Making contact: dilemmas of entitlement in written child contact negotiations

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Making Contact: Dilemmas of entitlement in written child contact negotiations.

By

Sue Becker.

A doctoral thesis submitted in part fulfillment of the requirements of the award of Doctor of Philosophy of Loughborough University.
Making Contact: Dilemmas of entitlement in written child contact negotiations.

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Abstract.

The thesis explores the dilemmas faced by parents and their representatives in conducting child contact negotiations through letters. These institutional letters are explored using discursive analysis to illustrate the ways in which entitlement to contact claims by the non-resident parent and other family members are worked up and resisted. Features of footing are analysed to show how issues of interest and accountability are managed. A discursive psychological approach is used to explore the notion of "understanding" in language and interaction.
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To those parents and professionals who granted me access to their letters and have been very patient in waiting for their return.

To my kids who now hardly recognize me.

To my mum and dad who also hardly recognize me anymore and who have felt like they’ve had a second litter for the last few weeks.

To all the others who’ve passed through the postgraduate experience whilst I’ve been around, cheers to those who made me laugh and gave me their friendship. To those who brought me to tears........
1. Introduction

1.1 The Big Picture

Before this thesis delves into the minutiae of literature reviews, methodology and analysis, it seems appropriate to present a broader gloss on the phenomenon of child contact. This gloss will reflect the extent of and implications for the families that child contact issues affect. To do this, a number of questions need to be raised:

What is child contact negotiation?

How many families does this affect?

What are the practicalities of child contact negotiation?

Watch any daytime talk show; listen to any radio phone in, read any glossy magazine and the high divorce rate amongst British couples will eventually be raised as a topic of discussion and concern. In addition, the related issues of single parenting and contested parentage also raise questions of who sees the children, when, where and for how long?

For many couples, divorce entails not only the messy and sometimes painful separation of partners and partnership assets, but also some consideration of the shape and new structure of the now fractured family unit. The agreement over arrangements for parenting to continue and for children to spend time with both parents is often the most lengthy, complex and difficult area of dispute for separated parents to resolve.
To get an idea of the extent of this issue figures from the office of National Statistics, show that in 2000 there were 147,000 divorces in England and Wales in which the families had children under 16. That figure equates to 150,000 children and young people involved or witnessing their parents deciding when and how their time will be spent with either parent. Of those children, 70% were under 10 years old, the age at which the Family Court considers that they are able to begin to make an informed and valued contribution to contact arrangements. Whilst these figures may be sufficiently large to warrant research in their own right, they do not include children whose parents separated from common law marriages or fleeting maybe even casual relationships.

Many parents do resolve contact arrangements informally and in recent years there has been a push towards encouraging couples to avoid litigation by using the services of family mediation. There are still a large number of families for whom the court process is the only way of providing resolution. Reasons for court and solicitor involvement vary, but would appear to centre around relationship difficulties and on going bitterness between parents. At the extreme end of this spectrum, cases involve domestic violence. These disputes often involve requests for the absent parent to have limited or supervised contact with the children or being denied any contact. Figures for 2001 indicate that that the Family Court saw 55,050 contested cases (Lord Chancellor's Dept, 2001). Of these, only 713 resulted in "no contact orders", the remainder being resolved with court imposed and enforced patterns of contact which carry with them punitive sanctions for parents who breach orders.
To get a clearer picture of the number of children involved in child contact disputes which can not be amicably resolved it is worth considering the caseload of the body which represents and recommends contact arrangements on behalf of the Family Court. CAFCASS (The Child & Family Court Advisory & Support Service) was formed in 2000, merging two separate groups of professionals. Prior to this, the Family Court used the services of a specialist division of the Probation Service, called the Court Welfare Service, whose officers were trained to provide reports and recommendations for contact in disputed cases. CAFCASS incorporated these officers with the previously independent body of the Guardians ad Litem, who represent the interests of children involved in adoption, fostering or care orders. Figures from the Annual Report issued by CAFCASS in 2002 indicate that between April 2001 and March 2002, 34,761 requests were made for the services of Court Welfare Officers. It is not clear from these statistics the number of children this relates to, but indicates the number of families for whom other routes to resolution were impossible or impractical.

What is the experience of parents involved in disputed negotiations? In order to provide an illustration of the kinds of ongoing behaviours which make mediator-based negotiations impractical, the extract below is taken from a statement given to the court by one of the parents whose letters have been used in this study. The account describes events after separation, during the process of child contact negotiation and which form part of the application for "no contact" which the family court must consider.
(i) On 27th March the respondent threatened to torch my house with myself and the children in the property. Also, the respondent slapped D. in the face. This was witnessed by the other children.

(ii) On 14th April the respondent said that if he was sent to prison he would put my windows through and that it "would only take a phone call."

(iii) The respondent was convicted at N Crown Court for a serious assault upon his previous girlfriend.

(iv) On 7th May the respondent was convicted in the M Magistrates Court of occasioning Actual Bodily Harm upon myself. He received 120 hours of community service. I admit that I filed a statement with the prosecution wishing to withdraw proceedings as I was fearful of the respondents obsessive behaviour and that if I proceeded with the prosecution that I would make matters worse for myself.

(v) Shortly after leaving the Court House on 7th May the respondent came to my house and referred to me as a "witch" and a "whore". He threatened my friend R. He stated that he would be seeking a custody order in respect of J. Later that night (9:50p.m.), he came to my property and asked to talk to J.

(vi) On 12th May I believe the respondent threw a concrete planter through my kitchen window. I also believe he turned our water supply off. This left myself and the children without washing or heating facilities for the following day.

The extract above is included only to illustrate the messy complexities of relationship break down which make family mediation and face-to-face negotiation impractical for some former couples. One question that may raise itself is "does it matter?" Are the arguments and contested accounts which make up the data for this thesis simply legally framed mandate for trouble causing as former partners move and form new families? From the extract above it is evident that for some parents, the difficulties of arranging contact go beyond timetabling and inconveniences.
1.2. The Research

Although the extract above is used in the thesis for illustration rather than analysis it reflects the experiences of women fighting contact orders which lead to this research. Although divorced from the father of my own children, he neither sought nor tried to have any contact with them in the intervening seven years. Despite repeated attempts to make contact, the children have received no written, verbal or physical contact from him. The emotional toll of having to provide reassurance to children questioning why their father does not respond to their letters and cards, especially at difficult times for example “Father’s Day,” has been a feature of my own experience of post divorce parenting. In spite of this, from engagement with other parents, it appears to be a position which is somewhat enviable. The notion that a lack of contact provides for a stable environment for the child, free from argument, recrimination and inconvenience, is one which has been presented to me by mothers who see the contact process as providing a legally mandated forum for further harassment and interference by their former partners.

This lack of conflict and argument, of which other parents appear envious, provided an initial interest in the stories and experiences recounted to me as a contrast to my relatively fortunate position. From my experience, an absence of paternal involvement has always been a source of concern, both for myself and my children. The potential benefit of having my children’s father involved in their lives was in some ways an idealized vision of not having to shoulder the responsibility for caring, worrying, disciplining and making their lives enjoyable all on my own. For my children, the problems and issues that not having contact with their father raised became apparent at
times when having a mother and other extended family members was not quite enough to fill the father-shaped void in their lives. The most memorable example of this being when I collected my tearful five year old from school to discover that the source of his distress came from his feeling unable to join in making father's day cards as he had no father he could to send one to.

In July 2000, I was approached by a contact from a local Women's Centre. A woman who lived a few doors away from me had fled her home and needed informal support in pursuing a previous injunction and returning to her former home. In the months that followed I became involved in providing this informal support during her struggle to prevent contact between her former partner and their child. Over the next few months I attended meetings with solicitors and barristers and accompanied her to family court hearings. The informal support I provided to this particular mother took many forms, from being present in pre-hearing conferences between the mother and her barrister to providing the only physical barrier between the mother and her former partner during his attempts to harass and intimidate her.

An insight into the experiences which can sometimes occur during difficult negotiations and in particular the ways in which arguments and conflicts over contact can spill over into daily life, can be seen below in an extract from this mother's statement.

(v) Shortly after leaving the Court House on 7th May the respondent came to my house and referred to me as a "witch" and a "whore". He threatened my friend R. He stated that he would be seeking a custody order in respect of J. Later that night (9:50 p.m.), he came to my property and asked to talk to J.
It was the sense of frustration and powerlessness that many parents spoke of in our informal chats that was the motivation to look in detail at what happens during the process of contact negotiations and in particular at those negotiations where parents appeared to be polarized in their positions and arguments.

The research process to get from initial interest to completed thesis is a long one and throughout the last four years, my research focus has gradually shifted. The focus on those parents, who had experienced violence and intimidation both in their former relationships and during child contact negotiation, became an obstacle to the research process rather than a central interest. Hostility and suspicion from gatekeepers and professionals within the social work field made access to institutional mediation material impossible. Inevitably, the focus of this thesis has shifted away from domestic violence as a central issue. This decision has been a pragmatic one, as continued animosity and obstruction from both professionals and voluntary groups became a source of personal crisis, leading a lack of motivation and self confidence in my ability to pursue my original research goals. By stepping back and in a sense putting aside the ideological baggage I came to this research carrying, the decision was made to look at child contact negotiation from an ethnomethodological standpoint.
1.3. The Process

This research does not only have a social psychological or sociological framework against which to locate itself, but also a socio-legal context out of which child contact is legislated, encouraged and, at times, enforced. In terms of the questions asked in this thesis and the themes which will be explored in later chapters, a brief outline of this socio-legal context is necessary to identify the structures and parameters under which participants in child contact negotiations interact and their relative duties and responsibilities. The key legislation with regard to child contact is the Children's Act (1989) and Family Law Act (1996). The Family Law Act (1996) Ss 4 (c I) states “the welfare of the child is best served by” regular contact with both parents. As part of the settlement process, couples in dispute over child contact arrangements proceed through several stages and options for negotiation. Although there has been a move to encourage couples to seek family mediation as an alternative to the court process, a service now offered by both family mediation services and specialist firms of solicitors, this thesis approaches those instances of child contact negotiation in which face to face negotiation is either impractical or impossible. In these situations, child contact arrangements are negotiated through the parents' solicitors. Any communication between parents is performed via letters written by their solicitors on their behalf. Although these letters pass between solicitors, parents receive copies and the contents of letters are the mediated accounts, complaints and responses of the parents' own experiences.
The practice of writing these letters is not one for which there are firm guidelines. Legal practice handbooks provide specimen copies of standard templates for requesting Family Court Hearings, making applications for Legal Aid on behalf of the client and drawing up service contracts between solicitor and client (Harper, Woelke & Baldwin, 2001). The everyday business of child contact negotiation of the type found in the case files which form the data corpus on which this thesis is based are not apparent as standard legal templates. This absence in teaching and guidance texts means is that there are no hard guidelines or templates for crafting the detailed complaints found in the letters under analysis. The analysis of these letters may provide not only an understanding of child contact negotiations but the practices evident in this form of letter writing and a standard yet unremarked on format which this type of communication uses.

With the introduction of the Children's Act (1989), there has been a change in the terminology used to describe this practice within the statutes, from “access” to “contact”. This language change has received relatively little attention in child contact literature. There would appear to be two main interpretations of this shift from “access” to “contact”. Neale, (2002) comments on the change in terminology as marking a shift in the direction of responsibility for pursuing and maintaining contact between child and parent. It is Neale's position that, unlike the term “access”, the term “contact” lays down a direction of activity from parent to child and indicates that interaction between the non custodial parent and child is a duty and responsibility rather than a right. Although this is not an argument central to Neale’s work on child contact, it is used to illustrate a shift in the paradigm of child contact provision.
The discursive features and category bound activities which the terms "access" and "contact" invoke are not unpacked. Neale's interest here is not in linguistics but in policy changes and therefore a discursive account is not relevant to the thrust of Neale's argument. It would appear to be enough that Neale's interpretation of the change in terminology is in line with wider changes in policy and Neale treats the analysis of the change in these key terms as an artefact of the shift towards a "child-centred" policy.

An alternative interpretation of the change in terminology is given by Bell (2001). Bell views the change from "access" to "contact" in the context of the sociology of the family and sees this as an ideological shift and repositioning of children from being a partnership asset, to individuals with whose care the family is charged. Whilst these interpretations attend to ideological and sociological theories of the family, power and social structure, again they do not attend to the business of this language shift, this again being outside of the theoretical paradigm that Bell inhabits.

In terms of the interests of this thesis, this language change may indicate a shift in the business of child contact negotiation. Whilst Neale (2002) and Bell (2001) focus on the ideological implications of the introduction of the term "contact", taking a discursive approach, the category bound activities which these terms invoke can offer an additional understanding of the business which this language change accomplishes. The ideal analysis would be from uses of these terms as they arise in legal and everyday use and as such form the content of another thesis. For the purposes of this introduction, a brief illustration of the potential scope of this kind of analysis will be used to indicate the interests of this thesis.
The term "contact" can be seen as a minimal accounting device, the quality or scope of interaction between non custodial parent and child being undefined except in exceptionally minimal terms. An interesting alternative reading of this shift is to look at the connotations of both old and new terms. The connotations of "contact", with its use to construct accounts involving a range of perceived negative behaviours and attributions, for example sexual contact and the use of "contact" as descriptions of potentially infected sexual partners in the reporting of sexually transmitted disease or narratives of "contact" with aliens, would perhaps not make this an ideal choice of term what the ideal model of post divorce parenting. The connotations of intimacy that "contact" brings are not those which sit easily with idealised models of parent child interaction. The term does however, have a basic component of intimacy which "access" does not. The connotations and use of access raise a principle rather than a course of action that is talk of "access" to the countryside or to higher education is to talk of the potential for engagement rather than of the business of becoming involved with what are essentially institutions and socially constructed environments, rather than persons.

