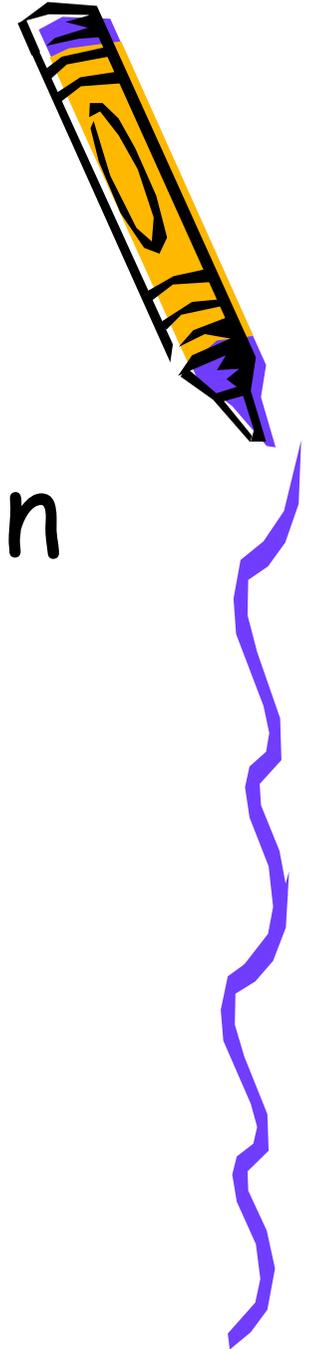
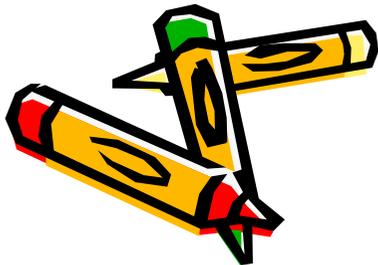


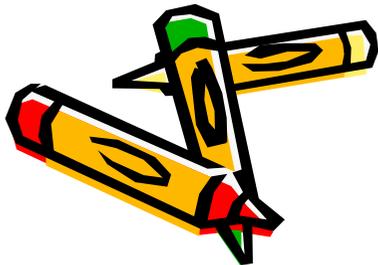
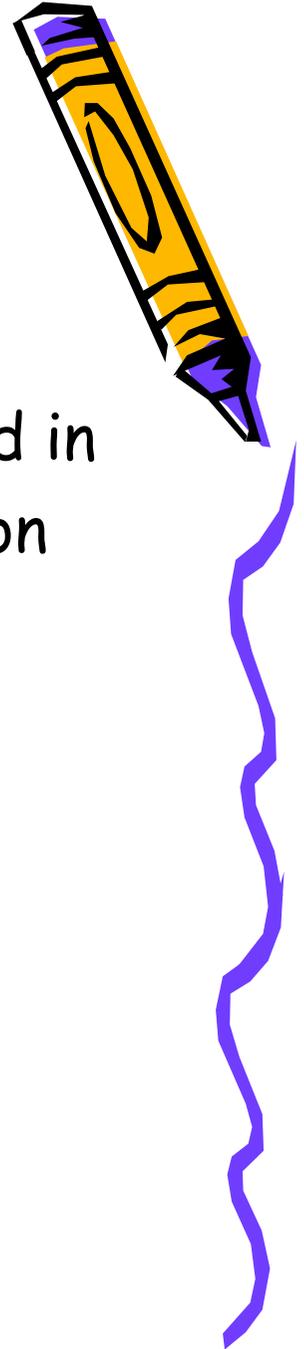
# The Voice of the Child in Family Disputes

Ann O'Kelly, Mediator  
Family Mediation Service, Legal Aid Board.  
Doctoral Fellow,  
UNESCO Child & Family Research Centre, NUI.,  
Galway

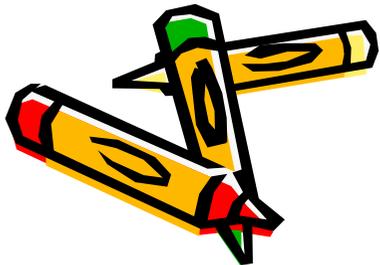


# Overview

- Why it's important to hear the voice of the child in family disputes: the effects of parental conflict on children
- Initiatives that 'scaffold' parents and children
- Children's views on 'having a say'

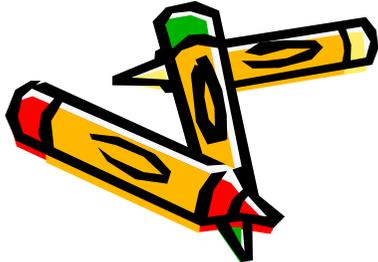
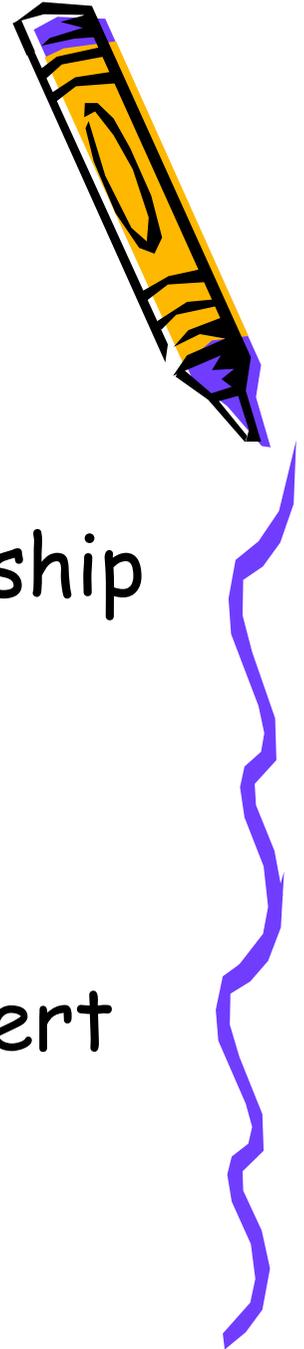


