of exchanges of the children or during telephone visits with the children.
- ☐ Neither parent shall schedule activities for the children during the other parent's scheduled parenting time without the other parent's prior agreement, with the following exceptions:

Professionals must further assist parents to select communication methods to help parents open various communication channels with each other. Table 3 provides the professional with communication methods that can assist the parents post-divorce.

Table 3: Communication methods

The method by which information is communicated should be stated here. Check acceptable methods of communication. If all apply, check all boxes; if only one method of communication will work, tick only that box.				
Type of Information	Personal Contact	Telephone	E-Mail	Other
School and Day Care (knowledge of progress or problems in school and day care)				
Medical and Dental (concerning the children's medical and dental care)				
Extracurricular Activities				
Appropriate Telephone Numbers (persons caring for the children, numbers at locations that are deemed appropriate in case the parent needs to reach the children)				

6.9 Conflict and dispute resolution mechanisms

The Children's Act, section 6(4)(a), RECONCILIATION, states that:

(4) In any matter concerning a child

(a) an approach which is conducive to conciliation and problem-solving should be followed and a confrontational approach should be avoided; and

(b) a delay in any action or decision to be taken must be avoided as far as possible.

Parenting plans should not heighten conflict but must address the conflict situation and turn disagreements into an amicable accord between parties that will assist the divorcing family unit in the long term. Professionals ought to encourage parents to work together to reach a joint agreement rather than remain in conflict with each other. It is imperative that the professional emphasises to the parents that high conflict will have a negative effect on their family functioning and create further dysfunction for the family unit. Hartson and Payne (2006:107) and Thayer and Zimmerman (2001:29) also suggest that the impact of conflict on their children should be highlighted

to the parents, to enable the parent's to come to the realisation that it is imperative to have a parenting plan in place that reduces conflict and where all parties work together.

Professionals need to assist the family to understand the importance of reducing conflict and to realise the value of conflict reduction mechanisms. Box 12 can be used in a parenting plan template and the professional should guide parents to follow this suggested structure.

Box 12: Example of conflict and dispute resolution mechanism

(Parents need to complete either section 1 or 2 to indicate how conflict will be resolved when there is disagreement with each other.) We, the parents, shall attempt to solve these disputes through mutual discussion. If that fails, we can seek assistance through a neutral party, such as a professional counsellor or a trained mediator. *(Parents need to be encouraged by professionals to use the court as a last resort.)*

(1) ☐ Parents shall attempt to resolve any matters on which they disagree or which involve interpreting the parenting plan through the following alternative dispute resolution process prior to any court action: ☐ Counselling by _____; or ☐ Mediation by _____; or

☐ Other (specify) _____.

The cost of this process shall be allocated between the parties as follows:

☐ _____% Mother _____% Father; or

☐ based on each party's proportional share of income; or

☐ as determined in the dispute resolution process.

The process shall be shared by notifying the other party by:

☐ written request ☐ Certified mail ☐ other (specify) _____.

(2) All matters on which we, the parents, disagree or which involve interpreting the parenting plan and for which the court has authority to act shall be resolved through appropriate court action.

The researcher believes that professionals must be required to work towards limiting conflict in the divorcing family unit at all times by addressing the conflict through searching for workable, realistic and practical solutions for the family.

6.10 Special occasions

Professionals ought to assist the divorcing family in highlighting the importance of special occasions to the family. The professional can guide the parent and use the example of special occasion organisation in a parenting plan template as indicated in the following Table 4.

Table 4: Guidelines with regard to special occasions

The following table indicates how special occasions can be organised. Parents can complete the table by stating with which parent all children will spend special occasions. The parents must make sure to include the start and end times of the special occasion time spent with each parent.	
Special occasion	Parenting Time From: To:
Mother's Day	
Father's Day	
Mother's Birthday	
Father's Birthday	
Child's Birthday	

6.11 Exchanges

The professional needs to assist the divorcing family to make their organisation as a family unit post-divorce more functional. This can be achieved by including the exchange process of children between parents in a parenting plan template. The following agreement, as in Box 13, can be included in such a template.

Box 13: Example of the exchange process of the children

Parents should state the location where exchange of all children shall occur at both the beginning and the end of all scheduled parenting times, including weekdays, weekends and holidays. Parents must indicate where all children will be picked up and dropped off for both the start and end of the scheduled parenting times. Complete both “a” and “b” if there are school-going children. Complete only “b” where there are no school-going children.

a. *When school is in session.* Exchange of all children from mother to father shall occur at:

- ☐ Residence of mother
- ☐ Residence of father
- ☐ School
- ☐ Other location (Specify address) _____

Exchange of all children from father to mother shall occur at:

- ☐ Residence of mother
- ☐ Residence of father
- ☐ School
- ☐ Other location (Specify address) _____

b. *When school is not in session or for all children who are not of school age,* exchange of all children from mother to father shall occur at:

- ☐ Residence of mother
- ☐ Residence of father
- ☐ Other location (Specify address) _____

Exchange of all children from father to mother shall occur at:

- ☐ Residence of mother
- ☐ Residence of father
- ☐ Other location (Specify address) _____

If there are different exchange arrangements for any child, specify below:

6.12 Transportation

Professionals can assist parents to organise the transportation of children post-divorce. The parents will have to state who will be responsible for transporting all children between the parents and how any extraordinary transportation costs will be covered, for example: *The mother will be responsible for transportation of the children on the weekends, and the father will be responsible for transportation during the week and all holiday times. Each parent will be responsible for his or her*

own transportation costs. Further options can be given to the parent with regard to transportation, which can be made part of the parenting plan template, as illustrated in Box 14.