1.4. The Particular Approach

Let us go then, you and I,
When the evening is spread out against the sky
Like a patient etherized upon a table;
Let us go, through certain half-deserted streets,
The muttering retreats
Of restless nights in one-night cheap hotels
And sawdust restaurants with oyster shells:
Streets that follow like a tedious argument
Of insidious intent
To lead you to an overwhelming question . . .
Oh, do not ask, 'What is it?'
Let us go and make our visit.
What does this quote from T. S. Eliot accomplish, being here at the beginning of a thesis looking at the process of child contact negotiation? What is it and why is it here?

It is in fact the key to understanding the particular approach which this thesis will take to exploring child negotiations. In contrast to other approaches which will be engaged with later in this section, the focus of this thesis is to ask the types of question which other literature on child contact avoids and skirts around in a quest to form patterns and findings which can find a place in the structure of social science research. These patterns and findings begin with the premise that what is being looked at is already "known", whether as a variable or as theme for analysis. Within the literature on child contact those "knowns", would appear to include “the parent”, “the child” and “contact”. In terms of this thesis, this would mean asking questions about the process of child contact as a straightforward practice. What this thesis will explore involves asking questions about what parents, solicitors and children understand and work up as instances of “child contact” and the ways in which these formulations can inform and invoke understandings of not only what constitutes child contact but also understandings of childhood and parenting as socially constructed practices. As Pollner (1987) points out, it is only when there is conflict or confusion over versions of “reality”, whether traffic violations or child contact, that it is possible to unpack assumptions and unravel those seemingly solid notions on which we build versions of “reality”. 
So how to understand the way in which T. S. Eliot and the musings of J. Alfred Prufrock guide this particular work? On first reading, the musings of a middle aged man wandering through a seedy district would not appear to echo the process of child contact negotiation. However, the appeal to look and experience at what is encountered rather than work from proscribed assumptions of the shape of findings is what this thesis will attempt to do. The only move away from the vision of Prufrock, is that this thesis will try to ask the question "what is it?" This will be asked not as a disengaged philosophic exercise but as part of the process of trying to address the business of child contact negotiation and the management of accountability and motivation for which accounts and versions of child contact experience are produced. Sacks (1961), talks of the work of the lawyer as taking the messy complexities of everyday life and personal experience and formulating them into accounts that fulfill the requirements of the legal process and make the judicial decision making process possible. The process of child contact negotiation similarly is framed by the production of accounts, whether in management of complaints, offers, refusals or acceptances. The production of these accounts is managed through interaction between parent and solicitor. In common with other legal arenas, parents narratives are reformulated by solicitors to produce accounts which are tailored to the legal decision making process and the statutory requirements of The Children's Act 1989.

Within the context of child contact negotiation, the outcome of this production of accounts is to enable the judicial decision making process with regard to invoking the "Paramountcy Principle". (White, Carr & Lowe, 1990). This states that the "best interests" of the child should come before any other
factors, including parental wishes, in making decisions as to contact arrangements. What is in dispute in these negotiations is not contact but that contact should be in "the best interests of child" and not the parent. It is these claims and counter claims as to the quality and degree of contact between the child and the non custodial parent which are up for grabs and liable to be up for argument. This is the conflict which is of interest to this thesis and the ways in which these conflicting accounts build from a premise that the nature of child contact is something understood by all parties. In trying to see how these agreed understandings are formulated and reworked by parents and professionals, the aim of later analytic chapters is to see where and in what ways knowledge and categories are invoked to produce accounts which enable parents to argue cases for and against contact between the non custodial parent and child. The relationship between the law and legal professionals, mediators and parents involved in the process of child contact negotiations can be viewed as a mutually sustaining partnership which gives structure and focus to the turmoil of relationship breakdown and the establishment of the new patterns of relationships on which family members are embarking.

With this basis, the overarching question which this thesis will try to explore is, this: In what ways can the extreme positions of parents involved in contact disputes be managed in order to reach some outcome in which the relative positions of the parents can be brought together?

The literature review will deal with key areas of research, in particular that of social work centred literature, and review in more depth, examples of recent studies which provide the theoretical framework against which this
research argues and to which it aligns itself. The decision to focus on social work centred literature comes from the predominant focus of the literature itself. The literature review will address three major strands of research into child contact. Those areas are the literature of “effects”, qualitative work on the “experiences” of child contact and discursive work on the “discourses” of contact.

1.5. “Contact” as a variable in child development

Relationship break-up and the division of partnership matters form a complex and often distressing process for all family members. In contrast to the division of property and assets, however, child contact arrangements are often an ongoing source of dispute and re-negotiation (Pryor & Rogers, 2001). The process may continue long after the parents have ended their own relationship and entered into other familial relationships (Edwards, 2002). Indeed, decisions and orders made in the process of child contact negotiation are viewed as being at best interim measures dependent on issues and circumstances which may be subject to change as the children grow and develop (Pryor & Richards, 2001).

Much of the traditional social psychological literature on child contact begins with the notion that “contact” is a stable concept. This allows for “contact” to be quantified, measured and modelled as a variable and a factor in measures of the psychological development of children being raised in families where one parent is absent (Furstenberg, Morgan & Allison, 1987). This approach produces an account of contact as a social practice which has consequences for the child’s future development. It is in the long
term implications of contact or the lack of it, where this literature locates itself. As such, the meanings and experiences of contact for children and parents can be managed as being of only indirect relevance to the production of formula for the psychological and emotional development of children whose parents live apart.

This longitudinal approach takes the perspective that the experiences of the child will inexorably influence the adult it will eventually become. By taking measures of self-esteem and satisfaction in late teens and early adulthood, childhood experience can be extrapolated from adult understandings of childhood and the psychology of development (Woodhead, 2003). This approach, with its theoretical heritage located in a traditional approach to child development where features of development, for example self-esteem and academic achievement can be measured normative standards according to the stage models of against which individual children or particular groups can be measured and compared. This comparative process works to produce an outcome in which contact or the absence of contact can be manipulated as a variable in child development (King & Heard, 1999).

The above mentioned study is an example of this strand of literature in which child contact is unpacked into particular variables including maternal satisfaction, amount of contact and parental conflict in order to measure these against a measure of “child well-being” (King & Heard, 1999). The ways in which these variables are constructed are worthy of further scrutiny. In terms of child well-being, this is calculated from parental perceptions of child behaviour and problems with no mention of the child’s perceptions of their own behaviour and problems. Aside from this, the alpha reliability ratings
reported in this study, which are a quantitative measure of reliability, raise questions as to whether the measures used match the proposed outcomes they generate. The alpha indicates only moderate reliability (for example Adjustment average 10 items, alpha= 0.69, King & Heard, 1999), that is the questionnaires used may not be effectively capturing or measuring the child's "well-being" at all. These measures of child well being are drawn from adult sources, either those of parents views or reports of misbehaviour in the school environment. The child itself and the child's view of their own well-being is absent from the calculation. Indeed, King and Heard find no direct relationship between the amount of contact, parental conflict and the child's well-being.

The approach taken by King and Heard (1999), typifies the larger body of literature in which this study is located. Contact is seen within this field as being one factor in child development which can compared to other factors to measure its relative importance as a factor in adjustment and well-being (see also Amato & Keith, 1991, Buchanan, Maccoby & Dornbusch, 1991, Donnelly & Finkelhar, 1992). The major studies in this area of quantitative research into child contact come from North American research and in some ways mirror the North American practice of contact negotiation which is based around a scientific approach to decision making in which children and parents are likely to undergo not only social work based but also psychological evaluations (Gould, 1998, Galatzer-Levy & Kraus, 1999). The endpoint of this approach is try to provide a clear picture of the impact of child contact on the child's social and academic development. The difficulty of isolating contact as a variable and unpacking the effects of contact or indeed of a lack of contact can be
seen in the absence of clear findings which have emerged from this literature (Bauserman, 2002). Studies, including those already cited, present contradictory findings and the variety of individual arrangements for contact by families often complicates direct comparisons between families and contact styles (Glover & Steele, 1989).

That the process of psychosocial development can be tracked and measured against normative plateaux has been questioned. This has lead to concern for the potential for the erosion of children's rights as they appear to be represented as "less-than adults" in the process of becoming adult rather than being measured in their own terms, as children. In particular in the writing and reporting of child sexual abuse, children appear to become stripped of individual identity and gender to become iconic forms for the production of accounts of adult psychopathology (Saunders & Goddard, 2003). This dilemma between adult and childhood experience is at the heart of both child contact literature and this thesis. Although major changes have occurred over the last three years within specialist agencies, with the proclamation that the process of child contact negotiation is now becoming "child-centred", how sure is our understanding of what constitutes childhood? Indeed, concern and uncertainty amongst professionals in this area, that is Court Welfare Officers, has been linked to a "diversity and lack of consensus about how to be a parent" (Pollard, 1999, p 24). One of the questions this raises is how sure can any conclusions be when the basic concepts on which they are founded, that is parenting and childhood, appear to be themselves a source of uncertainty and open to question?
Although this strand of literature may appear to be unified by a quantitative methodology, this is not the case. The focus of this literature is the modelling of patterns to construct stable accounts of contact types, an approach which appears to cut across methodological and analytic boundaries. An interesting example of this approach in qualitative research is the thematic analysis of interview material to build a structured map of contact types and subtypes.

The formulation of “contact” types has been worked up from definitions of “working” and not “working’ contact (Trinder, Bleek & Connolly, 2002). These categories are loose terms to organise individual family experiences into patterns which can be extrapolated to produce a general picture of “types” of post divorce parenting arrangements. The production of these “types” is based on the thematic analysis of semi-structured interview material with participant families. The interview data generates narratives of family experiences of contact from which are extrapolated “umbrella” groupings, “consensual committed”, “faltering” and “conflicted” (Trinder, Beek & Connelly, 2002). These umbrella groups are in turn broken down into sub types and what is produced is an account of contact as a web of described behaviours, for example “rejected retreaters” and “flexible bridgers”. These descriptive categories are produced not to capture meaning or experience but rather to provide a structure in which the complexities of parental narratives can be reduced and slotted. The framework of contact types enables the location of family problems and conflicts within and across categories, providing a way of identifying those families who are experiencing or who are likely to experience difficulties (Trinder, Beek & Connelly, 2002a, Trinder, Beek & Connelly, 2002b).
The endpoint of this analysis, the methodology of which is loosely defined and apparently inductive, is to establish a pattern of “types” of contact arrangement with their attendant “subtypes” which can be used to produce strategies for institutional intervention rather than a representation of parental experiences. This approach also provides a strategy for accounting for the variability in contact. The construction of a web of contact groupings and subtypes enables a messy and complicated area to be defined and delineated. This process of labelling and defining in order to set the scope for practices and project funding is familiar within social work and medical fields as enabling target setting practices and specific interventions. By identifying and organising family experiences into types, areas of potential under investigation may be identified and funding targeted towards those families who appear to fall into particular categories.

1.6. “Contact” as a qualitative theme

A growing body of qualitative work in this area focuses on the “experiences” of parents and children in post divorce. In order to examine and engage with this literature, the initial question to ask is how does this research define experience? This strand of literature is relatively small and has grown during the past few years. Many of the studies are located a narrow range of journals, in particular those which feature qualitative or social work practice research.

The move towards the literature of experience draws on social work concerns to include children in the process of child contact decision making (Smith, Taylor & Tapp. 2003). For children to be perceived as having as
“voice” within the process, research has focussed on accounting for children’s “wishes and feelings”, as well as their perceptions of contact (Trinder, 1997).

In order to explore the way in which parent’s and children’s “experience” is constructed, two recent qualitative studies will be looked at in some depth.

In Bren Neale (2003) “Dialogues with children”, material is taken from structured interviews with children. These interviews are described as “conversational”, however the material used for analysis is produced in the form of children’s responses to structured and for the most part generalised questions, for example “What makes a good mother?” or “What’s your idea of a good mother?” (Neale, 2003, p 457 & 458). The abstract nature of the questions used appears to be at odds with a description of these interviews as “conversational”. Neale does not attend to the production of interview schedules or decisions made as to the formulation of questions asked to the child participants. The production of accounts from generalised interview questions is a conventional practice of topic initiation (Rapley, 2001). The questions used by Neale appear to skirt around the topic of contact, instead generating accounts of the child’s ideals of family life rather than of the complexities of contact.

The children’s responses to these questions provided the basis for constructions of children’s wishes regarding patterns of contact and family structure. Having generated idealised notions of family life, the interview process moves on to particularise these accounts in the context of their experiences of contact. This process of comparison is not accounted for in the analysis of interview material. The process, by which the child’s constructions of their idealised forms of parenting correspond to the production of an
experience of contact, can be contextualised as part of the production of interview accounts (Rapley, 2001). Issues of the interactional management of these accounts by the interviewer are not attended to. In effect, this type of analysis follows the rationale of quantitative research in this area, whereby responses become iconiclasticised rather than treated as managing issues and potential attributions which children may be seeking to promote or avoid.

