



## **Ask the Experts: Six Core Components of Effective Child Inclusive Mediation Practice**

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From its origins as a 'bare bones' intervention within a small pilot study (McIntosh, 2000), the expansion of child inclusive mediation and counseling methods and evidence has been widespread. With this, the requisite clinical skills with respect to developmental knowledge, therapeutic approach and mediation process underpinning the efficacy of child inclusion are better understood. Ahead of McIntosh's presentation on child inclusive mediation and counseling at the Seattle AFCC conference, this brief article considers six essential elements that combine to make a child inclusive dispute resolution process transformative, for children and parents.

Child inclusive divorce mediation is a unique approach to family law dispute resolution, with potentially transformative outcomes for parents and children. It is now used internationally in an array of complex family separation scenarios, across many contexts (International Social Service, 2015). This is a mediation method in which school aged children affected by the dispute are enabled by an independent and specially trained child consultant to share their experiences of their family separation. This consultant later attends a mediation session, to speak for the child, to convey and importantly to translate the child's experiences and needs, in light of important developmental and contextual factors operating within the child and family. The goals of the approach are evidence based: to understand the child's developmental needs within their parents' separation; to motivate and scaffold a healthy co-parenting climate; to support an enactment of a parenting arrangement that enables these parents, in the context of their circumstances, to foster their child's optimal growth.

Two longitudinal studies and off-shoots from them have now been conducted (Ballard, Holtzworth-Munroe, Applegate, D'Onofrio, & Bates, 2013; McIntosh, Wells, Smyth, Long, 2008), each demonstrating the potential of the method to support lasting tertiary repair in co-parenting and parent-child relationships, relative to mainstream mediation, or to child focused educational methods.

The labels 'child inclusive' mediation and 'child informed' mediation are used somewhat interchangeably between these studies and across practices. The earliest approach to this work was called child inclusive divorce mediation (McIntosh, 2000). Moloney and McIntosh (2004) differentiated this from child focused processes, in which relevant educational information is shared with parents by the mediator or developmental specialist, but in which the child is not seen or heard. Peter Salem, executive director of AFCC, coined the term 'child informed mediation' at a group think tank at Indiana University in 2008, to emphasize that the child's views would inform the mediation, but that the child him or herself was not physically included in the mediation. Internationally, some adopt one label and some the other, thus you will see publications under the two titles, which refer to the same method. I use both

labels depending on where I am teaching, and revert here the generic term, “child inclusive.”

Moving from its origins in early forms of child inclusive mediation nearly 20 years ago (McIntosh, 2000), a diversity of applications has emerged, across multiple contexts: marital counseling, parenting coordination, post-separation family therapy, contact centers, family court services, child protection, kinship placements, and of course divorce mediation. What sets this work apart from involvement of the child in custody evaluation and other forensic contexts is its therapeutic intent. Beyond the representation of the child’s voice, the aims are to offer parents a developmental perspective on the dispute and its resolution, support parents’ reflective capacities, motivate recovery from conflict, encourage relationship repair, and ultimately aid whole-of-family adjustment to the separation.

While the work is brief in most contexts, involving only one or two meetings with the child and one or two feedback and planning conversations with the parent and mediator, brevity does not equate with the complexity of the job at hand, nor of the skill involved. We encounter endless variations in the work. The child’s story is never the same, and the care-giving context never identical. Equally, policy and practice contexts are not uniform, and frequently were not designed for this work. Where child inclusion requires something of a retro-fit in some contexts, in other settings, the very principles of child inclusion have proactively shaped responsive policies and practices (McIntosh, Bryant & Murray, 2008).

Regardless of context, the following is a “good-to-know” guide to some key components of effective child inclusive practices.

### **1. The aims of child inclusion in family law disputes**

Interviewing children in family law matters has several purposes, depending on the context, and the goal. In some, it is a forensic task. In others, it is about obtaining the child’s wishes to pass on to parents, or judges. For others, it’s a rights based approach to seeking the child’s input in decisions that pertain to them. Child inclusion transverges these domains, yet its core purposes transcend each. Its aims are to:

- i. protect, repair, and support children’s developmental pathways through their separated family life, by
- ii. safely and skilfully enabling the child (4 years+) to share their separation story, with a trained child specialist, who will
- iii. represent the child’s experiences and their developmental implications within the mediation context,
- iv. enabling parents’ reflection on and response to their children’s needs, and
- v. offering parents and mediators case specific developmental input to inform decision making in this family’s unique context, and with the mediation team, in order to
- vi. support the generation of a customized, durable, developmentally sound and responsive parenting plan.