Box 14: Example of transportation arrangements

Complete either “a” or “b”.

Transportation arrangements for all children for all scheduled parenting times, including weekdays, weekends, holidays, special occasions, shall be as follows:

- a. ☐ Mother ☐ Father shall be responsible for all transportation of the children, including cost.
- b. ☐ Mother and Father shall share responsibility for transportation of the children, including cost, as follows: (Describe.)
- _____

Complete “c” only if necessary. An example of an extraordinary cost might be airfare costs if one parent lives out of the province/country

c. Extraordinary transportation costs (bus, taxi, train, airfare) shall be the responsibility of:

☐ Mother ☐ Father ☐ Shared: _____% Mother _____% Father

Complete “d” only if necessary and describe other arrangements.

Example: On the first Wednesday of each month, grandmother Mary Smith will pick up David from the day care and take him to Father’s residence. Father will be responsible for taking David back to Mother’s residence at the end of the visit. Father will be responsible for all transportation costs.

d. ☐ Other transportation arrangements: (Describe.)

If there is a different transport arrangement for a specific child, specify below:

6.13 Telephone contact

Professionals should promote telephone contact between the parents and the children, as this is good for maintaining a healthy relationship. Telephone contact can be facilitated by the professional by asking the parents to complete the following, as suggested in Box 15.

Box 15: Example of organising telephone contact

Each parent shall have reasonable access to all children by telephone during any period in which the children are with the other parent, unless specified below. Parents ought to complete this section only if restrictions on non-emergency telephone contact are necessary.

☐ Mother

Day(s) and Time(s) for phone calls: _____

Restriction: _____

☐ Father

Day(s) and Time(s) for phone calls: _____

Restriction: _____

6.14 Parenting styles and general values and norms

The professional should aim to assist the parents to draft a parenting plan where the parents attempt to raise their children with a similar parenting style, value system and discipline methods as far as possible, since this will prevent children from becoming confused with regard to their upbringing. The following can be included in a parenting plan template, as suggested in Box 16.

Box 16: Commitment pertaining to parenting styles and general values and norms

Parents should indicate their commitment by ticking the boxes to show agreement with the following statements that should be included in the family's parenting style post-divorce. Mark all the boxes that are applicable.

- ☐ Be a nurturing parent.
- ☐ Have authority and be in control of the household.
- ☐ Set healthy boundaries for the children.
- ☐ Encourage and motivate the children to adopt healthy behavioural patterns.
- ☐ Be a reliable and trustworthy parent.
- ☐ Try not to break promises and try to create security for the children.
- ☐ Be honest and open with your children, but do not use your child as a therapist to discuss your own unresolved issues.
- ☐ Be emotionally supportive and focus on the children's best interests.
- ☐ Focus on routine and structure in your household.
- ☐ Discipline effectively but fairly.

Specify the commitment by ticking the general values and norms to be incorporated in the parenting style when raising the children.

- ☐ Have integrity.
- ☐ Be an honest parent.
- ☐ Be kind and wise.
- ☐ Be assertive rather than aggressive or non-assertive.
- ☐ Practice self-preservation and self-control.
- ☐ Focus on containment and not reacting negatively in front of the children.
- ☐ Be a good example for the children.
- ☐ Be protective of but not obsessive about the children.
- ☐ Love the children unconditionally and do not allow your own negativity about the divorce or the relationship with your ex-partner to be transferred to the children.
- ☐ Be a reliable parent and be consistent in your parenting style.
- ☐ Be creative and play with the children; have some fun in a child-adult relationship.
- ☐ Don't place the children in the middle of parental conflict.
- ☐ Spend quality time with the children.

Discipline structures: It is necessary to have set boundaries and rules in order to enforce discipline when raising children. In a divorce situation, parents often feel guilty towards their children and, as a result, overcompensate. This causes children to become unruly and manipulative, which isn't good for them. Both parents must set rules in their own household and should draft them together with the children.

Specify your commitment by ticking the discipline methods you will adhere to:

- ☐ Firm boundaries will be set in the household.
- ☐ There will be a consistency with regard to discipline and praising in the household.
- ☐ Corporal punishment will be avoided.
- ☐ New partners will not be allowed to discipline the children; they will only facilitate the house rules and not get involved in the punishment.

Suggestions on discipline can be added:

6.15 New partners

Professionals need to assist parents with difficult aspects that may arise post-divorce, such as the introduction of a new partner. It is the professional's duty to inform parents that they must at all times remain focused on the children's best interest. The parents need to be educated on how to establish a respectful relationship with their ex-spouse's new partners, as it will be in the best

interest of the children to establish a respectful relationship. Certain aspects that can be included in a parenting plan template with regard to new partners are suggested in Box 17.

Box 17: Example of guidelines on the commitment regarding new partners

Specify the commitment you are prepared to make pertaining to your ex-spouse's new partner:

- ☐ I will refrain from conditioning the children negatively towards the new person.
- ☐ I will respect the relationship and the fact that my ex-partner has moved on with his/her life.
- ☐ I will try not to see the person as a threat, but rather as someone who could be a good influence in the children's life.
- ☐ I will try to facilitate a working relationship.
- ☐ I will refrain from calling the new person derogatory names.
- ☐ I will put my own personal issues aside, accept the new, blended family and do my best to create an amicable situation among all parties.