*'Children in all families rely on sensitive parental attention and care for the growth of their wellbeing and sense of self-worth' (Hewlett, 2007)*



# A 'good' Separation/Divorce for Children

- Relieves children of daily stress
- Allows them to have a good relationship with both parents
- Allows them to feel secure with and enjoy both parents
- Safeguards them from overt or covert conflict and or acrimony

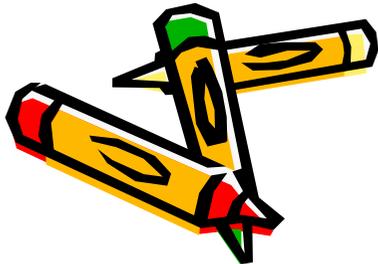


# Children's Responses to Parental Conflict & Separation

Children rarely wish their parents to separate

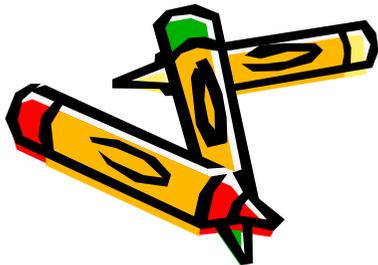
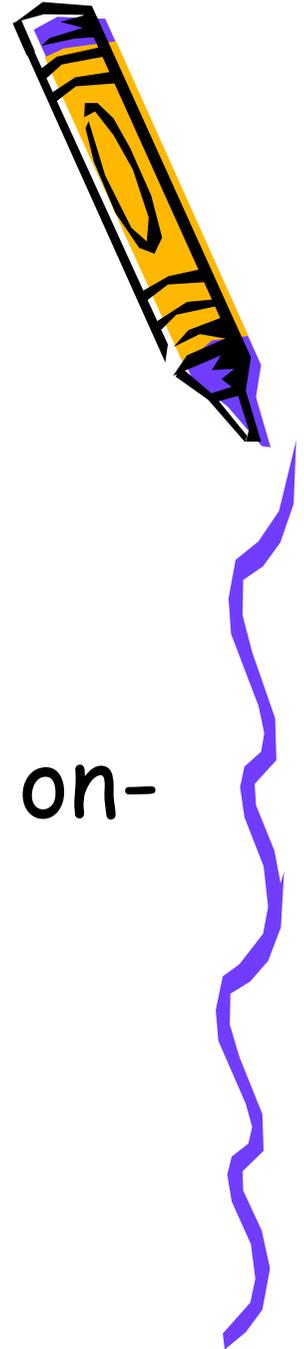
Most experience sadness initially, followed by anxiety, resentment, confusion, loyalty tensions and somatic symptoms

With careful, supportive care, robustness returns

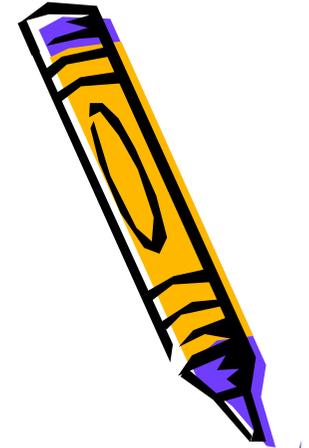


# Risks of Separation and Divorce

- Threat to emotional stability
- Lower standard of living
- The greatest risk results from on-going parental conflict



# The Type of Conflict that Damages

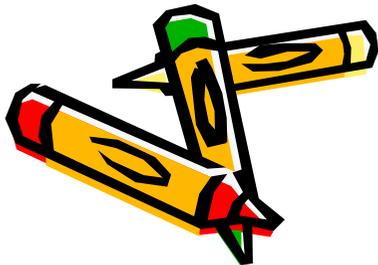
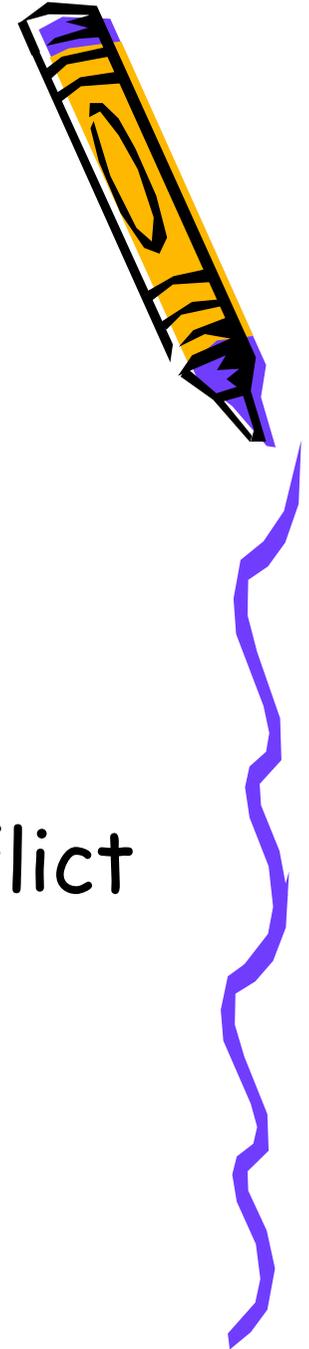


- Significant levels of anger and distrust
- On-going verbal conflict, covert & overt hostility
- Litigation and re-litigation
- Poor communication and conflict over parenting
- On-going negative attitudes towards former spouse/partner
- Lack of support for children's relationship with other parent