### **2. The mechanisms of change in child Inclusion**

The mechanisms of impact in child inclusive mediation and counseling lie in the nature of the story we enable the child to tell, the developmental knowledge that creates the lens we view that story through, and the conversations we build with each parent about both. Each aspect of the intervention is ultimately in the service of supporting parents to their higher ground—whatever that might be for them—in their ability to see and sensitively respond to their child’s experiences and needs. The process is non-linear, and far from simply reporting to parents what their child said. It is a translational exercise that works within the capacity of each parent. Its targets

are evidence based, aiming at tertiary prevention of developmental burden for children, by minimizing exposures to relational toxins, and maximizing the facilitating environment within and between parents.

### **3. Fitting the approach to the family**

Child inclusive mediation is not a fixed intervention, with rigid eligibility criteria. Suitability is not a dichotomous quality that a case either has or does not have. So, instead of asking, “is this case right for a child inclusive approach,” the better question is often to ask “can we provide a child inclusive intervention, that adds value to the parents’ mediation process, and to their children’s lives at this point in time?” Assessing appropriateness is a critical first step in the work. In short, if a case has been screened “in” for mediation, then there’s a good chance child inclusive approach might be too. The ‘how to’ of assessing initial fit is complex and involves a careful appraisal of each parent’s reflective capacities, to understand whether and at what level to proceed (further details [here](#)). Beyond intake assessment, practitioners carefully follow each parent’s ability to take on board new perspectives about their child’s experiences as the conversations progress, particularly when feedback may run counter to long held beliefs or wishes. This is bread and butter work for the trained child consultant, who constantly adapts the nature and amount of information to support and not exceed the capacity of either parent to hear and make use of the material.

### **4. Being with the child in a child inclusive intervention**

Novice child consultants sometimes get caught up in the technique of interviewing children of divorce and lose sight of the purpose of that conversation. In fact, whenever a student is stuck, recourse to their purpose in being with the child always provides the answer about what to do or say next. And that purpose is to find the child’s voice, by engaging warmly, establishing confidentiality and its limits, and giving each child the presence, support and tools (verbal and representational) they need to tell their unique story about these things:

- i. Their parents’ conflict and/or separation: “*What is it like to be me, in this situation, with my parents separated, and in this kind of conflict?*”
- ii. The child’s relationships with each parent/caregiver: “*What is it like to be me, being dependent on each parents, and on the space between them?*”
- iii. The child’s thoughts and needs about future options: “*Given how things are with my family, what might help me to feel more secure and better supported?*”

The child consultant who enables the child to feel supported and safely vulnerable is permitted into the recesses of experience that matter most to understanding the child’s needs, and helping their parents’ do the same. There are multiple methods and skills for enabling children to feel comfortable to share their story, and important guides for speaking with children who have significant difficulty in having, feeling, expressing and regulating a full range of their emotional life, often following trauma (specialist training information [here](#)).

### **5. Representing the child’s voice in the mediation**

After spending time with the child, the child consultant takes part in a conversation with parents and mediator/s. Clinical judgement is needed in shaping the pace, content and flow of that conversation, and determining which components of it parents might participate in together, and which apart. Throughout, the consultant shares integral pieces of the child’s communications—in words and pictures—and acts as a developmental translator. Often the consultant talks about evident ‘hot spots’ in the child’s experiences that may lead to developmental trouble if unchanged, for example, when children seem unduly burdened by acrimony,

triangulation, and so forth. The task is to offer parents a supported, non-judgemental thinking space, building reflection and avoiding reaction. These conversations are the art and science of child inclusive mediation. Again, the skill set is complex, yet invaluable.

## **6. Documentation in the spirit of CI**

Carrying on the intent and tone of the child inclusive conversation into the documentation of decisions is key to cementing good outcomes. Child inclusive plans are different from others, capturing the essence of the child's 'agenda,' often distinct from either parent's agenda, and documenting the higher ground the child needs their parents to aspire to. A good child inclusive parenting plan is thoughtfully constructed, as a tool for anchoring co-parenting to the child's needs, reminding parents of their higher intentions, as well as documenting the formal agreements about time, and so on. The efficacy of these documents was studied by Rudd, Ogle, Holtzworth-Munroe, Applegate, & D'Onofrio. (2015), who compared frequency of re-litigation following a randomized allocation to one of three forms of mediation: child inclusive, child focused, or mediation as usual. Using court records, one year after the final resolution of mediation issues, they found lowest rates of re-litigation for child inclusive mediation, compared to child focused mediation and mediation as usual. Child inclusive mediation agreements included more aspirational language about co-parental communication and about the parent-child relationship, and more numerate and specific provisions about communication between parents. In turn, these agreements were rated higher in facilitating the co-parental relationship and child-adjustment.