6.16 Aspects which are important to children post-divorce

Professionals interviewing children must aim to identify what the children need and see as important post-divorce. Table 5 is an example of how important aspects raised by the children can be documented.

Table 5: Aspects raised by the children

Name of the child	Age	Discussion of important aspects raised by the child, to be included in the parenting plan

Research results indicate that to obtain these goals, professionals should have the necessary skills to facilitate an interview with a child so that the interests of the child can be included in the parenting

plan process. Interviews with children should provide information about the child's perspective on issues such as parental consistency, discipline, and behaviours that encourage or discourage the child's efforts to achieve age-appropriate independence. Gould and Martindale (2009:110) explain that interviews should be appropriate for the developmental level of the child. These procedures may include verbal or play interview. It is not appropriate to ask children to choose between their parents because, in most families, children need good access to both parents following the divorce and should not be placed in a position of having to choose. Information about the children's feelings, thoughts and wishes about each parent can be obtained through techniques that will not be harmful and guilt inducing. The gathered information must guide the professional in compiling a child-centred parenting plan. Bastow (2009:2), Pretorius (2008:15), Ramolotja (2000:2) and Robinson (2009:79) provide the same guideline and add that professionals as well as the parents should remain focused on the intention of a parenting plan – that of having the child's interest at heart and of delivering answers to make life easier for the child post-divorce.

Carter, Haave and Vandersteen (2010:1) furthermore offer a number of guiding values for child-centred parenting plans that ought to be considered by the professional, for example:

- Parenting plans should minimise loss and maximise relationships for children;
- stability of placement should be considered in the context of developmental needs for the child;
- parents are more important than alternative care providers for the child;
- the parenting plan must consider the needs of older children for peer contact and the changing parent-child relationship;
- school-age children may need multiple parenting plans: one for the regular school year, one for summer vacation, one for winter vacation and one for spring break;
- regardless of the schedule, children should be with their mother on her birthday and on Mother's Day and with their father on his birthday and on Father's Day;
- children are unique individuals and should each benefit from some one-on-one time with each parent;
- the role of parents is to cooperate to provide as many opportunities for their children as possible; and
- clear definitions of terms are required, for example: "A weekend begins when the child leaves the school for the last time before Saturday. The weekend ends when the child enters the school for the first time after Sunday."

6.17 Additional topics to include in a parenting plan

Professionals ought to analyse the divorcing family unit's dynamics and functioning and ought to focus on relevant topics that will encourage family functioning post-divorce. It is not helpful to focus on generic topics that are not relevant to the family. Relevant topics can thus be selected by family members over and above the obligatory topics that must be included. This will ultimately ensure that the parenting plan that the professional is structuring will focus on the family's needs and will enable the professional to draft representative parenting plans. The professional needs to assist the family to consider any and all aspects that can be included to assist them post-divorce and should focus on as much details as possible in a parenting plan. Table 6 can be used as a guideline for selecting topics for a parenting plan.

Table 6: List of topics to be selected by parents to enable a representative parenting plan

MORE DETAILED ARRANGEMENTS	SERIOUS ISSUES	SPECIAL ISSUES AND COMPLICATING FACTORS
Exchanging information	Domestic violence, child abuse, and child neglect	Moving
Day to day child care, such as feeding, bathing, collecting children from school	Alcohol or drug abuse	Allowing underage marriage
Personal hygiene of children	Undermining the parent-child relationship	When a parent needs to develop parenting skills
Extra-curricular activities	Denying access to the children	Supervised visits
Treating each child as an individual	If extended family members or close friends are fuelling the dispute	If the homes are far apart
Separating the adult relationship issues from the parenting issues	Emergency arrangements	When non-relatives live in the home
Medical treatment		Re-involving the absent parent
Psychiatric and other mental health care		Driving and owning a car, motorcycle, or off-road vehicle
		International travel and passports
Relevant topics parents would like to include in the parenting plan Parents ought to specify all other relevant topics that need to be included in a parenting plan: 		

When additional topics are selected, as the examples in Table 5, additional consultations will be scheduled to further discuss and include these topics in the parenting plan.

According to research findings, professionals need to include at least the following topics in a standard parenting plan: contact arrangements; day to day care giving and responsibility; financial and maintenance details; school and educational arrangements; medical and health care; and non-emergency care. Professionals must include additional topics that are relevant to the family's needs and parents should select these topics according their family's functioning, dynamics and requirements. Lyster (2007:67) and Thayer and Zimmerman (2001:83) offer similar guidelines as those suggested in this research, and further specify that a parenting plan should focus on the needs of the divorcing family. However, the parents and the professional may include topics from an infinite list of possibilities: they need to consider any and all aspects that can be included to assist the family post-divorce and should not be narrow-minded in terms of what can be included in a parenting plan.

After completing the final parenting plan, the professional as well as the divorcing family ought to check whether the parenting plan meets the criteria below. The plan must:

- (1) Include information about the discussions facilitated with all relevant parties and the recommendations following from the discussions to assist the divorcing family post-divorce;
- (2) give understanding about the divorcing family's needs and must provide recommendations on how these needs will be met post-divorce;
- (3) offer the divorcing family knowledge on how their family will operate post-divorce to enable all family members to have knowledge on what will be expected in meeting the needs of their reorganised family; and
- (4) empower the family to focus on their life post-divorce and to encourage the divorcing family to facilitate positive change in their life.