Where longer sequences of interview material are offered in the constructions of children's experiences of contact, it becomes evident yet is not explained by the researchers, that the interaction between interviewer and child is contingent on the formulations and responses given by the child. In Hogan, Halfpenny & Greene (2003), the following extract of interview talk is used as evidence of the claim that children expressed “worry” about their parents after separation had occurred.

Child: We got a bit lonely. We got a bit lonely just me and my mam, and she was very depressed.....I remember that, that em she would sit in bed. And she'd be thinking. Interviewer. OK, And that would be difficult for you? Child: Em, it would, 'cause I wouldn't know what to do, go in and say 'Ok'...but I did that a few times. (Boy, aged 10, 8 years since separation)

(Hogan, Halfpenny & Greene, 2003, p.167)

In this extract, the category of being "worried" is not directly invoked either by the child or the interviewer. The child's account in lines 1-2 attends to his relationship with his mother. The boy accounts for being “a bit lonely” in terms of his mother's state of mind. The interviewer does not take up the boy's perceptions of his relationship with his mother or description of her behaviour. The interviewer's turn at line 3 begins with an acceptance token of the boy's account and orient to “difficulty”. The nature of this difficulty is unspecified and a number of possible versions are available, including emotional difficulty
for the boy to see his mother depressed or difficult for the boy to communicate with a mother which he has described as being “withdrawn” through his description of her behaviour as an internalised process which is “thinking”.

The boy’s orientation to the interviewer packages the “difficulty” he describes as an account of not knowing what to say to his mother.

The formulation of this as an account of worry on the part of the boy is in effect an analyst’s interpretation rather than a concern or account attended to by the child. Within the literature, especially relating to accounts of child abuse, adult interpretations are made by invoking the psychology of child development and the assertion that children are less able to articulate and describe their feelings. As already mentioned, this has a potential consequence of disenfranchising the child and undermining the child’s right to claim and describe their own feelings (Saunders & Goddard, 2003). In this instance, the boy does not orient to his feelings and the argument that, as adults and analysts we may interpret his words as an expression of inarticulated feelings, is undermined by the boy’s account of his mother’s emotional state. In describing his mother as being depressed at line 2, the boy produces a description of an emotion state which is recognisable and fits with his subsequent account of her behaviour. That the boy provides a workable and clinically accurate account of his mother’s emotional state but not his own, does in no way provide a sensible basis for generating this interaction as an account of children’s expressed worry about their parents after separation.
1.7. "Contact” as discourse topic

Discursive analysis of accounts of contact and post divorce parenting experience is limited. The strand of literature is sparse with only a handful of studies at this time. Recent work has taken parental accounts of contact "experiences" which have been drawn from semi structured interviews and gone some way to apply discursive methodology. A typical outcome of discursive findings is the formulation of competing discourses found within narratives. Taking this approach has many of the same pitfalls of seeking to impose a structure upon material without addressing the practical considerations for which the account has been produced. The "Welfare" and "Independence" discourses have been identified in the narratives of parents describing post separation parenting (Day-Schlater & Yates, 2002). The interaction which generated these narratives has once more been lost, the relevance of the interview situation and the ways in which these narratives are produced to manage the business of being interviewed omitted as being of relatively no importance to the "findings".

Of more concern is that these discourses have been used to evidence a gender difference amongst parents, with mothers marked as using the independence discourse and attending to a conflict between the two available discourses in accounting for their lives and decisions post-separation. The interweaving of discursive formulations is provided as evidence for the argument that, post separation, parents rely on culturally available narratives and gendered theories of psycho analysis to account for their parenting decisions.
The analysis of "discourses" has also been applied to legal texts produced by the Australian Family Court system (Rhoades, 2002). The thematic analysis of case files has been used to construct a model of motherhood which appears in contested cases. The "no contact" mother which Rhoades produces from a thematic analysis of case materials is constructed as an iconic narrative form. In common with other qualitative studies looked at previously, the endpoint of analyzing the discourse of the selfish mother in contact litigation would appear to be the production of a model against which comparison can be made.

Where conversation analysis and discursive methodology have been applied to child contact settings, the focus has been on institutional practices. Greatbatch & Dingwall (1999) focus on the practices of mediators in family mediation sessions. This work is part of a large field of the conversational analysis of institutional settings (for example; Linell & Fredin, 1995). The application of conversation analysis to family mediation has been used to analyse the business of the mediator in producing agreement and neutrality.

The management of dilemmas by parents involved in contact negotiations has yet to be fully explored. Hyden (2001) provides a narrative analysis of the ways in which parents in "conflict-filled" contact negotiations formulated their complaints through the use of the "child as narrator." The focus of this analysis is to show the ways in which parents warrant their complaints and manage potential accusations of acting in self interest (Hyden, 2001). As such the discursive construction of contact and parenthood and the ways in which
these common sense concepts are used to package the business of contact negotiation have remained as yet outside of this area of research.

1.8. Scope & Limitations

In reviewing selected areas of child contact literature, the emphasis has been on drawing attention to some of the limitations and absences in this literature. These are limitations and absences only in the sense that they provide a space for other approaches. The endpoints and applications of research predicate their methodology and it is apparent that the diversity within approaches to child contact research is contingent on the market for which this material is produced. What these diverse approaches do share is common representation of contact as a concept which is understood and can therefore be modeled and divided into categories and types.

As such there would appear to be the space and opportunity to explore what parents, children and professionals construct as “contact”. The ways in which different and conflicting accounts are produced within the process of negotiation may not provide a model of what contact is, but illustrate the ways in which this apparently solid notion becomes less clear cut within the process of working towards finding workable contact arrangements.
2. Theory and Practice

2.1. Letters in context

The raw materials for this thesis are legal letters written during child contact negotiations. Analyses of letters written within the legal context have remained scarce in Social Science literature. There are however other institutions in which the practice of letter writing has come under scrutiny to a greater degree. This strand of literature has explored both the function of institutional letter writing and letter writing as a form a reflective practice.

The most widely investigated letter writing practices appears in Family Therapy literature. The functional qualities of letters written by therapists have been analysed to reveal not only letter writing as a practice used to summarise key aspects of therapy sessions but also as a way in which therapists evidence their listening practices to their clients (Vidgen & Williams, 2001). The use of letters to paraphrase and reflect client's narratives in therapy reflects not only the construction of therapy itself but also mirrors the ways in which solicitors summarise client's narratives within child contact letters. It is important to note that the work drawn from Family Therapy literature is the product of an institution in which reflective practice is common place and therefore analysis of letter writing practices has built on this particular institutional ethos. Indeed, other research reveals the control function of letters from therapists to clients, as they serve to orient the client to particular therapist driven strategies and goals within the therapeutic process (Price, 1993).

Other uses of letter writing in Family Therapy, that is letters written by clients as part of therapy itself, have also been analysed. As a therapeutic
technique, letter writing has been identified as serving a dual function. The practice of letter writing enables clients to organise their own stories as well as exploring their relationships with other individuals and institutions by constructing their problems through the medium of a letter which they are able to draft and rework (Bacigalupe, 1996, p 370).

This thesis aims to build on this relatively small and specialised area of literature. Analyses will explore the ways in which solicitor's letters work to construct the relationship between solicitor and client. This work will also provide an appreciation of the craft involved in organising and transmitting client's narratives through the medium of letters.

2.2. On doing negotiation without contact.

Having looked at the analysis of letters in a particular in institutional context, it should be noted that the practice of letter writing itself has been studied to a limited extent in broader contexts. This research will add to the relatively small body of literature on the discursive analysis of letters. In contrast to previous work, it is private institutional letters rather than public correspondence or private personal letters, which are the focus of this thesis. In particular this thesis draws on the work of Dorothy Smith (1990), whose analysis of letters written to and published by a newspaper as accounts of police intervention in a public disturbance, attends to the business which these letters accomplish in the activity of citizenship.

The interactional qualities of letters have received relatively little analysis, with the exception of the work of Mike Mulkay (1985). Mulkay uses the production of letters between scientists involved in academic argument, to
explore the interactional nature of letters and their recipient design. By using the principles of conversation analysis and in particular Pomerantz's (1984) work on features of agreement and disagreement in talk, Mulkay (1985) explores the construction of agreement and dispute within the textual form. In order to provide both the first steps to a methodological framework for the more detailed analysis which will follow in later chapters, as well as make more familiar the complex patterns of intertextual relationships which characterize these letters, this chapter will serve as a map and reference point for future discussion of discursive features and methodological concerns.

Within literature, the letter is a well recognized device in both the novel and short story. There is a long tradition within novels and short stories from L. P Hartley's, the Go-Between (1919), through to A. S. Byatt's novel, Possession (1990), in which the letter provides both a narrative device and a vehicle for character development. It would appear that the personal letter is perceived as having the potential to provide insights into both the private thoughts and feelings of the writer and the development of their personal and social relationships.

This form of interpersonal correspondence has received relatively little attention and analyses of this material have been relatively rare. A notable example of a move towards the analysis of personal letters in Social Science literature is the analysis of a set of love letters from the early twentieth century (Phillips, 1990). The analysis provides a reflexive account of Phillips' interest in working on these letters, being the product of his grandparent's courtship. As Phillips notes, finding a way of analyzing these letters is not straightforward as there as yet exists no substantive body of methodological
literature to draw on when analysing letters (Phillips, 1990, p 36). The analytic technique which Philips employs combines a theoretical model of reading practice and speech act theory (Phillips, 1990, p 30). Phillips acknowledges that this method is not without its difficulties and produces an analysis which is constructed as being an initial foray into this area rather than a fully realized way of analysing the interactional qualities of letters (Phillips, 1990, p 41).

In other letter writing contexts, issues of authorship and owning of experience and narrative are concerns which raise themselves in a multiplicity of interactional settings. In the realm of textual analysis, the contexts of newspaper reporting, editorial construction and academic writing have used to explore these themes.

The concerns of textual analysts attend to writing practices as differentiated from speakers. Although the interaction between text and reader has been a concern within literary fields, analysis has been focused on the ways in which readers interpret meanings in text and interact with the text (McHoul, 1982). This approach has a focus on the ways in which texts are rhetorically organized to attend to the writers perceptions of the reader (Clark & Ivanic, 1997). This approach constructs the interaction between writer and reader as an active one, with analysis focused on the ways in which writers construct texts to answer questions which the reader may ask. This type of analysis has been applied to advertising materials, in particular direct sales letters in which question and answer formulations regularly appear (Frank, 1989, p 239).
This particular approach to the analysis of letters draws on the theoretical framework of writing as a literary process and the "role of the reader" is therefore considered in relation to the lexical, semantic and stylistic choices available to the writer (Clark & Ivanic, 1997, p 163). The analytic move to incorporate the reader's role in the process of writing is a difficult one to accomplish. This particular strand of literature uses post hoc analyses, comparing the relative interpretations of readers and writers on decontextualised examples of text (Clark & Ivanic, 1997, Thompson & Theleta, 1995). Whilst this approach may account for broad trends, it does not enable the examination in close detail of members practices and the regular ways in which the business of agreeing patterns of contact is achieved between parties.

The move towards text as an "active" medium has been developed through the analysis of publicly available letters and the focus shifted towards the text as rhetorically organized to make available courses of particular social action (Watson, 1997). Watson notes that social action is often "textually mediated", that is the organization and content of a police report constructs a particular course of action with regard to the suspect it implicates or potentially absolves (Watson, 1997, p 259). This approach also pays attention to the intersubjectivity of texts as accounts are reformulated in the activity of managing issues like witnessing or police procedures (Smith, 1990, p 137).

A feature of the child contact letters which is shared with Smith (1990) and which will sporadically appear as part of later analysis is that of the "counter text". Within the letters, several recipients made contemporaneous
handwritten notes. In the process of analysis, these counter texts provide a useful insight into not only the production of alternative versions by the recipient, but to which alternate version the recipient orients their version and response. The texts which form the data corpus for this research encompass several levels of interaction. Initially, they are a product of the interaction between client and solicitor in which the client's account is worked up by the solicitor into the letter.

As previously mentioned, where letters have received analysis within the legal context, the focus has been on a forensic approach with the Unabomber letters being the most recent example of letter construction and lexical choice being used to construct an offender profile (Foster, 2000). Other work on letters has used letters written by men accused of spousal abuse to their victims (Dukes et al, 2002). Although a wealth of material was gathered from multi-agency and victim sources, the letters were coded according to a model of "healthy love" known as the Equity Wheel from the literature on domestic abuse intervention strategies (Dukes et al, 2002, p 680). The content analysis of these letters, seeks to identify these themes as being present in the letters as an indication of pathology within the accounts of relationships which these letters describe. Whilst content analysis of the letters performs this business economically, it fails to attend to the business of these letters, whether written as threat or appeals for forgiveness and reconciliation. Indeed, treating these letters as an homogenous set, would set in place an assumption that the practice of letter writing by spousal abusers to their victims is "known" and consistent.
The treatment of letters written in the course of pursuing an action has been largely unattended to within the analysis of legal documents. Whilst these letters fulfill legal business, they attend to other discursively constructed business, for example the management of stake and attribution, as well as the construction of "fact". The theoretical background for this approach is drawn from ethnomethodology and in particular from discursive psychology.

2.3. Ethnomethodology and the practice of contact

The basic concept of ethnomethodology, that is "taken-for granted mundane member's practices in making the work are hidden" (Garfinkel, 1967), is the starting point for unpacking notions of child contact. One of the concerns of legislators in drawing up a framework to provide a structure to child contact enforcement, that is the Children's Act (1989) has been to attempt to pursue regularity of contact in order to replace the stability that is perceived to be lost when parents separate (Edwards, 2002). The notion of "stability", leads to the questions which this thesis asks. How "stable" are notions of contact or even parenting?