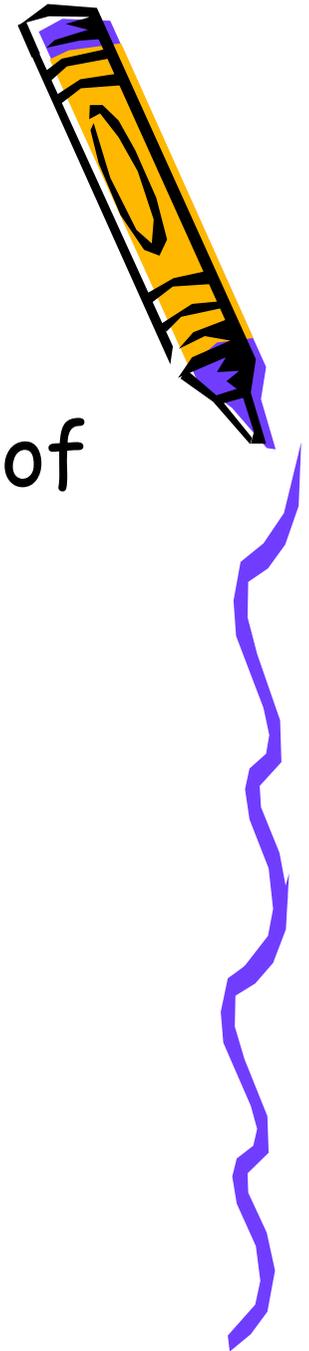
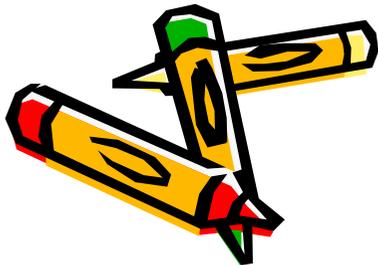
# Effects of On-going Conflict on Children (1)

- Children can suffer the effects of parental conflict in two ways:
  - By directly witnessing it
  - By bearing the brunt of how conflict impacts their parents' emotional availability



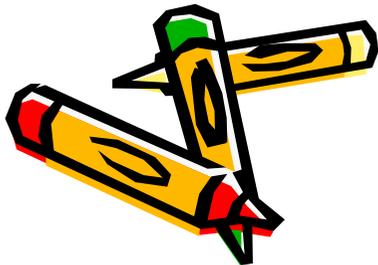
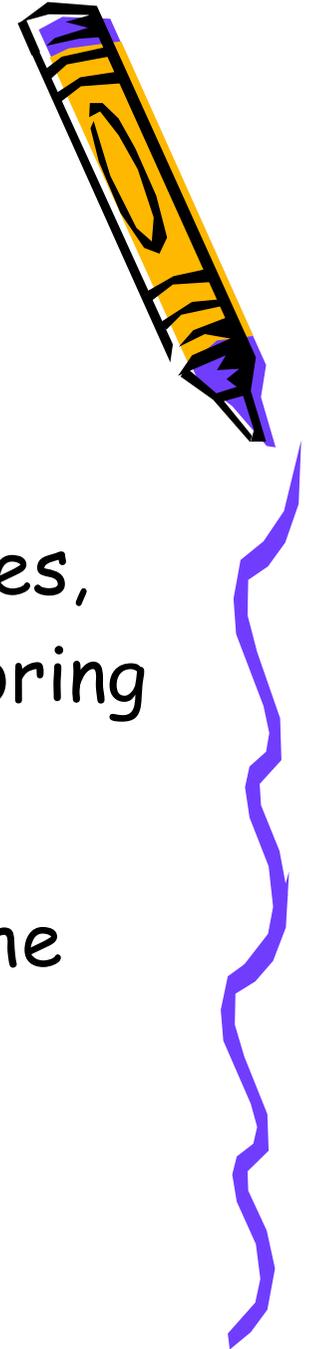
# The Effects of Parental Conflict on Children (2)

- Dependent upon the Age and Stage of the Child's Development
- Infants
- Early Childhood
- Middle Childhood
- Adolescents



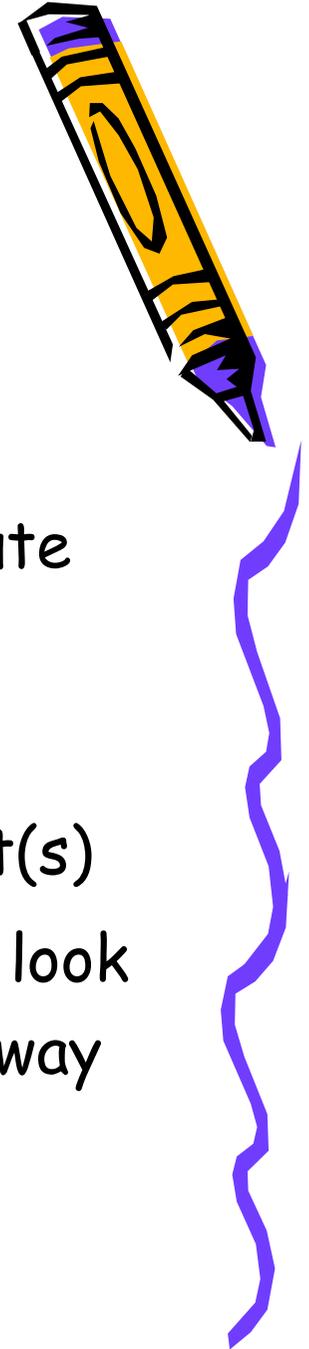
# What helps

- Emotional scaffolding by parents: warmth and responsiveness, consistent rules, routines and expectations, parental monitoring
- Quality of sibling support: reduces the impact of parental conflict