The following section provides guidelines that professionals should consider to enable them to act professionally and ethically at all times when they are compiling a parenting plan.

7. ETHICAL GUIDELINES PROFESSIONALS SHOULD CONSIDER WHEN WORKING WITH PARENTING PLANS

Professionals belong to a governing body that sets a binding ethical code regarding the professional's acceptable conduct. In this research, guidelines are set for professionals, but the ethics of the professional must also be considered. The researcher is of the opinion that ethical guidelines must be followed by the professional and that these must be discussed with the divorcing family, to inform them of the professional's role. This will protect both the professional and the client from problems arising from misperceptions. In addition, this should assist all parties upon entering the process of structuring a parenting plan to understand the role, responsibility and expectations of the professional. The following ethical guidelines ought to be considered by the professional:

1. Professionals must not harm client emotionally through the intervention process. Clients must not be harmed by, for example, being forced to make decisions; being bullied into settling on a parenting plan that they do not feel comfortable with; disregarding or excluding the child; prolonging the intervention; pressurising any party involved; etc.
2. Professionals need to see the child as the major client. At all times, the needs and best interest standard of child must come before the needs of the court or the wishes of the parents. Professionals must be cognisant of the need to protect children from involving too many other professionals and unnecessary assessments.
3. Professionals should function at all times in a professional manner that is of a high quality, such as being on time for appointments, being professionally dressed, and ensuring that consultation rooms are clean and professional.
4. Professionals are required to be neutral at all times during the intervention process. It is crucial to the credibility of the process for the professional to carefully maintain a neutral role during the process. Alignment with either party is not acceptable.
5. Professionals must avoid dual relationships. A professional should not participate in drafting a parenting plan if he or she has had any prior relationship with any member of the family. This would void the professional's ability to remain neutral.
6. Multiple avenues of data gathering ought to be used. A competent professional must gather information from a variety of sources, which may include interviews, formal assessments of all

parties, observations of various family interactions, home visits, psychological testing, review of the legal history, and gathering of information from collateral sources. It is important that all procedures and techniques be applied to each parent in as comparable a manner as possible.

7. Quality of service should not be dictated by fees. The professional must adhere to ethical practices regardless of the fee charged. Professionals need to be truthful in communications with third-party payers (medical aid societies), that intervention is intended for the courts and not for treatment planning purposes.
8. It is not considered ethical to conduct a one-sided evaluation that results in recommendations that involve conclusions about a person who had not been seen. In the event that a one-sided process is performed, no final parenting plan can be made and only a draft parenting plan should be suggested.
9. Professionals are to avoid *ex parte* communications with other professionals, for instance attorneys, advocates, psychologists, social workers or the court on substantive issues. The professional can ask clarifying questions of any professional or the court, but if there is any substantive communication, it is best done in writing, with copies to all concerned parties, or via conference calls.
10. Limits to confidentiality in intervention processes need to be made clear to all parties, including the children. The professional must obtain informed consent from all participants.
11. It is required that professionals are well qualified and possess at least a post-graduate degree in the mental health or legal field, and have considerable training and understanding of families, issues of divorce, child development, and the needs of the court. It is expected that professionals will keep up with the literature in these areas. Those possessing less than 2 years of post-degree experience in these areas or who are just beginning to work with parenting plans require supervision from an experienced professional until fully qualified. A professional is to avoid practicing beyond the boundaries of competence.
12. It is required for the professional to be aware of his/her biases and to ensure that it does not affect any member of the divorcing family.
13. Professionals are to provide a well-structured and written parenting plan. In addition, all records obtained in the process of conducting the intervention process should be properly maintained and filed according to the ethics of the professional organisation in question.

8. CONCLUSION

The new Children's Act, with the inclusion of parenting plan specifications, introduces the potential for change and optimised family functioning for the divorcing couple as well as the children who are affected by the divorce. In the past, numerous divorced families have operated in confusion because they had no parenting plan to guide the family – the drafting of parenting plans is meant to bring an end to this confusion for the divorcing family. Parenting plans will assist families post-divorce with the challenges they face. Families who operate according to a parenting plan are able to reduce or avoid conflict scenarios and to prevent confusion and disorganisation post-divorce.

In this article, the researcher aimed to deliver guidelines that are clear and comprehensive. In future research, the suggested guidelines can be tested to establish how effective they are in practice. The guidelines should also be refined in practice, so as to suit the needs of a particular professional. The art of structuring a parenting plan that is set according to the best interest of child standard and that represents the divorcing family can only prevail if the professional delivers high quality intervention and follows clear and comprehensive guidelines. Thus, it is important for professionals working in the divorce field to adhere to guidelines, such as those suggested in this article, to enable them to deliver high quality parenting plans.

The parenting plan specifications that are discussed in this article ought to give insight to the professional on how to compile the parenting plan, as it gives practical examples of what to include in the plans and how professionals should guide the parents and children to provide the information that is needed for the professional to compile a parenting plan. The contract that is suggested and the ethical standards that are provided should be followed by the professionals because when professionals are working with divorcing families, they need to protect themselves and to work according to a specific standard so that all parties may feel comfortable and safe with the process.

Comprehensive and clear guidelines on the basic process structure and general content of a parenting plan were delivered in this article; thus, the research question “***What guidelines can be provided to structure a parenting plan?***” was answered successfully. The researcher believes that the suggested guidelines will assist and enable the professional to prepare parenting plans for the divorcing family.