The concern of ethnomethodology with exploring member's practices and the ways in which even seemingly solid norms and value require interpretation in order to be understood as unproblematic and "norms" (Ciccourel, 1974), enables this notion of stability to be unpacked. This unpacking occurs through an investigation of the ways in which parents and professionals construct instances of contact and problematise other accounts of parent child interaction as not being "contact". It is the "practical reasoning" (Garfinkel, 1967) which participants draw upon to maintain this process on a
daily basis and which produce the reality of this process from legal and theoretical constructs on which it is based that this thesis will explore.

The relevance of exploring the sequential framework of this material comes from an ethnomethodological concern to analyse documents as a function and an integral part of a broader process and organisation of business (Garfinkel, 1967). For the most part, documents analysed within this framework have been institutional reports, for instance psychiatric assessments (Hak, 1992). Analysis has been centred on the ways in which these reports construct the broader business of the institutional practices of psychiatric internment for instance and the function of these kinds of texts to rework interactions and accounts into a form which adheres to the parameters and requirements of the practice of which they form part (Hak, 1992).

The analysis of documents is particularly evident in research on medical discourse. The specialist nature and jargon of medical language have been a focus of ethnomethodological research. The ways in which specialist language not only provides relevant information but also enables inferences and unsaid practices and routines to be made relevant has been applied to the analysis of obstetricians notes on patient's records (Hobbs, 2002, p 272).

Ethnomethodological studies of documents have also focused on the intertextuality of institutional practices. In exploring the relationship between documentation and talk, issues of accountability and evidentiality have been explored. The accountability that documents accomplish can be seen through their relevance to the institutional practices by which they are produced. Institutional documents and letters are the product of routine and proscribed
activities in which individual flourishes are discouraged. As such, these documents become a source for practices of verification and fact construction in institutional settings, for example interviews between clients seeking welfare and assistance providers (Zimmerman, 1974).

The relevance of tracking and mapping text is integral to other areas of practice, for example in Lynch & Bogen's (1996) analysis of the Iran Contra Hearings. They examined who saw, read and handled what piece of text and the ways in which this mapping of who saw what forms part of the chain of evidence used by lawyers in their practice of case building and contesting evidence. The focus of the tracking of documents in this analysis is in their interaction with the details of oral testimony and accounting practices (Lynch, 1991, p 95-96). Overall, the analysis of textual materials within these arenas has been constructed as part of a broader analysis of member's practices.

Whilst it is true that the letters under analysis within this thesis do form part of a broader practice of child contact negotiation, the decision to map and track these letters is governed by other considerations and issues other than merely mapping the machinery of solicitor's practices.

The inclusion of experiential concerns, that is the ways in which participants have expressed their reactions to receiving certain letters and documents remains an issue as to how and in what way these should be included. This has been an issue within psychological research, Billig's (1987) concern to address the "depopulation" of social psychological research for example is attuned to this notion that often research which begins with people and experiences can end with abstractions and depersonalization.
Feminist researchers have tackled this issue in a specific discussion of how to listen and report women's experience (DeVault, 1990). Feminist Standpoint research methodology has questioned both the collection and analysis of women's accounts, in relation to an absence of public space and opportunity to voice their experiences (Skeggs, 1997) and they view this abstraction process as further distancing women from finding an opening within literature to broadcast their knowledge and experiences. The integration of ethnographic methods within feminist research has been seen as one alternative to provide another area in which researcher/ participant relationships can and have been explored with the endpoint of a methodology that enables the experiential discourses of women to be introduced (Skeggs, 1997). Whilst this thesis may not be an overt piece of feminist analysis, it does owe a substantial debt to feminism for, without the groundwork done by feminist researchers and theorists, this research would not have been able to even find a place to be completed.

2.4. Discursive psychology and the dilemma of contact

Discursive psychology views language and discourse as central to the construction of institutional as well as mundane practices (Edwards & Potter, 2001). Discursive psychology takes its inspiration from a broader interest in the philosophy of language and rejects the traditional notion that language simply transmits meanings and reflects social life (Potter & Wetherell, 1987, p34). This move towards viewing language and in particular descriptions and accounts as active and constructive (Potter & Wetherell, 1987, p34), is one that draws on the related areas of ethnomethodology, post-structuralism and
linguistics. Also central to the theoretical foundations of discursive psychology is that the ways in which accounts and descriptions are consequential to and for the interaction in which they occur (Potter, 1996, p 63). In addition to the indexical properties of accounts and descriptions, they may also package inferences of blame or responsibility. The choice of discursive psychology as theoretical framework for this thesis comes from the notion that accounts and descriptions perform specific interactional business, for example warranting complaints and managing accusations. Through a discursive analysis of the accounts and descriptions found in the letters, it is hoped to show the ways in which these descriptions are constructed to manage accusations, excuses and alternative contact proposals which are a feature of child contact negotiations. Also, the ways in which the narrative and lexical features of accounts and descriptions are initially selected and then picked up and to attended to in subsequent accounts that may follow, whilst other elements are not attended to, can be seen to highlight the consequential nature of descriptions within the negotiation process.

From the position that language and description are never neutral, this approach can be applied to those accounts which are presented as "factual". Fact construction is a concern of discursive psychology in which sees accounts and descriptions as functional in their nature and organisation (Edwards & Potter, 1992, p 104). In child contact negotiations, the ontological status of parents' accounts and descriptions relates directly to legal notions of evidentiality and whether or not these can be counted as pertinent to the "facts of the case" from which the Family Court Judge will draw their findings. In child contact cases this includes those accounts and descriptions which are
packaged to present and represent the best interests of the child rather than the parents.

The ways in which descriptions are organised through lexical and rhetorical choices makes relevant that other possible choices are available but not used. As Billig (1997) comments, "a statement in favour of capital punishment is not merely a report about the speaker's self-positioning on the issue. It is also a positioning against counter-positions, for instance against the abolitionists. When people give their opinions in dialogue, they give typically arguments, justifying their own views and criticizing counter-views." (Billig, 1997, p 44). Although Billig (1997) refers to accounts which formulate opinions, the argumentative and rhetorical nature of the descriptions provided by solicitors and parents is of interest when examining the ways in which accounts and descriptions appear in child contact letters. An analysis which explores the rhetorical organisation of accounts is especially relevant to the letters which constitute the data for this thesis. Accounts and descriptions in the letters are often contested and reformulated by the other parent. The analysis of the letters will explore the particular ways in which descriptions are reformulated and "re-presented" to unpack the relative status of knowledge claims and witnessing practices.

In child contact negotiations which proceed through the Family Court, an analysis of the rhetorical and argumentative nature of discourse is particularly apt. The legal framework for these negotiations is a confrontational one, with each party competing to provide the argument and account which best influences the judgement if the Family Court in their favour. Although this may appear straightforward and not warranting the detailed analysis that a
discursive approach would provide, the relative positions of each parent must be delicately balanced as reflecting not their own interests but those of the child (Hyden, 2001, p 123). A discursive analysis with its attention to the ways in which accounts are organised and constructed can unpack the ways in which these accounts interweave parental interests through an apparent simple description of the child's best interests.

Discursive psychology is also concerned with the ways in which members use language to manage a range of dilemmas. The unpacking of issues stake, attribution and footing in interaction, whether in talk or text is particularly relevant to the analysis of mediated accounts (see Ch 4 for a fuller account of the practice of "footing"). In the letters which are the business of this thesis, these are the dilemmas of parents and solicitors which are worked up in the form of institutional letters. The relevance of analysing issues of footing and attribution to a corpus of letters written by solicitors on behalf of clients involved in child contact negotiations, leads to an approach, which attends to these issues as activities. The approach which discursive psychology (Edwards & Potter, 1992, p 104) takes is that these issues are member's activities which are necessary for and necessitated by the achievement of the business to which these letters attend. In this context it is the activity of successfully negotiating contact arrangements.

The process of lawyer and client interaction has been explored using conversation analytic techniques to explore the ways in which client's narratives are reformulated by legal practitioners to meet the requirements of the paperwork produced, for example the application for a non-molestation order (Trinch & Berg-Seligson, 2002). The structure of clients accounts of
abuse are re-worked by paralegals to produce episodic rather than linear narratives which fulfill the business of producing the documentation in support of a “non-molestation” order (Trinch & Berg -Seligson, 2002, p 403). This practice of reformulating instances of talk into text is seen in a range of institutional settings, for example police interrogations (Auburn, Drake & Willig, 1995) and reports of meeting between social workers and their clients (Linell & Fredin, 1995). Discourse analysis of the activity of reformulating verbal accounts into a documentary form which enables institutional practices and decision making unfolds rather than condenses this process. What is omitted in the co-construction of institutional texts is often as important in managing the business of gaining a non molestation order or financial assistance, as what remains in the documentary form (Zimmerman, 1974).

In institutional settings, discourse analysis of the interactions on which institutional practices are founded allows a focus on the goal-oriented nature of these types of interaction (Drew & Heritage, 1992). This type of work has recently been applied to small claims mediation and the co-construction of proposals and resolutions (Garcia, 2000). The asymmetry of such interactions can be seen in work on the interaction between welfare agencies and those seeking financial assistance (Linell & Fredin, 1995). Within the context of legal discourse and courtroom interaction, the consensual building of accounts, explanations and blamings has also been discursively analysed (Sarat & Feltsiner, 1994). The construction of children’s credibility has become a recent issue for discursive researcher. Children’s testimony in child sexual abuse cases has been analysed in the context of Judge’s comments during these cases on order to seek regularities in the organisational features
of those accounts which are marked for the jury as being problematic and inaccurate (Cederborg, 2000).

2.5. The data

The data for this thesis comprises some 154 letters drawn from five separate case files (see appendices). These files comprise the letters written on behalf of parents by solicitors to reach agreement on contact arrangements. The case files vary considerably in size and in terms of timescale covered. Of these case files S/CW comprises in excess of twenty letters with additional court documentation and covers a period of eighteen months. The shortest case file is S/GBB which contains the paperwork from an amicable divorce and contact negotiation. This file includes two handwritten letters detailing agreed arrangements, a copy of the divorce settlement and a written statement by the mother detailing the amicable relationship the parents maintain. Included in file S/BB are letters written by the father to the children who constitute the nature of the contact order imposed by the Family Court. Additionally this file contains other written material including witness statements and letters of support from neighbours and church elders as well as the diary kept by the mother during the period of contact negotiation. The case file S/LG includes letters detailing negotiations over assets and property in addition to child contact material. Finally, case file S/DD is relatively brief and contains letters and documents similar to those found in the other case files. Unfortunately, the bulk of material found in S/DD is unavailable for analysis as it includes institutional reports and court documents.
The data was provided initially by parents who had kept and collated all documentation relating to contact cases they were involved in. Although gaps were evident in a two cases, many of these were filled with appropriate letters from the other parent involved in each contact case, whose permission to use relevant material was also sought. The reasons given for storing this material which in one case filled two lever arch files included preserving details of negotiations and arguments for the future, in particular so that this material could be available for the children involved to read when they grew older.

Subsequent permission was sought from individual solicitors involved in the cases. Whilst permission was given to reproduce extracts from letters, certain limitations were placed on this procedure that is wherever possible features of layout should be changed, amended or removed in order to avoid the identification of individuals or institutions.

Given the quantity of data gathered certain decisions were taken prior to analysis in order to make the process and presentation manageable. A number of possibilities were considered in regard to both analytic method and their implications for data management. Although a thematic analysis, potentially utilising appropriate software would have lead to a broader analytic gloss incorporating all data sets, it was decided that the prime focus of the thesis was to look at the discursive construction of letters and to try and capture some of their interactional features where possible. In order to concentrate of this approach, broader thematic analyses were sacrificed. In taking this approach, it was further decided to focus analysis on a relatively small subset of the letters in total, in particular those which captured several key features which were found throughout the letters. Using this particular
focus it is hoped that the thesis will capture the sophistication and complexities of the letters and that the multi-level analysis of particular letters at certain points will demonstrate the richly detailed nature of the data.

Although this thesis has argued against the imposition of patterns and superimposed structure, in order to understand the ways in which letters pass between participants, it is necessary to provide a brief outline of the flow of letters and their temporal scope. In order to do this a simplified map has been produced, although even this version is complex given the multiple parties involved in the production of the letters.

The decision to map a selection of the sets of letters provided for analysis is an attempt to illustrate several overarching features. The first of these is to illustrate the amount of letters which constitute the majority of sets used for analysis. That these letters are kept in an ordered way is not simply a question of filing a few pieces of paper away for safe keeping. The amount of paperwork in question takes up space and must be accommodated.

In addition, the sequential nature of these letters is not that of the turn taking feature of conversation, in which breaks are constructed as breaches to this normative form and categorized as various pathological features such as interruptions, overlaps or repairs. Rather the features of the sequential nature of child contact letters are harder to define in a normative fashion. What can be seen at first glance is that although they are spread over protracted periods, letters often occur in flurries over a few days at a time, when events necessitate written communication between parties.

Two cases have been mapped in a simplified way to show the source and direction of letters. These cases were chosen to illustrate that amount of
letters generated does not indicate the complexity of case or the amount of argument and conflict involved between parents. The first case (S/LG) tracks the letters which are generated in the completion of a divorce and child contact case in which settlement is relatively straightforward and the lack of face to face negotiation was predicated by the geographical distance between parties rather than acrimony. In the second case (S/CW), although fewer letters are generated, the conflict between parents over contact made face to face negotiations impossible. What follows may appear turgid and mechanical but is included to give a sense of the overall appearance and sequence of the letters. The cases mapped below are dramatically different both in context and content.