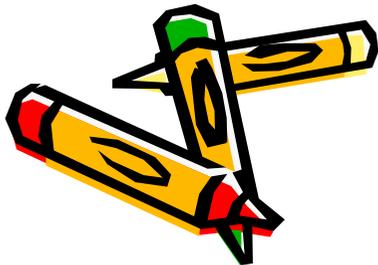
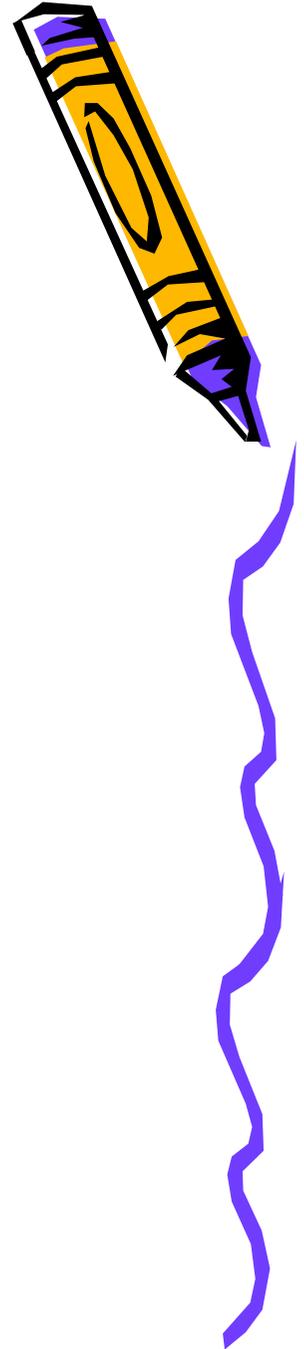
# How Professionals involved with families can 'Scaffold' Parents

- Be mindful of children's needs
- Be aware of the benefits of child-centred dispute resolution, encourage de-escalation of conflict
- Keep up to date on evidence-based practice
- Remember the silent, out of sight 'second' client(s)
- Be wise, don't dismiss children as 'resilient', but look to assisting parents to manage their conflict in a way that will result in resilient outcomes for children

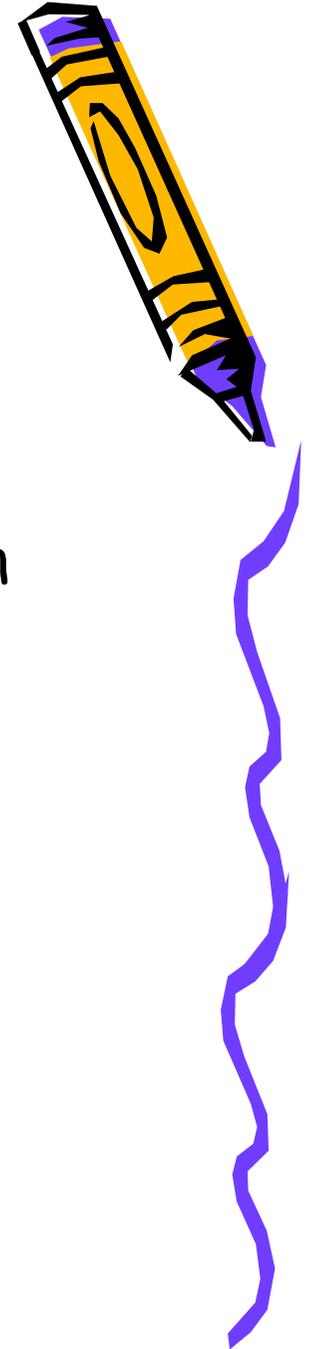


# Initiatives that might 'scaffold' parents and children

- Good solid information
- Parent Education programmes
- Counselling and Mediation



# International Initiatives



## Australia:

- Mandatory mediation - child inclusive mediation
- Education Programmes
- Family Relationship Centres

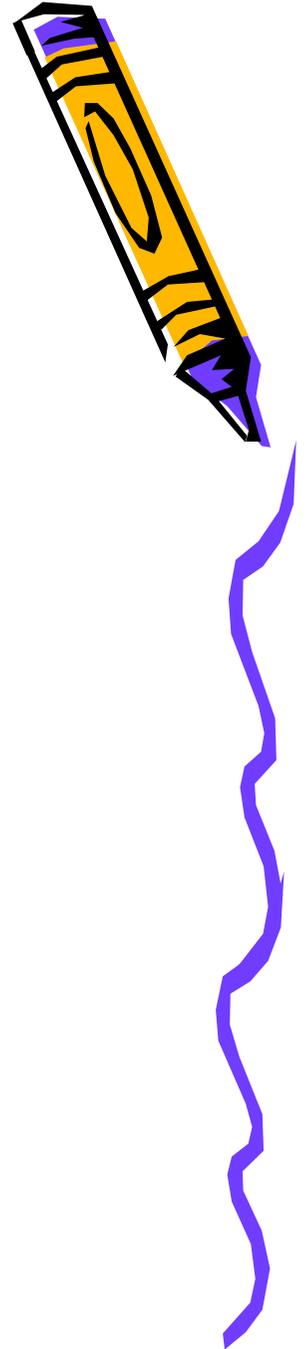
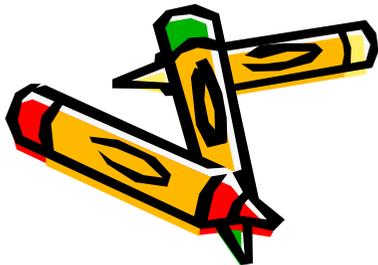
• Court-based Initiatives