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SECTION C

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

1. INTRODUCTION

This research was conducted to formulate substantive guidelines with regard to parenting plans for mental health and legal professionals. In this section, the researcher will give a summary, conclusion and recommendations for this study. The aim and objectives and the central theoretical assumption will be evaluated by means of the findings and conclusions.

2. SUMMARY

In summary, the research study aimed to develop substantive guidelines that can assist the professional with drafting parenting plans. The objectives of the research were (1) to provide a legal context of parenting plans in South Africa; (2) to ascertain the views of mental health professionals (social workers and psychologists) and legal professionals (attorneys and family advocates) (hereafter professionals) with regard to the divorcing family and parenting plans; (3) to ascertain the needs of the divorcing family (parents and children) and to present these needs in the structuring of a parenting plan; (4) and to provide professionals with comprehensive and clear guidelines on the basic process structure and general content of a parenting plan. In the research, two theoretical assumptions were articulated. They are (1) that professionals have a need for knowledge about compiling a parenting plan; and (2) guidelines can be formulated to assist the professional with drafting a child-centred parenting plan.

An article-based study was done and each article was based on research objectives that guided the study. The research design selected to achieve the research aim was intervention research, and more specifically the D&D model. Articles 1-3 represent phases 1 (problem analysis and project planning) and 2 (information gathering and synthesis), while Article 4 represents phases 3 (design) and 4 (early development, but not pilot testing) of the model.

In practice, the researcher has witnessed how professionals struggle to work with divorcing families and do not know how to assist the families post-divorce. With parenting plans being obligatory,

professionals are now able to substantially assist divorcing families, but they still need relevant guidance to enable them to deliver high quality parenting plans that will make a difference in practice and in the divorcing families' lives post-divorce. This ultimately motivated the researcher to conduct research on the subject matter.

3. EVALUATION

3.1 Limitations of the study

The researcher, being a qualified social worker, experienced certain limitations regarding her knowledge of the legal context of a parenting plan. This was overcome by the assistance of the assistant promoter for this study, Prof L Steward, who is an expert in family law.

With regard to establishing the views of the professionals, the researcher also experienced certain difficulties. The researcher initially planned to facilitate interviews with the professionals but after discussing this possibility with the professionals, it was decided to use electronic questionnaires instead, as the professionals indicated that they would find it hard to schedule time for interviews and that completing questionnaires would be easier. It is the researcher's opinion that interviews would have provided more insight in the views of the professionals than the questionnaires delivered. In addition, the researcher found the professionals to have spent limited time on completing the questionnaires. Some questionnaires were clearly completed in haste and provided short answers with limited use. Consequently, the researcher had to do follow-up telephonic interviews. This process presented its own problems: professionals were not available to take the calls as they are all in private practice and busy with clients; much of the information that was discussed telephonically was repetitive of the information already received in questionnaires; professionals were pressed for time and wanted to keep the conversation short, with the result that it was hard to obtain insight from their brief answers.

The researcher found the divorcing families' feedback to be not as comprehensive as was hoped for either, and the responses that were received via e-mail were not very detailed. This ultimately provided limited insight regarding the views of the divorcing family. The researcher wished for more comprehensive feedback that would have made it possible to elaborate on the divorcing family's views. Certain families, on the other hand, gave lengthy descriptions in their responses and at times

became side-tracked with regard to their own feelings and opinions – this made it necessary to separate information about their personal feelings from the relevant information that was needed for the study. It would have been more beneficial if better quality information were received from the divorcing families.

The socio-economical context of the study was facilitated in a demographic area where the respondents belong to a high income group and results are thus not necessarily representative of lower income groups. A lower income group may have provided different responses, which might have led to a different result. The socio-economic context of the study is therefore a limiting factor in this study.

The researcher ought to have focussed more on the ethical aspects of the child such as obtaining consent in participating in the study from the children and not merely the parents within the study. In addition, in obtaining insight from the child, there should have been more of a specific focus on their needs and this ought to have been reflected when guidelines of the parenting plan were structured.

For the structuring of guidelines for the professionals, intervention research was used as a research design. The D&D model was followed as a process, but a pilot study was not performed and this can limit the validity of the study. In future research, a pilot study ought to be facilitated to evaluate whether the guidelines delivered in this study are clear and comprehensive.

Retrospectively, a quantitative study possibly would have delivered a more comprehensive study than the qualitative study. The researcher aspired to deliver added depth to the study.

3.2 Strengths of the study

The legal context pertaining to parenting plans that was developed in this research will add value to the professional field of social work, as mental health professionals may have limited knowledge with regard to the legal sphere when they are working with families who are going through a divorce. Article 1 will especially assist the mental health professional to obtain a thorough

understanding of the legalities surrounding a parenting plan. In addition, the legal instruments that focus on the best interest of child standard will not only assist the mental health professional but particularly the legal professional to prioritise the child when working with parenting plans. This is a huge contribution to both professional fields, as the legal context assists both professions in areas where they have certain limitations.

The professional views stated in this study have indicated certain abilities and limitations that professionals experience in delivering parenting plans. As parenting plans are a rather new concept for the South African professional, problems will emerge regarding parenting plans. This study adds value for professionals, as it creates a knowledge base for professionals and will assist them with guidelines when they are facing problems in practice with parenting plans.

Results specify the needs of the divorcing family, which are indispensable for representative parenting plans. This study has successfully shown professionals how important it is to deliver representative parenting plans. This will motivate and assist the professional in practice to have the determination to obtain a real understanding of the family they work with and to draft parenting plans that can ultimately assist the divorcing family post-divorce.