Quick list of abbreviations:

FS – Father’s Solicitor
MS – Mother’s solicitor
M – Mother
F – Father
CWO – Court Welfare Officer.

* - Indicates a report of a phone call between solicitors.

The first case details the procedural norms a divorce including arrangements for child contact and property division. The parties involved in this action were geographically separated and face-to-face negotiation was impractical.
Arrangements were formalized with little dispute and this case is used as an illustration of relatively straightforward practices and routines.

Example 1: (S/LG)

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>August</td>
<td>8th</td>
<td>MS→M</td>
</tr>
<tr>
<td></td>
<td>10th</td>
<td>MS→M</td>
</tr>
<tr>
<td>September</td>
<td>30th</td>
<td>FS→MS</td>
</tr>
<tr>
<td>October</td>
<td>1st</td>
<td>MS→M*</td>
</tr>
<tr>
<td></td>
<td>7th</td>
<td>MS→M</td>
</tr>
<tr>
<td></td>
<td>7th</td>
<td>FS→MS</td>
</tr>
<tr>
<td></td>
<td>2nd</td>
<td>MS→M</td>
</tr>
<tr>
<td>November</td>
<td>29th</td>
<td>MS→M*</td>
</tr>
<tr>
<td>December</td>
<td>15th</td>
<td>MS→M*</td>
</tr>
<tr>
<td></td>
<td>21st</td>
<td>MS→M</td>
</tr>
<tr>
<td>January</td>
<td>14th</td>
<td>MS→M*</td>
</tr>
<tr>
<td></td>
<td>27th</td>
<td>MS→M</td>
</tr>
<tr>
<td>March</td>
<td>16th</td>
<td>MS→M*</td>
</tr>
<tr>
<td>April</td>
<td>6th</td>
<td>MS→M (encl Entitlement to Decree)</td>
</tr>
<tr>
<td>April</td>
<td>19th</td>
<td>MS→M (enclosing Decree Nisi)</td>
</tr>
<tr>
<td>May</td>
<td>19th</td>
<td>MS→M*</td>
</tr>
<tr>
<td></td>
<td>19th</td>
<td>FS→MS</td>
</tr>
<tr>
<td>June</td>
<td>20th</td>
<td>FS→MS</td>
</tr>
<tr>
<td></td>
<td>23rd</td>
<td>MS→M</td>
</tr>
<tr>
<td>October</td>
<td>28th</td>
<td>MS→M (enclosing Decree Absolute)</td>
</tr>
<tr>
<td>November</td>
<td>22nd</td>
<td>Pensions Scheme→FS</td>
</tr>
<tr>
<td>December</td>
<td>6th</td>
<td>FS→MS</td>
</tr>
<tr>
<td></td>
<td>13th</td>
<td>MS→M*</td>
</tr>
<tr>
<td></td>
<td>13th</td>
<td>Bank→FS</td>
</tr>
<tr>
<td></td>
<td>19th</td>
<td>FS→MS</td>
</tr>
<tr>
<td>January</td>
<td>4th</td>
<td>FS→MS</td>
</tr>
<tr>
<td>March</td>
<td>21st</td>
<td>FS→MS</td>
</tr>
<tr>
<td></td>
<td>28th</td>
<td>MS→M</td>
</tr>
<tr>
<td>July</td>
<td>3rd</td>
<td>MS→M*</td>
</tr>
<tr>
<td></td>
<td>3rd</td>
<td>FS→MS</td>
</tr>
<tr>
<td>September</td>
<td>12th</td>
<td>MS→M</td>
</tr>
<tr>
<td></td>
<td>20th</td>
<td>FS→MS</td>
</tr>
<tr>
<td>October</td>
<td>3rd</td>
<td>MS→M (involvement of barrister)</td>
</tr>
<tr>
<td></td>
<td>16th</td>
<td>MS→M (enclosing barrister's advice)</td>
</tr>
<tr>
<td></td>
<td>17th</td>
<td>FS→MS</td>
</tr>
<tr>
<td></td>
<td>25th</td>
<td>MS→M*</td>
</tr>
<tr>
<td>November</td>
<td>6th</td>
<td>MS→M</td>
</tr>
<tr>
<td></td>
<td>6th</td>
<td>MS→FS</td>
</tr>
<tr>
<td>January</td>
<td>19th</td>
<td>FS→MS</td>
</tr>
</tbody>
</table>
The length of this list indicates the amount of paperwork in the form of letters and documents which this participant has chosen to keep. Much of this case includes letters to the mother from her solicitor detailing phone conversations between themselves and the father’s solicitor. These letters form a record of her solicitor’s summations of relevant conversations and details of the activities of her partner’s solicitor.

The second case mapped revolves around child contact arrangements following the break up of the parent’s relationship. A history of domestic violence made face-to-face contact distressing and unworkable.

**Example 2: (S/CW)**

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>May</td>
<td>12&lt;sup&gt;th&lt;/sup&gt;</td>
<td>FS → MS</td>
</tr>
<tr>
<td></td>
<td>18&lt;sup&gt;th&lt;/sup&gt;</td>
<td>FS → MS</td>
</tr>
<tr>
<td>June</td>
<td>11&lt;sup&gt;th&lt;/sup&gt;</td>
<td>FS → MS</td>
</tr>
<tr>
<td>October</td>
<td>20&lt;sup&gt;th&lt;/sup&gt;</td>
<td>MS → FS</td>
</tr>
<tr>
<td></td>
<td>20&lt;sup&gt;th&lt;/sup&gt;</td>
<td>MS → M</td>
</tr>
<tr>
<td>November</td>
<td>4&lt;sup&gt;th&lt;/sup&gt;</td>
<td>FS → MS</td>
</tr>
<tr>
<td></td>
<td>11&lt;sup&gt;th&lt;/sup&gt;</td>
<td>MS → FS</td>
</tr>
<tr>
<td>April</td>
<td>21&lt;sup&gt;st&lt;/sup&gt;</td>
<td>MS → M</td>
</tr>
<tr>
<td>May</td>
<td>29&lt;sup&gt;th&lt;/sup&gt;</td>
<td>MS → M</td>
</tr>
<tr>
<td>June</td>
<td>3&lt;sup&gt;rd&lt;/sup&gt;</td>
<td>FS → Contact Centre Manager</td>
</tr>
<tr>
<td></td>
<td>11&lt;sup&gt;th&lt;/sup&gt;</td>
<td>MS → FS (detailing 29/5 incident)</td>
</tr>
<tr>
<td></td>
<td>11&lt;sup&gt;th&lt;/sup&gt;</td>
<td>FS → MS (detailing 29/5 incident)</td>
</tr>
<tr>
<td></td>
<td>15&lt;sup&gt;th&lt;/sup&gt;</td>
<td>MS → M</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
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</tr>
<tr>
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<td>----------------------------------------------------------------------</td>
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</tr>
<tr>
<td>29th</td>
<td>FS→MS</td>
<td></td>
</tr>
<tr>
<td>July</td>
<td>12th MS→FS (detailing incident of 10/7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>23rd FS→MS (response to M’s account of incident of 10/7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>27th MS→FS</td>
<td></td>
</tr>
<tr>
<td>August</td>
<td>6th MS→FS (detailing incident of 28/7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6th FS→MS (response to account of incident of 28/7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>6th FS→CWO</td>
<td></td>
</tr>
<tr>
<td></td>
<td>13th FS→MS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>19th MS→M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>19th FS→MS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>26th MS→FS</td>
<td></td>
</tr>
<tr>
<td>September</td>
<td>8th FS→CWO (detailing incident of 29/8)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12th FS→CWO (detailing incident of 10/7)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>22nd FS→MS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>27th MS→FS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>27th MS→CWO (detailing incident of 25/9)</td>
<td></td>
</tr>
<tr>
<td>October</td>
<td>12th FS→MS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>12th FS→CWO</td>
<td></td>
</tr>
<tr>
<td></td>
<td>20th MS→FS</td>
<td></td>
</tr>
</tbody>
</table>

In this data set, the letters form an interaction between solicitors, as well as other parties involved that is, parents and other professionals. There is no regular sequence within this case, rather letters appear in flurries, centred around incidents or events which parties indicate are problematic and in need of explanation or rebuttal. Letters attend to previous disputes, often on more than one occasion as contested versions are constructed and reconstructed whilst other disputed contact visits occurred and are complained of and also contested. There is less written communication between the mother and her own solicitor, these letters often being the product of face to face meetings, as part of the practice of reporting disputed meetings to the solicitor in a diary keeping process.
2.6. **Targets, trajectories and intended audiences**

The letters which form the data corpus for this research encompass several levels of interaction. Initially they are a product of the interaction between solicitor and client, in which the client’s account is worked by the solicitor in the form of a letter.

The audience of these letters varies with type of account being formulated and the business it is intended to accomplish that is, whether the letter takes the form of a complaint, proposal or alternative version of events under dispute. Whilst the addressee of the letter is the solicitor representing the other party in the dispute, a range of other audiences may also be represented. Copies of all letters are routinely sent to the parent, both the letters which their solicitors construct on their behalf and the responses from the opposing solicitor. In addition copies of selected letters may also be sent to other professionals involved in the for example the Court Welfare Officer or Contact Centre Manager.

The format for tracking the relevant audiences for any particular letter varies. In some cases this format follows the standard business letter practice off including a list of “cc” (carbon copy) recipients below the signature at the foot of the letter. A more common format within the letters is that relevant other recipients are explicitly referred to in the body of the letter itself. To give a sense of the extent to which letters extend to multiple audiences, parents retain copies of all letters including those which are specifically addressed to the Court Welfare Officer by their former partner’s solicitor. As such parents and solicitors have access to all letters written as part of the negotiation process, whether or not they are themselves the intended recipient.
The implications of this sharing of information, is that letters are constructed within a context of openness and where all parties expect to receive copies. The audience of the letters then is not simply the addressee but a range of selected others whose status as audience members may not be made explicit in the letters themselves.

2.7. Scope & Limitations

In order to address the scope and limitations of this data set, this thesis will provide one response to the question of why use letters?

This common reaction of “why letters” is not limited to those who share the previously mentioned theoretical background, it raises bewildered glances from family and friends. Although this can and has been discussed in theoretical terms, using references and an argument constructed from various strands of philosophical and academic debate, there is another perspective. Although the following account may seem out of place in an academic discourse, it is too relevant to ignore or dismiss. To illustrate the relevance of studying letters, it is necessary to reconstruct another world, that of a few of those individuals, or it seems more proper “participants” who provided the data for analysis. Although this illustration could take the form of biographical vignettes, this would invoke other issues which are outside the scope of this thesis and whilst ethnographically valid would be a divergence from the issue at hand, that is the importance of letters. For the above reason age, marital status and autobiographical details would not add more than the events described below and which concern the experience of data collection and are drawn from contemporaneous field notes.
Mrs. L. keeps the letters in a large brown envelope which she takes from the dark wooden writing bureau in corner of the small but tidy sitting room. The desk is ornately carved and highly polished, it was a bequest from a great aunt and is lovingly cared for. On opening the desk, stacks of large manila envelopes can be seen, Mrs. L. explains that this is where she has her “keepers”, those documents which are of lasting importance. She points out another glass fronted display unit across the room on top of which sits a vase in the shape of an upright black cat. The edges of papers and envelopes can be seen protruding from behind the vase. Those are her “to do” letters, documents which require immediate attention and which may or may not be transferred to the desk, or shredded. She explains that this is where she keeps her important documents, so that she can always find them when she needs to. They are in date order and before handing them over, removes them from envelope and separates them into two piles. She explains that she changed her solicitor part way through the proceedings, she details her dissatisfaction with her first solicitor and due to her perceived lack of communication between herself and the solicitor. In her own terms, her first solicitor was a man whom she didn’t feel was acting in her interests. She changed to a woman solicitor in order to try to keep the house she and her children called home.

In addition to being kept in date order, letters are also stapled together with their attachments, that is court documents and copies of letters sent by independent agencies to her former husband’s solicitor which have been forwarded to her by her own solicitor. Although these letters contain no contemporaneous notation, Mrs. L. is able to pull out selected letters which she feel highlight important elements and events within the process of her divorce. The dates of letters are pointed out as being of special relevance to Mrs. L. as the case proceeds just three days after her son’s birthday.
These letters remain for her a source of evidence for ongoing questions and minor disputes which arise between herself and her former husband and his family, who continue to dispute her outright ownership of the property in which she and her children live.

Mrs. W. keeps her letters in two grey lever arch files; again they are in date order. She explains that the problems with the child’s father are ongoing and despite being remarried and having worked to provide a stable family environment for her child, the issues which provoked the dispute are still relevant to both herself and her new family. The letters are kept on a shelf above her desk where they can be easily accessed occasionally added to as problems arise, most recently her decision to change the child’s surname to that of her new partner.

Alongside this file are different coloured files and boxes, which contain college work, and documents pertaining to a dispute over child maintenance which her current partner is pursuing. The desk above which the letters are kept in their large file is in a corner of the dining room, a few feet away from and in plain sight of the large wooden table at which her family regularly sit to eat, and at which her children sit do their homework. This room is a hub of family activity, situated between the kitchen and the children’s playroom.