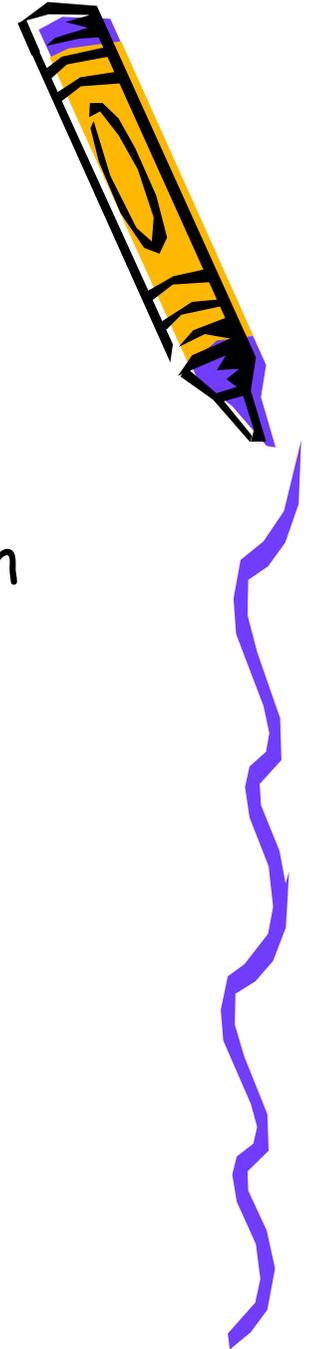
# International Initiatives

## Canada

- Education and therapeutic programmes
- Guidelines for legal practitioners
- Mediation



# International Initiatives

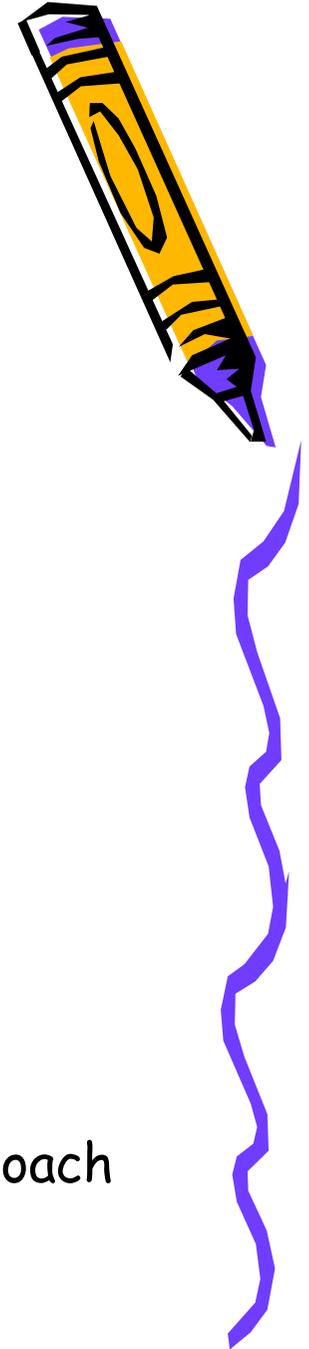


## New Zealand

- Care of Children Act 2008: child participation in counselling, mediation
- Mediation mandatory - child inclusive
- Training provided for family law personnel in children's participation



# International Initiatives



## United Kingdom

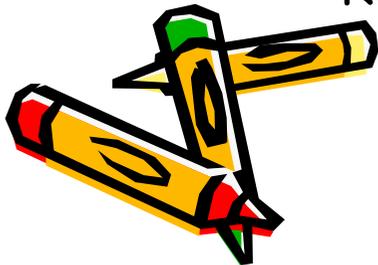
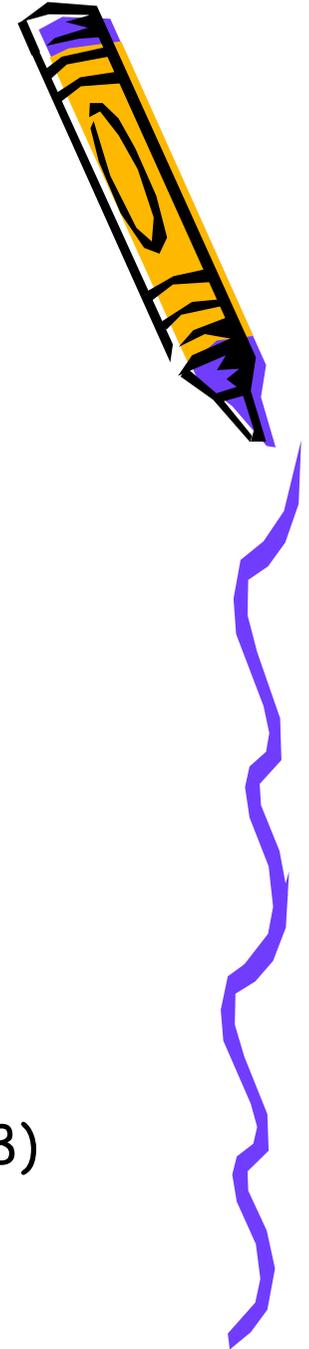
- CAFCASS provides support to children attending court
- Mediation Information & Assessment Meetings (MIAMs)
- Parent Information Programme (PIP) -Children given an opportunity to be consulted
- Family Mediation UK now embracing a developmental approach to Child Inclusive Practice (Walker, 2012)