In summary, the work of child inclusive mediation is complex, yet the potential gains in post-separation adjustment for children and parents suggest a good return for investments by mediation services in up-skilling for this intervention.

*Prof. McIntosh will expand on and illustrate this paper at her forthcoming workshop at the AFCC Annual Conference in Seattle, "Notes from a Masterclass on Child Inclusive Mediation." Her training and resource portal, [ChildrenBeyondDispute.com](http://ChildrenBeyondDispute.com), is a Gold Sponsor of the Seattle conference. The site houses four levels of training in child inclusive mediation and counseling (CIMC): Introduction (1 hour), CIMC for Mediators (14 hours), CIMC for Child Consultants (18 hours), and a Refresher on Child Interview Skills (5 hours). Jennifer McIntosh is a clinical and developmental psychologist, professor of psychology at Deakin University, fellow of the Murdoch Children's Research Institute, senior fellow of the University of Melbourne, and adjunct professor at La Trobe University, Australia. She is director of Family Transitions, and its educational portal, [ChildrenBeyondDispute.com](http://ChildrenBeyondDispute.com), which houses extensive resources and training relevant to child inclusive mediation.*

## **References**

Ballard, R., Holtzworth-Munroe, A., Applegate, A., D'Onofrio, B. & Bates, J. (2013). A Randomized Controlled Trial of Child-Informed Mediation. *Psychology, Public Policy, and Law*, Vol. 19, No. 3, 271–281. <http://psycnet.apa.org/journals/law/19/3/271/>

International Social Service (2015). *Resolving Family Conflicts: A guide to International Mediation*. Geneva. <http://www.iss-ssi.org/index.php/en/what-we-do-en/mediation-en - 1-1-project-1-a-guide-to-international-family-mediation>

Holtzworth-Munroe, A., Applegate, A.G., D'Onofrio, B., Bates, J. (2010). Child Informed Mediation Study (CIMS): Incorporating the children's perspective into

divorce mediation in an American pilot study. *Journal of Family Studies* Vol. 16, Iss. 2, 116-129

McIntosh, J.E., Wells, Y.D., Smyth, B.M. & Long, C.M. (2008). Child-focused and child-inclusive divorce mediation: comparative outcomes from a prospective study of post separation adjustment. *Family Court Review*, Vol. 46, No. 1, January, 105-124. <http://onlinelibrary.wiley.com/doi/10.1111/j.1744-1617.2007.00186.x/full>

McIntosh, J. , Wells, Y. and Long,C. (2009) Children Beyond Dispute. A four year follow up study of outcomes from Child Focused and Child Inclusive post-separation family dispute resolution. Report to the Australian Government Attorney General's Department, Canberra. <https://www.ag.gov.au/Publications/Pages/ChildrenBeyondDispute-April2009.aspx>

McIntosh, J.E., Bryant, D., Murray, K. (2008). Evidence of a different nature: the child responsive and less adversarial initiatives of the Family Court of Australia. *Family Court Review*, Vol. 46, No. 1, January, 125-136. <http://onlinelibrary.wiley.com/doi/10.1111/j.1744-1617.2007.00187.x/abstract>

Moloney, L. & McIntosh, J. (2004). Child responsive practices in Australian Family Law: Past problems and future directions. *Journal of Family Studies*, Vol. 10, No.1, 71-86.

McIntosh, J. (2000) Child Inclusive Divorce Mediation: Report on a qualitative research study. *Mediation Quarterly*, 18, pp 55-70. <http://onlinelibrary.wiley.com/doi/10.1002/crq.3890180106/>

Rudd, B.N., Ogle, R.K., Holtzworth-Munroe, A., Applegate, A.G., & D'Onofrio, B.M. (2015). Child-informed mediation study follow up: Comparing the frequency of re-litigation following different types of mediation. *Psychology, Public Policy, and Law*. Advance online publication. doi: 10.1037/law0000046 <http://psycnet.apa.org/psycinfo/2015-22632-001/>