Many of the letters have handwritten notes in their margins, they are Mrs. W’s contemporaneous reactions to their contents and her immediate responses to her former partner’s versions of events and which provided a reference for drawing up responses to allegations of non-co-operation.

Mrs. B. has the letters waiting, in two carrier bags on her dining room table. Her new partner and one of her children are sitting in the lounge watching television whilst
she offers coffee and begins to remove the letters and go through them one by one. She explains in detail the circumstances and events surrounding their arrival. During the subsequent two hours she intermittently reads aloud extracts from certain letters she feels strongly about. She is able to recount her feelings on receiving these letters as well as the reactions of family and neighbours in short narratives, which detail her showing these and discussing these with others shortly after their arrival. In common with Mrs. W, Mrs. B also explains that she made contemporaneous notes on some of the letters as they arrived. These notes are written in shorthand, and as they come to her notice whilst going through the letters, she translates them and adds further details of her feelings both then and now.

Occasionally, she breaks off to call out to her partner and remind him that he has to go and pick up her mother and take her to the social club up the road. He leaves to keep the appointment without entering the dining room and interrupting her meeting.

These letters are kept in an upstairs room, together with a diary that she compiled during the early part of the child contact dispute. Also kept with these letters are those written by the father to the children as part of a judgement in which the father was allowed contact with his children in the form of letters. She explains that this contact was brief and she keeps these documents for her children, should they wish to see them at some point in their lives. She sees the letters as a resource to help her children in understanding the events surrounding their parents' divorce and subsequent absence in their lives of their father.

Although these brief, ethnographic glimpses may seem a digression from the work of this thesis, they illustrate the relevance which these letters have to lives into which they are entwined. They form an enduring record of events that continue to be of interest, distress and concern to those who keep them.
In my “other” life outside of research, I too have my files of letters. Letters, which I keep in date order, easily at hand and to which I occasionally refer back and of which I tell stories of and read selected extracts to friends and sometimes passersby. Whilst the context of these letters may be different, in that they relate to the dispute over my autistic son’s education, they share a relevance and importance which precludes their being thrown in the rubbish alongside circulars, old bills and occasionally old love letters which have outlived their nostalgic usefulness.

There are features of the letters which are unavailable for analysis. The conditions of consent to use this material extend beyond changes of name and place. Institutional letters carry features of identity in their particular font and layout. In order to assure anonymity to those professionals who enabled access to this material, the font and some elements of layout of the letters have been changed or omitted.

2.7. Method of analysis

The interests of this research are in exploring the practical ways in which solicitors and their clients manage and achieve the business of arranging contact. The analytic chapters which follow will try to unpack first the business of letter writing within the activity of child contact negotiation. The thesis will then move on to explore what constitutes an instance of contact, a parent or a child and the ways in which these common sense notions are packaged into the range of activities which these letters do.

The main analytic method will be a discursive psychological approach to the dilemmas of entitlement, footing and attribution in the letters. The analysis
will also use elements of conversation analysis to explore the interactional nature of the letter and the orientation of accounts and descriptions.
3. Understanding: A discursive opening

3.1. Opening statements

In beginning the analysis of child contact letters, the stated aim of this thesis is to look not only at the ways in which these letters accomplish the business of reaching agreement, but also how these arguments and accounts inform our notions of understanding of what constitutes child contact and post divorce parenting practices. Interestingly, one of the first features to be identified in the letters is a widespread use of the term “understand” a way of introducing accounts. From a preliminary analysis of terms used to open letters and accounts, three main introductory terms were identified. Those terms being “instruct” (n=11), “advise” (n=24) and “understand” (n=25). The widespread use of specific language is a starting point for this thesis and a way in to exploring the business of child contact negotiation. Of these terms, the latter is the most interesting and it would be easy to begin this chapter by looking directly at the term “understand” however, it is important to set the use of this term within the context of legal language and the nature of solicitor’s writing practices. In order to do this, this chapter will open with an analysis of the terms “instruct” and “advise” as normative legal writing practices and in doing so, set the use of the term “understand” as a deviant case which accomplishes a range of activities beyond standard legal letter writing practice.

Performing the business of practicing as a solicitor appears to include the use of certain professionally used terms that is those mentioned above, amongst others. The usage of these terms on one level can illustrate the
relative roles and responsibilities of client and solicitor. In base terms, “clients instruct and solicitors advise.”

This is an understood practice amongst legal professionals and whilst not readily accessible for legal textbooks, can be gleaned from the ethnographic study and interviewing of those in legal work (Travers, 1997). Within the data corpus, examples of this “model” usage can be found. This use can be seen in terms of both the management of interactional relationships between parties involved in the dispute and the display of practical competence. From the examples below, the institutional nature of the terms “instruct” and “advise” can be looked at and provides a framework in which to locate and explore the use of the term “understand” later in this chapter.

3.2. A Stipulation

Before this chapter begins in earnest, a few opening statements on what at first appears to be language problem. As this chapter includes an analysis of the use of the word “understand” in the letters, it has been a problem to find of way explaining the discursive focus of the analysis whilst avoiding the clause “understanding the word understand”.

Superficially, the problem with this construction appears to be a stylistic one. The clause “understanding the word understand” appears to be a tautology in that it is a circular construction (Bulhof & Gimbel, 2004). Avoiding tautologies is one of the first rules of good writing and the use of either “my.../our.../participants... understandings of the word understand” seems to be a prime candidate for tautological status. Although this may seem an odd construction it is the truncation of several instances in which this clause could
potentially have been used, "my understanding.../our understanding.../participants' understanding..." and condensing them in this way is not done to confuse, but rather to illustrate an epistemic problem which this clause raises and which will be looked at later.

So, to begin with: what lies behind the tautology? The reasons for avoiding tautologies as a writing practice stem from two key concerns that are; good writing should flow using a wide range of vocabulary and also to avoid the potential confusion that comes from using the same word as both verb and noun in a sentence (Grasso & Ledford, 1988). If this thesis was centred within literary theory, then a simple stylistic account may have been sufficient to manage this problem. The business of this thesis however is in looking at the ways in which language is an active medium, doing as well being constructed (see page 39 for a fuller account). If this thesis is to take the stance that language is more than simply a way of communicating thoughts, feelings and ideas, then the problems which this construction raises must therefore go beyond stylistics and some time needs to be spent considering the unease which using this formulation raises in the writer.

The circularity of the construction "understanding the word understand" is more than a simple stylistic anomaly and problem of awkward phraseology, rather it is the key to the philosophical problem it raises. If I were to step out from formal thesis writer guise for a moment and ask you directly "Do you understand me?" You may answer in a number of ways but most likely "yes" or "no". The way in which the word "understand" is used in everyday life is most recognisably in the formulation of a closed question. The pathways leading from either answer may go as follows. If you were to answer "yes", I
would move on, if you were to answer "no", then I would provide further explanation and later opportunities for you to answer "yes". At some point this process would end, either you would indicate "understanding", i.e. "yes" or there would be an agreement to move on to some other point and accept that "understanding" had not been reached or achieved and that you will not understand me on this particular matter for whatever reason. The point of this little meander in a potential conversation between writer and reader is intended to illustrate one premise, that is "understanding" is a linear process, not circular. So, the circularity of the construction "understanding the word understand", goes against everyday, mundane notions of what it is to "understand". It may be this contrast between the linear mundane idea of "understanding" and the circularity that the tautology makes explicit, that produces this writer's discomfort and reluctance to use this formulation.

To return to the subjective problem, that this clause was and could be used with a variety of subjects. Are "my.../our.../participants'... understandings of the word understand" in any way related. Is my own, that is my account as thesis writer, version of the word understand, which forms the introduction to a large analytic section in this chapter, similar to your own or your neighbour's or the person sitting next to you in the pub? As the reader, will you have a different account of the meaning of the word understand from the one which I, the thesis writer, choose to provide for you? Will either of these descriptions of "understanding" be recognisable to the writers and readers of the letters under analysis? Is this a fundamental flaw?

If this thesis were seeking to discover the essential meaning of the word "understand", then yes this would constitute a fundamental weakness in its
argument. This thesis, however, is seeking to unpack meanings and therefore although my version may be considered and backed by literature, you may have your own “understanding of the word understand”, which may be equally considered and equally backed by literature and experience and which has equal status to my own. Far from being an undermining flaw, this is business of academic life and thesis writing and those other versions will provide the gears by which knowledge grows and develops after this thesis has been closed and shelved. The version of “understanding the word understand” given in this chapter, is one which comes from my own reading and which reflects the theoretical background chosen for this thesis (see chapter 2) as well as the analytic outcomes it seeks to achieve. As such, the “understanding of the word understand” as presented later in the chapter should be read with this in mind.

Finally, understanding is a subjective process, it can be demonstrated and recognised, but these are actions rather than states of mind or mental processes (Coulter, 1979, p72). How can the writer ever hope to share the understandings of the reader? This has been a concern of literary theorists and some linguists, it is not however the concern of this thesis or this writer at the present time. I can signal my own understandings and hopefully you will be able to recognise them even if they do not totally agree with your own. To try to unpack the potentially endless ways in which any individual or group may “understand the word understand” would be to lock myself into the circularity and endless motion into which the tautology seeks to ensnare me. My version of the meaning and uses of the word “understand” may not be complete or map unproblematically onto your own, but it is given in order to
3.3. Traditional approaches to understanding

The traditional notion of understanding is in and of itself a multifaceted idea. The term can indicate a mastery of task-oriented behaviour, for example children's acquisition and understanding of language is indicated by word repetition from the child. That is, as outlined in the previous section, understanding is signaled by an appropriate response from the recipient of new information.

An equally pervasive use of the term comes from the area of counseling and common sense notions of psychology. In this use, the notion of understanding relates to concepts of empathy and directly to the Theory of Mind, that is the ability to recognize and engage with the emotions of others (Glover, 1976). As an example of the use of understanding in this area, an absence of “understanding” is used as a diagnostic criterion for certain development disorders. Within the autistic spectrum of disorders, one the triad of impairments is constructed as social interaction difficulty. In particular, for those persons with “useable” language, that is those individuals who are able to communicate verbally, part of the recognition of autistic impairment is demonstrated by a “literal understanding” of language, that is a failure to recognize metaphor and other language forms in which meaning is ambivalent or indirect.
3.4. The discursive view of cognitive components

The discursive construction of cognitive processes has been a concern in a variety of forums, the most relevant being the legal context. Professional “seeing” has been analysed within the legal context with regard to expert testimony in specified trials, for example police and expert testimony in the Rodney King trial (Goodwin & Goodwin, 1997). To “witness” rather than “see” an event is to place the account in an evidentiary arena and make relevant a particular account to the overall dispute. That there would appear to be differences, even a hierarchy of ways of “seeing”, would indicate that even basic sensory processes are negotiable and up for challenge, dispute and verification through interaction.

In written texts, the use of the word “understand” is often categorized alongside other evidentials in particular “belief”, “think” and others which denote ways of knowing. Within this approach, the use of “understand” is seen to work as downgrading the concern for evidence to support claims and arguments in academic writing when compared to other evidentials (Chafe, 1987, p266)

The notion of understanding has also been explored philosophically, Coulter (1979), sees the process of “understanding” as an externally constructed state rather than an internal process. Understanding can be seen as an accomplishment achieved through interaction, agreement and verification amongst those involved that understanding has taken place, (Coulter, 1979, p37). Whilst Coulter describes constructed instances in which understanding and other cognitive processes are externally constructed within interactions, this would appear to be a first step in exploring how these cognitive processes
are worked up as external objects with interactions and whether the discursive accomplishment of understanding goes further than simple confirmation of an internal state of mind.

Discursive psychology, in contrast to cognitive representations of mental states, sees cognitive process as the topic of talk and text. It is through language that concepts like "understanding" are worked up and managed, contested or undermined (Potter & Edwards, 2003, p 168). As such, "internal" states like understanding are used to do a variety of pieces of business which go beyond indicating acceptance or rejection of a new idea or piece of information (McHoul & Rapley, 2003, p 512)

In order to build a picture of the ways in which "understanding" works discursively, and to provide a background for the analysis of this term within the letters, it would seem appropriate to provide some grounding from related talk. The inclusion of sequences from broadcast Family Mediation sessions which were aired as part of the series "Break Up" (Channel 4, 2001) is for illustrative purposes only, as a first step to build an understanding of the ways in which "understanding" works in language and interaction.

3.5. Legalese (and social science jargon)

The study of legal discourse has focused in a number of areas. Studies of legal language as a "diglossia" (Danet, 1985) have sought to explore the separation of legal language from normative structure of everyday language. The professional definitions of terms which attend to the business of procedural facilitation have been studied within the realm of contract law and
the formulation of legal documents of entitlement (Trosborg, 1997), and the
actions constructed through contractual terms.

This distinction between ordinary and the "professional" language of the law
has also been examined through the an attention to the historical
development of legal language, which looks back to the origin of terms from
older forms of French and English (Mellinkoff, 1963) Whilst this approach
emphasizes the tradition and separation of legal language from ordinary talk
and writing, it fails to address current practice of these terms and the business
that these performatives manage and construct This concern with the
backward looking analysis of legal language remains an active part of the
social scientific approach to legal discourse.