# How Family Law Professionals can 'scaffold' children

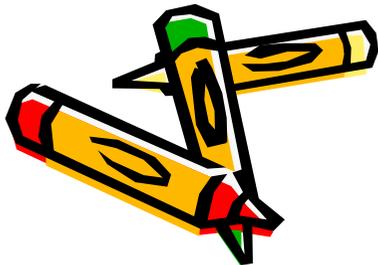
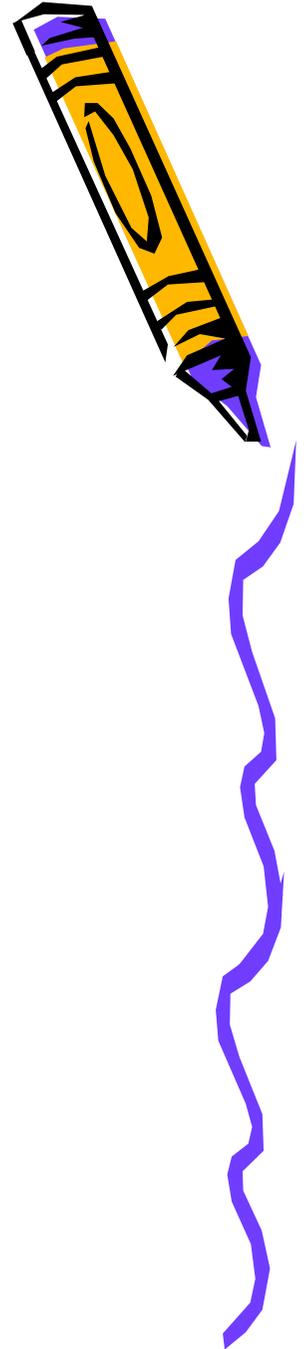
- Acknowledge the impact of separation on children
- Support children and their rights
- Recognise children's evolving capacity
- Give understandable information to children
- Listen to children
- Ensure children's perspectives are considered
- Assure children they are NOT making decisions
- Tell children what happened
- Repeat as necessary!

(IICRD, 2008)



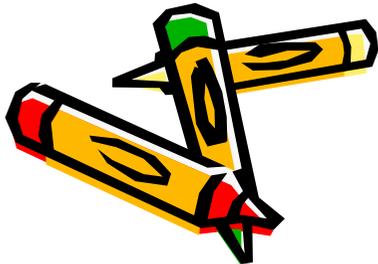
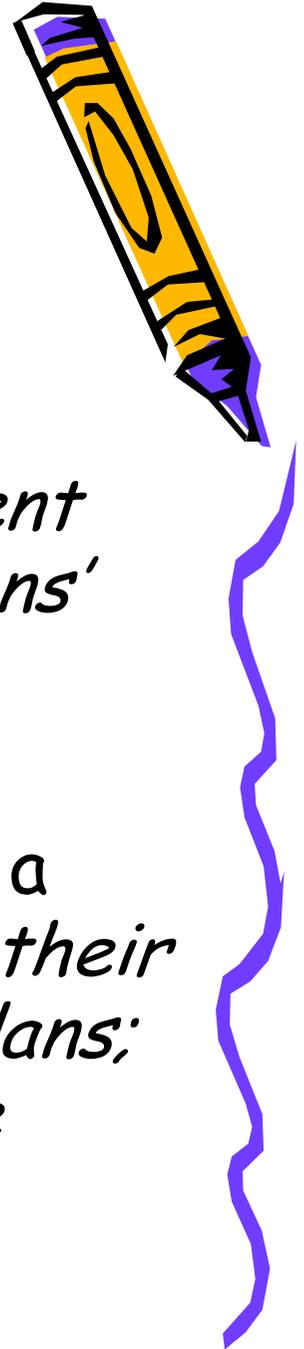
# Child Inclusive Mediation Practice - an example of 'scaffolding'

- Child Inclusive Mediation is designed to impact psychological adjustment and family re-organisation following conflict, separation and or divorce

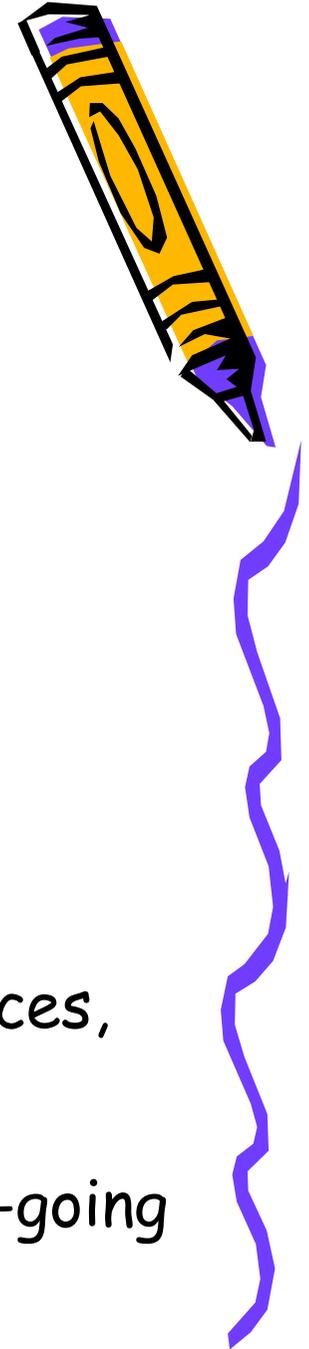


# Child Inclusive Practice

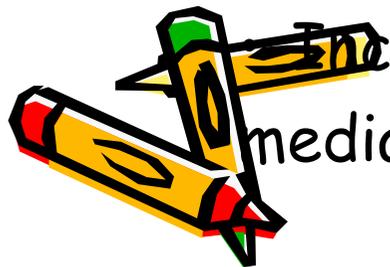
- A targeted intervention aimed at '*the factors that protect children's development from parental conflict and its ramifications*'
- It is used as part of the parents' dispute resolution process
- Children are interviewed separately with a focus on: *their attachment relationships; their parents' separation and conflict; future plans; their thoughts and needs in light of these*