The guidelines that are provided in this study will benefit all professionals working with parenting plans. The drafting of parenting plans for divorcing families is a reasonably new concept in South Africa and limited research has been done on this topic; therefore the findings in this study contribute to the field of parenting plans. Seeing that parenting plans are obligatory for parents who are divorcing, there is a need for South African research on this subject matter. This study is a contribution in that research field, to assist the professionals with the task of compiling parenting plans for the divorcing family.

4. CONCLUSIONS

4.1 Conclusions regarding the legal context of a parenting plan

It is concluded that a legal context is needed for professionals when they are preparing a parenting plan, and to this end, the research provided an intensive analysis and critical discussion by means of

a document study on a number of legal instruments. In addition, it can be concluded that the Children's Act 38 of 2005 (hereafter the Children's Act), the Constitution of the Republic of South Africa, the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child add value to the profession, by requiring that parenting plans are child-centred. The findings highlight the importance of parenting plans and the significance of professionals being well versed regarding the legal instruments. It can be concluded that legal instruments ought to be used as a guideline to ensure that the professional works in a relevant legal framework.

4.2 Conclusions regarding the views of professionals

The views of professionals with regard to the divorcing family and parenting plans were successfully established. In the study, the position of the professionals in facilitating intervention with divorcing families and the experiences and challenges that they face in preparing a parenting plan, were identified. The researcher has come to the conclusion that professionals working in the field of divorce and structuring parenting plans face a daunting task, due to the high levels of conflict involved in the process. Yet, the professionals structure the plans to the best of their ability. It may also be concluded that professionals do not necessarily feel entirely equipped to structure representative, child-centred parenting plans, because the concept of parenting plans is a recent development in South Africa; and because professionals must operate in a high-conflict environment when they are facilitating intervention with and structuring parenting plans for divorcing families.

4.3 Conclusions regarding the needs of the divorcing family

The needs of the divorcing family (parents and children) were successfully identified through an explorative approach. Research results revealed nine themes regarding the divorcing family's needs. Findings indicate that the children of divorcing families have an overall need to feel secure post-divorce, as deduced from the five themes of needs identified in the study. Results show that this fundamental need has in the past not necessarily been prioritised by professionals dealing with divorce matters. Results also show that the overall need of the divorcing parents, as deduced from the four themes of needs of the parents, is for them as well as their children to live a more purposeful life post-divorce. The conclusion can be made that this crucial need has not always materialised, due the high-conflict situation that arises between parents in a divorce and because parents at times place their own needs above those of their children. As a result, the best interest of

child standard is not met and children are negatively affected by the parents' decisions post-divorce. It is concluded that priority should be given to the needs of both the parents and the children, but with consideration of the best interest of child standard. Parenting plans should ultimately be representative of the divorcing family, but with specific focus on the child.

4.4 Conclusions regarding guidelines for professionals

It is concluded that comprehensive and clear guidelines on the basic process structure and general content of a parenting plan were successfully constructed. These guidelines are derived from the findings of Articles 1, 2 and 3. The researcher used her background and training as a qualified and trained social worker to construct these guidelines. Parenting plans will assist numerous families post-divorce with the challenges they face due to divorce. Guidelines are, however, needed to assist the professional to help the divorcing family with a parenting plan. The researcher concludes that parenting plans that are set according to the best interest of child standard and that represent the divorcing family can only prevail if the professional delivers high quality intervention and follows specific guidelines. Thus, it is important for professionals working in the divorce field to adhere to guidelines to enable them to deliver feasible parenting plans.

5. ADDITIONAL CONCLUSIONS

5.1 Conclusions regarding the aim and objectives

The aim of the research, namely to develop substantive guidelines that can assist the professional with drafting parenting plans, was successfully achieved by positively reaching the four individual objectives. A legal context was provided for professionals in South Africa to use for structuring a parenting plan. In addition, the views of professionals were successfully established with regard to the divorcing family and parenting plans. The needs of the divorcing family (parents and children) were identified and these needs can successfully be used in the structuring of a parenting plan. The final objective was also achieved, namely the objective of providing professionals with comprehensive and clear guidelines on the basic process structure and general content of a parenting plan.

5.2 Conclusions regarding the theoretical assumptions

Based on the research findings it can be concluded that the theoretical assumptions have all been

confirmed. These theoretical assumptions are the following:

1. Professionals have a need for knowledge on compiling a parenting plan.
2. Guidelines can be formulated to assist the professional with drafting child-centred parenting plans.

It was established that professionals require knowledge to enable them to compile parenting plans. The research accordingly adds value for the professional, as it can be used as resource to build a professional knowledge base on parenting plans. In addition, the research delivered guidelines that can be used effectively by the professional. With the knowledge and guidelines produced by the study, the professional ought to be well equipped to draft child-centred parenting plans.

6. RECOMMENDATIONS

6.1 Recommendations on the legal instruments to consider for the structuring of parenting plans

- Professionals are required to be guided by the Constitution of the Republic of South Africa, the Children's Act and other legal instruments, such as UNCRC and ACRWC (two international instruments) when they are structuring parenting plans, as this will enable them to represent the child's rights and to meet the best interest of child standard.
- It is recommended that the professional be well versed with regard to the legal instruments pertaining to children and children's rights, and that he/she should receive the necessary training to facilitate high quality intervention.
- Mental health and legal professionals must make use of the relevant legal instruments when they are working with divorcing families and they should include reference to legal instruments in their parenting plans to enhance the validity of the parenting plans.
- The professional should draft child-centred and not parent-centred parenting plans and the rights of the child need to be prioritised in parenting plans.