The formulation of narrative texts within the judicial sphere, that is legal
opinions given by judges in the interpretation of statues and setting of
precedents have been analysed to explore the myth embedded in these
narratives, (Amsterdam & Bruner, 2000). Whilst this analysis attends to grand
scale features of legal narratives, it lends an archaic quality to legal discourse,
made relevant by it focus on issues like the combat myth narratives of
adultery (Amsterdam & Bruner, 2000, p 134) as evidenced by comparison to
Arthurian myth and literature. This preoccupation with the dim and
distant past is evident throughout the analysis of written legal texts, which
arguably gives the heuristic cue that written legal language is dead and stale,
at odds with the dynamic, participant oriented analysis of spoken legal
interaction and language.

This contrast is most evident in conversation analytic analysis of
courtroom interaction (Drew & Heritage, 1992). Although the terminology and
lexical choice in this arena is also often governed by the particular context specific requirements in which interaction occur with it's attendant legal imputations, these appear to be embedded in ordinary words and phrases (O'Barr, 1982), Analysis in this field attends to the business of interaction and the practice of doing "law". This approach allows for the movement of language between participants and gives a movement dynamic to the consequent analysis. The jargon-laden language of the court has been conceptualized in politically oriented analysis as a barrier to those seeking equitable remedies and judicial outcomes (O'Barr, 1982). This attendance to language as action-oriented appears to be lacking in analysis of written legal language and documents, although this may be an artefact of the data, which has previously been used for analysis that is statutes, legal instruments and judicial opinions.

This separation can be tempered by the approach which Sacks so eloquently and succinctly provided, that it is the business of the legal profession to interpret the messy complexities of everyday lived and problems into orders of business which can be reformulated to fit into the parameters of statutory redress and solution (Sacks, 1961).

3.6. Instruct

In order to give a clear account of the ways which introductory terms work within the letters, the analysis will begin with the term instruct. The decision to begin with this term is that it routinely occurs in everyday practice legal representation. As a specialized legal term "instruct" denotes the terms under which the solicitor or barrister represents the client and includes
courses of action, matters of legal business and applications for various remedies (Martin, 2003).

At the opening of actions, respective relationships are explicitly referred to at the start of letters. In example S/CW/12/5/99, the pro forma use of this transitive verb can be seen to perform a number of pieces of business.

S/CW 12/5/99
Dear Sirs,
re: Our Client: R. C.
Your Client: M. D.

We are instructed by the above named client in relation to pursuing contact with his son J. C (d.o.b. ).

Initially, the use of “instruct” lays out professional relationships and provides a gloss as to the relationship between solicitor and client and the business that this relationship is pursuing. The solicitor is introduced through their institutional identity, the use of the pronoun “we” attends to the solicitor as member of legal practice that is the firm to which they belong. This makes relevant the solicitor as part of a wider team or practice of solicitors who share an expertise and resources to do business.

This gloss also conceptualizes this action as goal directed with the endpoint as contact with the child. Further, the action is specifically centred, not on the client as “father”, but on the child who is both named and described in his relationship to the “client”. Although all parties are named above the body of the letter, it is the child whose identity is attended to initially in the letter. Interestingly, naming the child in the first instance, orients to this as a “child centred” process and thereby contextualises the dispute and
management of future assertions and arguments. This is not a dispute concerning the father's claim to kinship (see chapter 8) and issues of parenting are avoided.

In the example below S/CW/6/8/99, the relationship between Mrs. W. and her own solicitors is worked up. The relevance of the term "instruct" here is that it frames an account of the child's attendance at contact. This confirmation of attendance is formulated as part of Mrs. W's instructions to her solicitor's and therefore this confirmation carries formal and procedural weight.

The most common feature of the use of "instruct" to introduce accounts is that it occurs when framing details and descriptions which are open to external verification. This use of "instruct" in an evidential mode (Chafe, 1987) can be seen in the following example.

S/CW/26/8/99b

We are instructed that your client assaulted Mr W., our clients new partner, on...

In this example the description of "assault" uses the specialized language of criminal law. In legal terms, the category of "assault" refers to a specific form of attack involving a degree of physical injury and is defined in terms of severity of resulting injury in a continuum that goes from "common assault" through to the more serious charge of "Grevious Bodily Harm" (Glazebrook, 2003). The use of legal terminology and the framing of the incident within the context of criminal charges would indicate that this account can be externally evidenced from other sources than Mr. W's statement to the
solicitor. Any allegation of assault would generate documentation in the form of a written complaint and police incident number.

The use of the term "instruct" does more than construct externally evidenced claims. A feature of the claims introduced by this term is that they are consequential to the process of child contact negotiation (Potter, 1996, p 113). The nature of the accounts above, which are introduced by the term "instruct" have direct implications for the nature and scope of future contact arrangements. In the example S/CW/26/8/99 evidence of violence on the part of the father may increase difficulties in ensuring future contact arrangements or result in contact being supervised, limited or even denied.

The business of managing contested versions is at the heart of legal argument and the separation of "fact" from "hearsay" or unsubstantiated claim, is a primary concern of those involved in legal practice. Within the corpus of letters available for analysis, "instruct" is used to introduce statements related to temporally and spatially located events. These are events marked out by time and place both in the context of disputed accounts and complaints.

As can been seen from the following example, events happening out in the world can and must be verifiable to stand evidentially valid in the course of argument.
Dear Sirs,

Your client: - R. C.

Our client: - M. W.

Further to previous correspondence we write to detail the contact that was due to place on 21st.

We are instructed that our client arrived at the Contact Centre at the proper time. She tried to force J. out of the car and was able to unclip his safety belt.

From the outset of this letter, the dilemma facing the solicitor and their client is evident. The business of this letter is account for a contact, which was "due to take place" and some account must be given as to why it did not. The account is introduced by the term "instructed", in terms of agency and attribution, this account is contextualised as being the property of the client. The footing of the solicitor here is outside of the events being reported, this is an account of circumstances occasioned by something other than the solicitor's "advice".

Whilst "instruct" in procedural terms makes relevant the category of client as the agent of the instructions and informed disseminated clients version is predicated on checkable sources. The Contact Centre is a legally mandated institution for the supervision and enactment of contact visits between parents and their children. The institutional nature of the practice of contact in a supervised manner makes relevant the procedural categories of business done by institutions. The ethnographic knowledge embedded within this category draws in notions of paperwork and routine procedure. These are
rationales, which provide sources of verification for attendance in terms of
time and duration, potentially in the form of reports and logs.

Further the use of the term “proper” attends and attests to the legal context
and provides a further source of potential verification. For the time of
attendance to be “proper” a category of “properness” must necessarily have
been previously agreed to and documented in arrangements drawn up both
between solicitors.

The use of categories which invoke archives of verifiable sources,
construct these statements as something other than the “belief” or imaginings
of the client, rather as a potential “fact”, externally validated and ultimately
checkable from other sources. By enabling this construction with the directive
“instructed”, events are differentiated from versions, which are “told” or “said”.

The term “instruct” also makes relevant categories of responsibility and
adherence to orders or directions, in addition to this event being out there in
the world, this is an action performed by a “client” who would appear to
recognize that there is a framework in place to which they need to adhere,
that is a specified time at which they should attend. The linkage of “proper” to
both the object and subject of the assertion can be understood in the
categories, which it draws upon, that are proper as an attribute, understood as
a moral characteristic of personhood and citizenship.

This attendance to attributional and motivational work can be noted within
the statement construction of the legal letters under analysis. Whilst the notion
of “fact” may carry a neutral connotation in common sense practices, within
the construction of these out in world statements, motive and attribution are
ever-present concerns.
Thus far the separation between the construction of verifiable, out there in the world statements and personal narratives has been commented on without clear comparative material. An elegant example of the demarcation of "fact" and "judgement" is detailed in the following example.

S/BB 28/2/97

Dear Sirs,

B and B.

We have been consulted by our client following incidents that arose on the 27th when your client attended at the property for the purpose of contact. Our client asked your client if he would return the children by 5pm as they had been invited out to a 21st birthday party. Your client refused to commit himself to this. Our client indicated that if your client would not agree to return them such that she could take the children to the party, then contact could not take place. When our client closed the door your client kicked it, cracking the glass. We are instructed that your client then subsequently attacked our client's 75 year old father.

The Police were called. Our client instructs us that the events were witnessed by the children who, she tells us, were very upset. Our client is thus of the opinion that it is not in the interests of the welfare of the children for contact to continue whilst your client continues to conduct himself in such a fashion.

In this example, whilst events introduced by "instructed" are described as witnessed and therefore verifiable as actual happenings, the emotional state of the children is introduced by "tells".

This differentiation can be linked to the relative evidentiary status of each piece of information. "Instruct" introduces the practice of witnessing, a legal category which relates to a sensory practice which goes some way beyond merely "seeing" (Goodwin & Goodwin, 1997). To "witness" rather than "see" an event is place the account in an evidentiary arena and make relevant this
account to overall dispute. That this event was witnessed by the children at
the centre of the overarching action mandates this as a piece of legal
business, relevant to legal outcomes and future actions. As previously
discussed this event is subject to external verification through the
"professional viewing" of the children.

Although mother could equally be constructed as expert on the emotional
reactions of her children, the discursive construction of emotions brings into
play a range of attributional and motivational exigencies that must be
considered in the construction of the children's emotional state as having a
causal link to the "event". This is an account of the dispute between the
parents and her account of their emotional state is thus liable for challenge,
unlike the children who were either there or not, the common sense notion of
emotionality is one of degrees, and the use of "tells" alerts to the potential
construction of the mothers account of her children's emotional state being
liable to undermining. The question underpinning this account is that this is a
qualitative judgement, was the distress independently observable or
something that only a "mother" would recognize?

3.7. Advise

Whilst clients instruct solicitors, the relationship between solicitor and
client is constructed as one of advice giving and making recommendations on
specified courses of action based upon a professional knowledge of the
application of statute and interpretation. This usage again can be found
throughout the letters as can be seen below.
Would you please advise us whether you are agreeable to the Statement being amended to provide that in time your husband will be able to have contact to the children away from the former matrimonial home. Our Mr. S would advise you to agree to such an amendment but obviously it is a matter in your discretion and we look forward to receiving your instructions in relation to this matter.

In example S/LG/1/10/97, stake issues are managed directly, the solicitor is named, and thereby agency for the assertion is traceable to the source. As "advise" appears to be linked to professional knowledge claims, the categorization of "Mr. S." as "our" attends to the business of legal practice, as "Mr. S." has the validation of being categorized as belonging to the community of legal practitioners and thereby his claims are not made in isolation but in the context of his professional practice and partnership.

The delicacy of the relationship between solicitor and client is also managed within this construction, as the solicitor can not act in this instance without the express consent of the client. Interestingly, in this case, the client is also requested to "advise" the solicitor. This is a matter on which the solicitor requires an explicit instruction before action can be taken and differs from the providing of accounts and explanations. This is only one candidate possibility and requires further analysis as to whether this is an unusual case. This constraint is managed through the use of the evidential "obviously". This letter is from the solicitor to their own client, and may indicate an acknowledgement of the client's privilege to choose their course of action in this matter.
The notion of advising is further implicated and embedded in legal practice by the use of the term discretion. Not only does this construction manage the interactional delicacy of the relationship between solicitor and client and places the agency for decision making with the client, it makes relevant the legal context of this decision making process. Further this usage marks the distinction between statute and application, in this instance, the orientation to there being no legally mandated requirement for the client's agreement to the changes proposed. This is an aspect of the action occasioned by the client, which falls outside of the catchall of statutory mandate, a practical rather than legal problem which can be attended to without reference to legislative consequences and restraints. Outside of professional use, "discretion" gives a further gloss to the notion of the client's volition in this matter, to pursue child contact is a chosen and not a legislatively imposed course of action.

Whilst "instruct" may point to events out there in the world, the differentiated use of the term advice, builds credibility into statements by bringing in other sources of witnessing or evaluation. This is especially apparent in the introduction of the accounts of "professionals" within versions. As can be seen in example S/BB/28/2/97 (p 67), the mother's account of her children's emotional state is treated differently. The simple use of this term, as providing professional recommendations based on legal expertise, provides the basis for its use to build other accounts. When used to introduce statements and assertions, "advise" is used to frame the inclusion of professional knowledge claims, as differentiated from the beliefs and opinions of the client.
The main issue that our client would like to raise is the marked change in J's behaviour since the contact session. On the Thursday after contact, J bit C and left a bruise. The last time J was in the habit of biting his siblings was when he was two-and-a-half years old. J has also taken to throwing things around and thumping his siblings. He refuses to sit and eat at meal times and also refuses to leave our client when she drops him off at nursery. She has been advised by the nursery staff that J doesn’t want to play or know the other children.

The client's account of her son's behaviour is contextualised as something other than her own belief, this knowledge brought to her attention from another source. The account sets out the troublesome behaviour of J within the family at line 3 and a candidate alternative to the mother's complaint and link with contact, is that this is an unhappy home and trouble amongst siblings. The inclusion of outside witnesses to support this account of J's behaviour moves the account of J's behaviour as an issue out in the world rather than localized within the home and family. This is an account formulated on the basis of professional knowledge and specified expertise. The category of "nursery staff" (line 8) attends to the role of nursery educators as pivotal in the socialisation of young children into their broader group, from family and friends to classmates and the school environment. As well as the basics in literacy and numeracy, nursery staff are trained to attend to socialization and social skills development. That this report comes from an unspecified source, that is "nursery staff" rather than individual worker, makes relevant a number of evidentially acute issues. Firstly, this is a report from an institutional body. Secondly, the use of "advise" would seem to indicate that
this report to the client was noteworthy. This becomes constructed as a considered report rather than an off the cuff and spontaneous remark.