# The process of Child Inclusive Practice



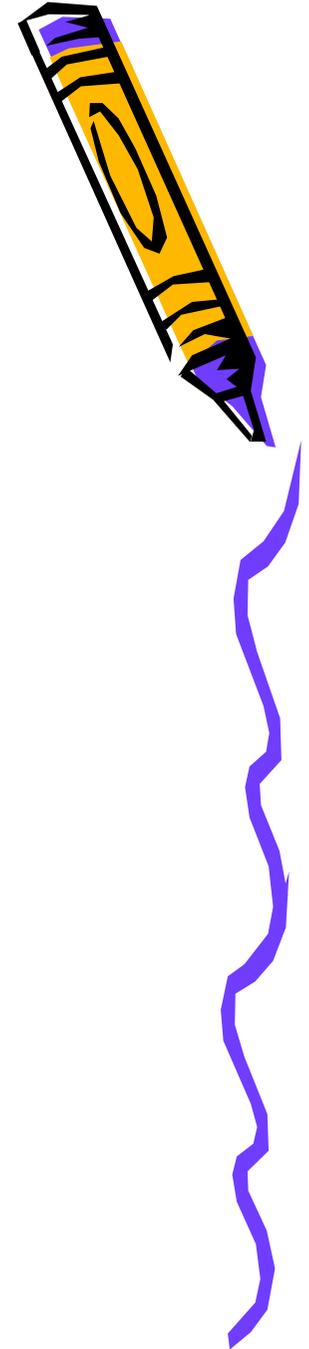
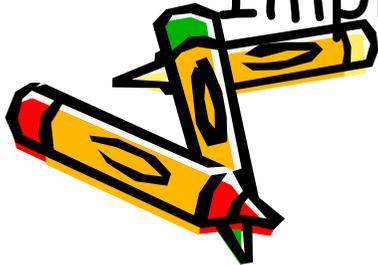
- Three main components:
  - Parental assessment and preparation
  - The Child Interview
  - Feedback to parents
  - **Additional Components:**
    - Recommendation for referral to other services, if necessary



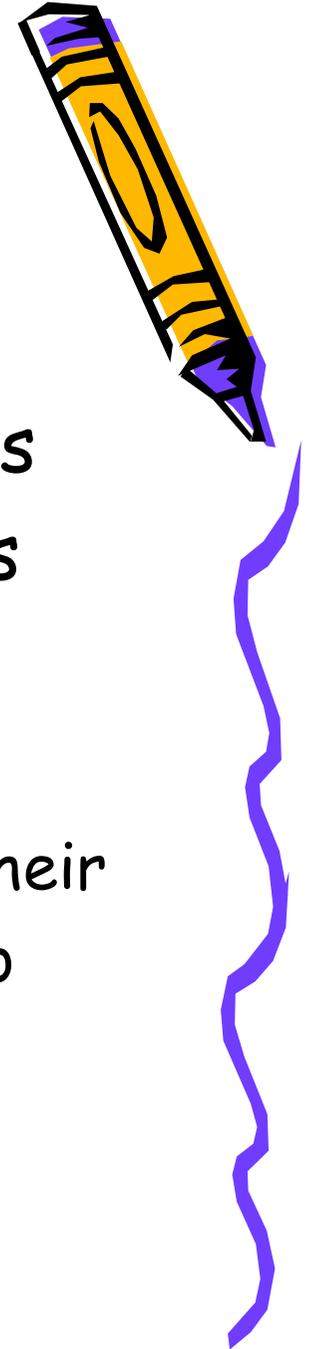
Incorporation of children's concerns into on-going mediation

# Outcomes of Child Inclusive Mediation

- Children have their voices heard
- Improved parenting alliances
- Reduced conflict
- More sustainable parenting arrangements
- Improved father involvement

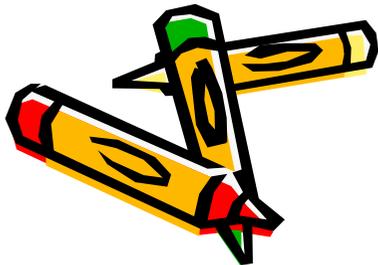


# What Children have said about 'having a say'



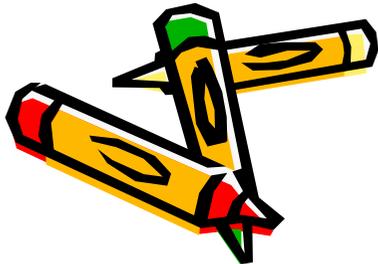
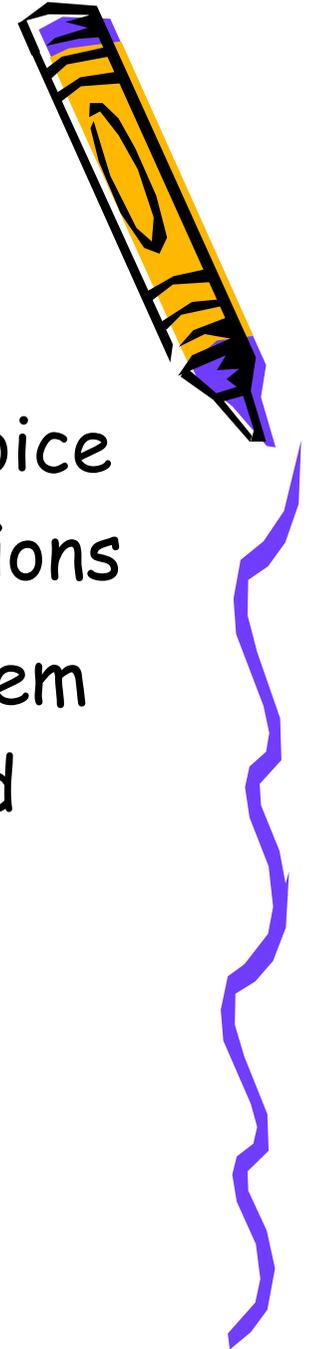
Qualitative research with children on this topic has been undertaken in past 20 years