6.2 Recommendations on professional views about the divorcing family and parenting plans

- Professionals must be trained and highly skilled and must possess knowledge and skills that include well developed decision making abilities, the ability to deal with high-conflict situations, the use of available resource and the ability to set clear boundaries.

- Mental health and legal professionals must be able to perform the role of a forensic assessor when they are structuring parenting plans.
- It is recommended that all professionals receive training to master the role of an interviewer.
- Mental health professionals, and even more so legal professionals, must receive the necessary training and skills to facilitate interviews with children and to prioritise the best interest standard of children throughout the intervention process to structure parenting plans.
- It is recommended that professionals work in a multidisciplinary team, so that plans can be more representative of the divorcing family and so that the best interest of the children can prevail through the input by various professionals.
- It is recommended that professionals remain focused on structuring representative parenting plans which can assist the divorcing family post-divorce.
- Even though it is stated in the Children's Act that professionals such as attorneys should draft parenting plans, it is the researcher's opinion that attorneys should always consult mental health care professionals to assist them with drafting parenting plans.

6.3 Recommendations on parenting plans that are representative of the divorcing family's needs

- Professionals must realise the importance of prioritising and first establishing the children's needs; placing the needs of the parents second to those of the children; and incorporating the divorcing family's needs in representative parenting plans.
- Programmes and assessment scales ought to be developed to establish the needs of the divorcing family.
- Professional bodies ought to ensure that the best interest of child standard, as required in the Children's Act, is the primary concern in parenting plans and that the needs of South African children going through a divorce are recognised and addressed by following the relevant guidelines for professionals.

- Parenting plans must allow for parents to live an overall more purposeful life post-divorce, through making adequate recommendations to allow parents to do so, without entrenching on the rights of the child.

6.4 Recommendations on guidelines for professionals for the structuring of parenting plans

- Professionals must follow structured guidelines to enable them to deliver high quality parenting plans.
- When working with the divorcing family, guidelines should be followed to assist the professional to understand the divorcing family and which will enable the professional to structure representative parenting plans and empower the family with recommendations.
- Mental and legal professionals, as appointed in accordance with the Children's Act, must realise the importance of serving divorcing families as a critical issue in society and must prepare themselves adequately to assist divorcing families with parenting plans.

6.5 General recommendations on the topic

- More research is needed on the conception and implementation of parenting plans post-divorce.
- Additional research must be done to establish the availability and content of training for professionals as well as the quality of training that professionals receive for assisting divorcing families with their problems.
- It is recommended that mental health and legal professionals should always work together to facilitate intervention with the divorcing family.
- Social workers should be more active in research in their daily practice situation. Social workers play an important role in research, especially on psycho-social forensic work, and they should use their expertise to add value to divorce-related fields.
- A governing body must be created to regulate professionals working in the field of forensic work, and more particularly those working with parenting plans for children and parents during and after divorce.

- The study did not include a pilot testing, and did not implement phases 5 and 6 of the D & D model. At a later stage, further research can be initiated by facilitating a pilot study to enable the researcher to focus on advanced development and to disseminate the suggested guidelines to more target audiences.

7. FINAL REMARKS

Parenting plans play an essential role in empowering families to live a structured and functional life post-divorce. As professionals have been appointed by the Children's Act to assist families with parenting plans, this study adds value for the professional, who ought to apply the identified guidelines when structuring parenting plans. The structuring of parenting plans can be a daunting task and this study gives assistance to the professional, to make the professional's task easier and to let the professional feel more confident with structuring high quality child-centred parenting plans.

It is envisaged that this study should encourage professionals to think critically about the process and the content of parenting plans in order to deliver high quality intervention and assistance in practice. It is furthermore anticipated that this study will promote confidence among professionals to specialise in the field of forensic work and to work with children and parents in the formulation of high quality parenting plans.

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SECTION E

ADDENDUMS

ADDENDUM 1

AUTHOR GUIDELINES FOR SOCIAL WORK/MAATSKAPLIKE WERK JOURNAL

The South African journal for social work “Social Work/Maatskaplike Werk” (ISSN – 0037-8054) provides the following guidelines to authors:

The journal publishes articles, short communications, book reviews and commentary on articles already published from any field of social work. Contributions relevant to social work from other disciplines will also be considered. Contributions may be written in English or Afrikaans. All contributions will be critically reviewed by at least two referees on whose advice contributions will be accepted or rejected by the editorial committee. All refereeing is strictly confidential. Manuscripts may be returned to the author if extensive revision is required or if the style or presentation does not conform to the Journal practice. Commentary on articles already published in the Journal must be submitted with appropriate captions, the name(s) and addressees of the author(s) and preferably not to exceed 5 pages. The whole manuscript plus one clear copy as well as a diskette with all the text, preferably in MS Windows (Word or WordPerfect) or ASC11 must be submitted. Manuscripts must be typed double spaced on one side of A4 paper only. Use the Harvard system for references. Short references in the text: When word-for-word quotations, facts or arguments from other sources are cited, the surname(s) of the author(s), year of publication and page number(s) must appear in parenthesis in the text, e.g. “...” (Berger 1967: 12). More details about sources referred to in the text should appear at the end of the manuscript under the caption “References”. The sources must be arranged alphabetically according to the surname of the authors. Note the use capitals and punctuation marks in the following examples:

TWO AUTHORS: ABELS, P & MURPHY, MJ 1981. **Administration in the human services.** Englewood

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ADDENDUM 2

RESEARCH QUESTIONNAIRE FOR PROFESSIONALS

TITILE OF RESEARCH STUDY

Parenting plans: The development of substantive guidelines for professionals (social worker/psychologist/family advocate and attorneys).

Dear Professional

I have selected you from my referral data basis as we have worked together on various forensic matters. I am currently busy with a doctoral study and need your professional input.

Please complete the following ten questions as detailed as your time permit. It is important with the completion of the questionnaire for the researcher to ascertain the views of and problems experienced by social workers, psychologists, family advocates and attorneys with regard to parenting plans.

Thank you very much in taking the time and making the effort to assist me with this doctoral research study.

Regards, Dr Tanya Robinson

- (1) How do you as a professional experience divorce matters in your practice?
- (2) What is the parents' attitude and mindset when you are working with them in a divorce matter?
- (3) How do you perceive the child when you are interviewing the child in a divorce matter?
- (4) Do you find the parents and the children to be knowledgeable with regard to the divorce process?
- (5) What are the topics that mostly create conflict when parents talk about the children?
- (6) What do you use as aids to help you make decisions when you are working with a family that is going through a divorce?
- (7) On what topics do you focus when you are compiling your parenting plan?
- (8) Do you struggle to make decisions or recommendations when you are drafting a parenting plan?

- (9) Do you think a well-structured guideline is needed to assist the professional in compiling a parenting plan?
- (10) What topics, themes and options would you as a professional expect a standard parenting plan to cover?

I have considered the ethical issue of confidentiality. As professionals you may want to keep your identity confidential. Your names and/or surnames will not be revealed in the research study and will only make reference to your profession and qualifications. A number will be allocated to each respondent, for example "Respondent 1 – Counselling Psychologist (BA Psych, Psych (Hons), MA in Counselling Psych). This reference method ensures that the respondent's identity will be kept private. Please give permission that the information provided by you in the questionnaires can be used in this research.

I, _____ (psychologist/social worker/attorney/advocate) have completed the above mentioned questionnaire and subsequently give consent (name and surname) _____ for Dr. Robinson to use this data within her research study and keep my name and surname confidential.

Thank you for your cooperation.

ADDENDUM 3

CONSENT FORM FOR PARENTS TO ENABLE DR. ROBINSON TO DRAW UP FORENSIC ASSESSMENT REPORTS

Dear parent/s

I am currently busy doing research with the title of the research study - *Parenting plans: The development of substantive guidelines for professionals (social worker/psychologist/family advocate and attorneys)*.

I have assisted you in the past with forensic work at my practice at Intercare Medical and Dental Centre, Fourways, Gauteng, and would like to draw your file to use your forensic assessment report within the research study. The three main questions that I need to answer through data collection are the following: (1) What are the children's needs? (2) What are the parents' needs? (3) Did the parenting plans take the divorcing family's needs into consideration?

I have considered the ethical aspect of confidentiality. I will thus make no reference to the case number of the file, personal details of the individuals or any other data or information that could be used to identify individuals. In the research study, the information about any individual's experience will be presented anonymous. Parents and children will be referred to as "participants", and no names will be mentioned. This will ensure that the forensic reports remain unidentified and that the participants remain anonymous.

I, _____ (name and surname) give consent for Dr Robinson to use my forensic assessment report in the research study and that my family details will remain confidential.

ADDENDUM 4

ELECTRONIC FORM TO BE COMPLETED BY THE FAMILY

Dear Family

I am currently busy doing research with the title of the research study - *Parenting plans: The development of substantive guidelines for professionals (social worker/psychologist/family advocate and attorneys)*.

I have assisted you in the past with forensic work at my practice at Intercare Medical and Dental Centre, Fourways, Gauteng, and would you to give your input as this will add value to my research. Please write your comments on the following themes. It is important with the comments made that I can ascertain both the children and the parent's needs.

Thank you very much in taking the time and making the effort to assist me with this doctoral research study.

Regards, Dr Tanya Robinson

The first section deals with the children's needs. If you can discuss this section with your children. Please give insight and a summary of their feelings/experiences/emotions/thoughts regarding the following identified themes and/or whether they can identify with these themes:

The need not to worry:

The need not to lose either parent post-divorce:

The need for parents not to be in conflict with each other:

The need to be happy again:

The need for parents to stay married and not get divorced:

The section below deals with the parent's needs. Please give insight and a summary of the feelings/experiences/emotions/thoughts regarding the following identified themes and/or whether you identify with these themes:

The need for parents to provide children with a healthier environment and reduce exposure to unpleasant experiences post-divorce:

The need for parent's to start a new and more fulfilling life post-divorce:

The need for parents to reduce conflict post –divorce:

The need for parents to have limited contact and communicate with their ex-partner post-divorce:

ADDENDUM 5

ELECTRONIC FORM TO BE COMPLETED BY THE FAMILY (CONTINUE)

Dear Family

Thank you for your valuable responses in the previous mail that I sent out. Can you please give further input by giving comments on the following question?

Please write your comments on whether you feel that your family's needs were reflected in the parenting plans that have been structured by professionals.

Thank you very much in taking the time and making the effort to assist me with this doctoral research study.

Regards, Dr Tanya Robinson