Has explored children's feelings, adjustment, parenting plans, their participation in decisions, their involvement with professionals and their advice to parents and children (Birnbaum & Sanni, (2013)

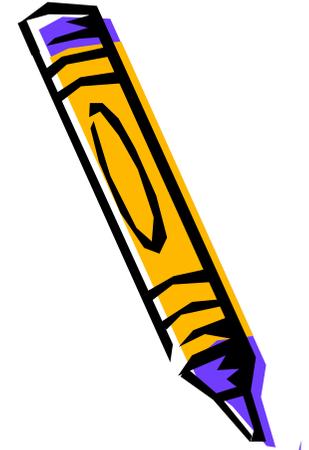


# Children's views.... A summary

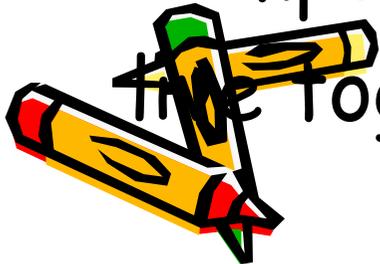
- Children know the difference between voice and choice - prefer parents to make decisions
- Children want their parents to talk to them about their separation, many surprised and saddened by separation - a minority were relieved
- Parents should not involve their children



# Children's views.... A summary



- Parenting plans were often inflexible and challenging
- Many children felt the need to be 'fair' to parents
- Important for children that siblings tie together.



# Challenges associated with child-focused and inclusive work

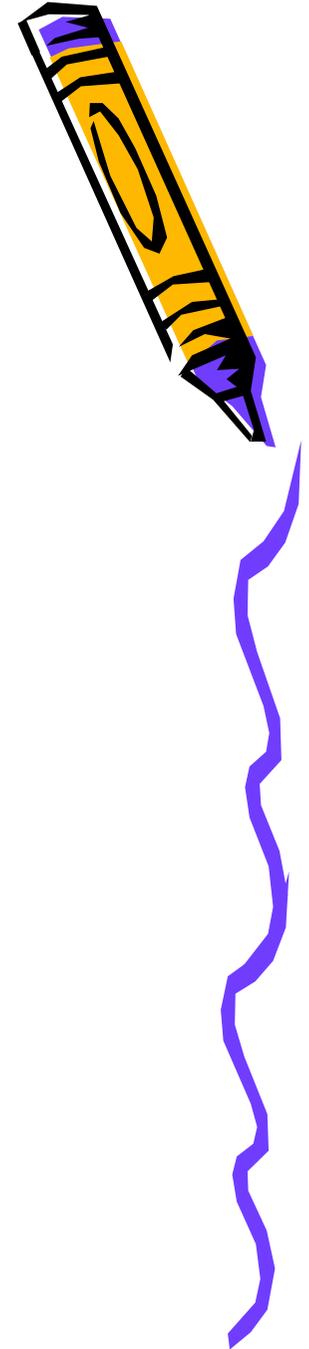


Occur at individual and organisational level

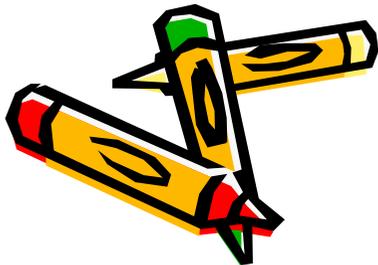
- Protection versus participation, views on capacity
- Attitudes to children - rights bearers or 'becomings'
- Ethical considerations
- Providing the right environment physically and in the culture of the organisation
- Providing support for workers - good governance, policies, procedures, training and supervision



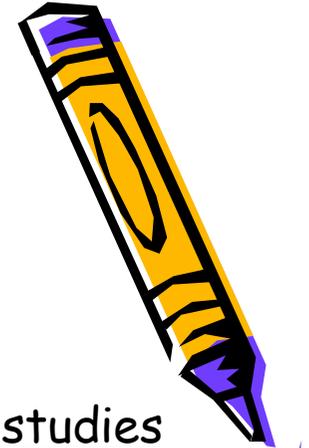
# Despite the challenges...



- 'Having a Say' means
  - 'feeling acknowledged and listened to.'
- Do we have a choice?



# References



- Birnbaum, R. & Sanni, M., (2013) A scoping review of qualitative studies about children experiencing parental separation *Childhood*, (20) pp 260-282.
- Cummings, E.M. & Davies, P (1994) *Children and marital conflict: the impact of family disputes and resolution*. New York: Guilford Press.
- Hewlett, W., (2007) Accessing the Parental Mind through the Heart: A Case Study of Child Inclusive Mediation *Journal of Family Studies* (13) pp94-103.
- Johnston, J., Roseby, V. & Kuehnle, K. (2009) *In the Name of the Child - a developmental approach to understanding and helping children of conflicted and violent divorce*. New York: Springer Publishing.



# References

- International Institute for Child Rights and Development & the Law Foundation of British Columbia (2008) *Ten Tips for Legal Professionals: Meaningful Child Participation in Family Justice Processes*. University of Victoria, British Columbia.
- McIntosh, J.E., (2007) *Child inclusion as a principle and as evidence-based practice: Applications to family law and related sectors*. Australian Family Relationship Clearinghouse: Institute of family Studies.
- McIntosh, J.E., (2009) *Children's responses to divorce and parental conflict: A Brief Guide for Family Lawyers*. Paper presented to the Family Law Education Reform Project and the American Family Court Conference.