Further, the report is constructed to place J. as agentic in the failure to socialize and in not doing the common sense things that young children do, that is play and interact with other children. This attendance to J’s failure to play makes relevant psychological theories of child development, which the category of “nursery staff” further implicates. That J. does not “want” to play (line 9), pathologises this decision as more than a one-time instance of potential boredom or bullying, but rather an abnormal behaviour. That this behaviour is constructed as worthy of professional note, attends to the wider cause of action in which this complaint is located. Within the category of business which the “best interests” of the child make relevant are that the child should be happy and well adjusted in their passage through childhood. These psychologically described “best interests” are relevant to the argument of whether contact can be seen to conform to this stricture. Although not specified, changes in child behaviours would be a notable evidentiary tool in arguing against continued contact, especially where these changed are marked by professional attention and interventions.

Although “advise” is frequently used to manage the construction of professional intervention, as in the above example, or to introduce suggestions by court appointed officers, it is also used to reference other statements where the institutional identity of the claim is not clear either procedurally or categorically. This type of use is occasioned in descriptions and interactions ascribed to the child/children at the centre of the dispute.
S/CW 8/9/99

We understand that J was distressed initially for the first 2 minutes and we anticipate that this was a result of the fact that he has been unable, for whatever reason, to exercise contact with our client for some significant time.

J soon felt relaxed and comfortable exercising contact with our client and said to him "you're my nice Daddy aren't you" and "I can come and stay with you at your house". At the conclusion of contact J. went on to advise our client that he would see him again.

As can be seen in the above examples, when "advise" is linked to statements by the child it is difficult to ascribe this as a "professional" knowledge claim. However, to conform to the exigencies of the Children's Act 1989, the decision making process must be centred on the "child's best interests. It can be argued that the prima facie owner of these interests is the child in question and therefore what better expert to quote than the child themselves. In example S/CW/18/9/99, the child's statement is directly reported, to include the actual speech of the child.

S/CW 6/8/99

Dears Sirs,

Re: Our client - Mr R. C.

Your client - Mrs M. W.

We acknowledge receipt of you letter dated 6th, the contents of which we note.

We are amazed to note that J. has allegedly advised that he did not want to see "that nasty man", referring to our client. When contact has taken place in the past J. has placed great attachment to our client and we can see no apparent reason why J would now be reluctant to exercise contact with our client unless your client has discouraged contact from taking place.
"I can come and stay with you at your house". At the conclusion of contact J. went on to advise our client that he would see him again.

Interestingly the reporting of the contact session in the first extract is preceded by the clause "went on", this construction enables the entirety of the contact session to be glossed in the light of the child's subsequent remarks. The gloss that the child's reported speech provides is that the contact visit was favourable. This is bolstered by the reporting device of "advise", this assertion on the part of J. is constructed not as request but a forceful statement of intent, that child advised rather than "asked" lends an illocutionary force to the child's interaction with father. In terms of the case being pursued, that the volitional desire to seek contact comes from the child rather than the father, lends itself to the procedural requirements of the action, in that further contact is attributed motivationally to the child rather than parent.

By contrast, in S/CW/6/8/99, when child's reported speech is disputed, the used of "advised" serves to ironize the remarks.

We are amazed to note that J. has allegedly advised that he did not want to see "that nasty man", referring to our client. When J's speech is directly quoted and therefore up for averral and critique. The linkage between the term "advise" and the reported construction "that nasty man" manages the attributional work which this phrase does. The term "allegedly" further marks this out as a troublesome piece of business, the trouble being located in terms of evidential production and the veracity of the child having produced this statement. Framed by the term "advised", which
draws in categories of professional language and practice, the contrast with what is being purportedly “advised” is marked out for scrutiny and incredulity.

Where the terms “instruct” and “advise” are used together, the demarcation between interactional roles can be most eloquently seen with reference to the following example in which the complexities of legal relationships are managed and glossed with clarity and economy.

S/CD/3/6/98

Dear Madam,

Re: R. C.

Application for contact with his son J.

We write further to the above and in particular our telephone conversation on 24th when we were advised that a place was available at M. Contact Centre each Saturday commencing 5th between the hours of 2pm and 4pm.

We have advised our client and solicitors instructed by Mrs. D. accordingly.

In this example the solicitor writes to the manager of the Contact Centre to confirm arrangements. This letter, although copied to other parties is directed to an audience which is not directly involved in the process of contact negotiation. As such, the Contact Centre would have no direct contact with the solicitors. The demarcation of roles and responsibilities, power relations and institutionally related identities is captured and elegantly set out. The use of pronouns (“We”), and verbs (“advise”) and (“instruct”) construct a field of
play, with agents set in chess-like formation, their relative roles and constraints easily identified. The naming of opposing client places agentic force in procedure of this action with the party rather than the legal practitioner. At the heart of this dispute then is the dissolution of solicitors' agency and the argument between parties over issues outside the scope of statutory interpretation, rather than a professional disagreement over the relativity of points of law and practice.

3.8. Understand

During initial work on the frequency of introductory terms in the letters, the appearance of the word “understand” as the most frequent marker came as something of a surprise. Whilst “instruct” and “advise” have a resonance in professional discourse, the use of “understand” provided a puzzle. As has been discussed in the opening section of this chapter, “understand” is most commonly associated with the description of mental process, not with the specialized terms of legal language.

In analyzing the ways in which this term is used, it was necessary to try to put aside common sense notions of “understanding” as a counseling or learning associated term and to look at the ways in which the term is used to align and warrant the accounts it introduces.

Dissolving agency & attribution

The most commonly found use of the term “understand” was related to the evidential frame which it provided for accounts. Unlike the terms instruct
“instruct” and “advise” which work to locate accounts within particular knowledge contexts, “understand” is a more complex and subtle resource. As will be shown “understand” has the flexibility to shift as well as dissolve issues of stake and agency. This is a major feature of its use in the legal letters under analysis and the example below is typical of this use of “understand”.

S/CW/12/5/99

We understand that your client is refusing to co-operate.

Within this construction (S/CW/12/5/99), notions of agency and stake involved in the criticism of actions become transferred to the object rather than the subject of the clause. Although the “understanding” is voiced through the solicitor, the notion of understanding is stated without volitional intent. If understanding is not correct, then it is “mis-understanding”, a category which also avoids issues of blame and malice on the “mis-understander”. Indeed, to understand something does not always require an account of the source of that understanding as this a psychological concept, an internal process the details of which may not be fully available to even the “understander”. An account may be offered to explain a lack of understanding or an error in understanding but where understanding is recognized and agreed, an explanation of this process is unlikely. Unlike the candidate alternative, “We know/ have knowledge”, which makes relevant sources of knowledge which can be challenged and demanded by the recipient, understanding, with its relevancies to an experiential and “state of mind” construct, can require little in way of evidential management in the way that expressions of “feeling” share.

The attributional work is managed through the choice of descriptives with regard to the other client. Unlike “failing” which is a candidate alternative,
"refuse" denotes a volitional act; to refuse is to have the choice not to refuse. The negative attribution construction continues with the use of "co-operate". To describe an action or operation, as a "co-operation" is to divide agency and effort, share the burden of the action. A refusal to co-operative describes both a failure to make a downgraded amount of effort and pathology of social interaction. Again, common sense notions of social psychology come into play; the volitional act of not co-operating is constructed as an attributional feature. The category works up attributional features of the type of client who might refuse to co-operate. Indeed given that this contextually mandated co-operation, the attributional work is far more consequential. This is a client who refuses to co-operate with the workings and procedures of the judiciary.

**Doing "understanding" to undermine**

The delicacy of and flexibility of the condition of "understanding" rather than the condition of stating or asserting can be seen when it is used to undermine other accounts.

*S/CW/2/9/99*

We **understand** that J. was reluctant **once again** to enter the Contact Centre or indeed leave your client's vehicle.

*S/CW 13/8/99*

We **understand** that, **as anticipated** contact did not take place on.....

In the above examples, "understand" can also serve as a resource to delicately undermine other, disputed versions. When linked with markers, which make relevant categories of knowledge or expectation (Pagano, 1994),
for example "as anticipated" or "once again", the notion of understanding is related not to knowledge of the "facts" reported but of other contextual information implicit in the construction. The "understanding" is not that contact did not occur but that this was expected by some a priori source of information. The use of "understand" within these constructions mitigates notions of speculation. In terms of constructing attribution, "understand" when used with these makers, makes the discursive move of attributing the negative assertion to some unspecified but external source. Agency for the undermining work accomplished within these constructions is removed from the subject of the clause, as understanding is normatively recognized as a process which comes with experience and which is constructed as a response to knowledge rather than an internal construction of said knowledge.

When sources of "understanding" are implicit in the account, its use can delicately manage attributional and motivational work, without direct attachment of those assertions to the source of information.

S/DD 18/9/97

We understand D. cried all night and C. had to sleep in your client’s bed as he was afraid.

Our client understands that when they are fed it is either from McDonalds or the chip shop.

In enabling the removal of agency through the lack of the naming of sources, this feature is apparent even when sources of information are implicit. In the above examples, although it is apparent that the information regarding the children’s emotional state (S/DD/18/9/97), and what they are
given to eat (S/DD/18/9/97), comes from the children's accounts of time spent during contact, these statements are not directly formulated as the children's complaints. That there may be a variety of reasons for distress or choice of meal is managed through the use of "understanding". To understand the fact, i.e. distress and nutrition is also to understand lay notions as to the cause and effect of these states. Whilst this is lay knowledge on the part of the parent and therefore not directly stated through the use of other candidate descriptions, that is "advise", this contextual knowledge is made relevant. This relevancy is achieved through experiential means that is understanding and therefore manages the attribution of motive without referral to the direct conditions which invoked these states.

In the final example of this set, it is possible to see how "understanding" sets up the rhetorical move which Amsterdam and Bruner (2000) refer to as "selective skepticism".

S/CW 12/10/99

We understand that there has been some significant involvement of the voluntary staff at the Contact Centre who have endeavoured to encourage J. to enter the Contact Centre apparently without success

The "understanding" apparent in this example relates to the "significant involvement" of professionals at the contact centre in order to enable contact to occur. Although this is a report of professional involvement, this report is made indirectly as the business of the statement is not to attend to the professional practices and knowledge claims of the contact centre staff. By "understanding" rather than being "advised", the content of the involvement is
bypassed as the central issue here and thereby not fully explicated. The "understanding" of this assertion is given not by the criterion of professional practice, but by attendance to other unspecified but confounding factors. These factors are made relevant by the skepticism introduced by "apparently". The candidate account given, that is that the involvement of contact centre workers has not been effective, is treated as an unsound premise. The trajectory of the "understanding" here is that this version of events is problematic and does not fit into expected patterns of contact visitation. In conjunction with the qualifier "apparently" at line 3, this works to undermine this account of contact failure whilst not directly challenging the accuracy of extent of professional involvement. Rather, if the account can not be understood in terms of the interventions of contact centre workers, the process of trying to "understand" makes relevant the possibility of other unspecified influences and accounts for this failure which may provide an alternative version in which the failure of workers to enable contact can be understood. It is not necessary to specify or speculate, rather this formulation relies on the common sense practices of sense making and the practice of finding alternative accounts to provide an outcome to the problem which can be acknowledge as being "understood".

The facility of understanding to undermine and mark disagreement is clear when linked with "advise", a term most clearly used to construct professional knowledge claims. The practice of "in-house" criticism that is drawing attention to shortcomings in a fellow practitioners practice is an area which requires a delicate touch as below.
We understand that you advised your client on the basis of the alleged assault on Mr. W on .... and indeed the contents of the Court Welfare Officer's report dated...

This formulation forms the opening of a letter in which the mother's solicitor is writing to inform the father's solicitor that the father's actions in pursuing a course of action of involving the paternal grandmother in contact visits is not acceptable to the mother and a previous contact was therefore unsuccessful. This letter comes in response to a complaint by the father that the mother objected to the presence of his mother at contact visits. The mother's solicitor, whilst obligated to advocate his client's objections, has to balance this against the potential risk of any perceived hostility directly against the father or members of his family. By invoking legal instruments and procedures to account for contact problems, the dispute is shifted away from sources of potential acrimony between the parents and is reformulated as a question of interpretation by solicitors which can be professionally resolved through formal and institutional discussion.

3.9. "Understanding" in talk

As can be seen below in extracts taken from Family Mediation sessions, broadcast as part of the Channel Four series "Break Up" (Channel, 4, 2001) "understand" appears, in the mediation context at least, to do more than simply indicate acceptance, agreement or empathy. The following analyses are used for illustrative purposes only, to point up some of the possible ways in which understanding can be used in talk, they are not intended to stand
alone as outcome claims from an analysis of Family Mediation data, but rather
to complement the analysis of "understand" in letters. The analysis is intended
to provide a starting point and hopefully inspiration for future work on the use
of "understand" in talk and institutional settings.

**Extract 1**

1 FM2: Where does this lack of trust come from? Is that something you
2 need to bring out into the open because there seems to some
3 ehm on both sides really (0.2 secs) a lack of real
4 understanding and that [seems]
5 Carol: [((clears throat))]
6 FM2: = to be [getting]=
7 Carol: [I think]
8 FM2: = to be getting into the way in [the way of making=]
9 Carol: [I think pers]
10 FM2: = the ar[range]=
11 Carol: ["yeh"]
12 FM2: =ments for Dan

In this sequence the family mediator's use of the "understanding" works on a
procedural as well as empathetic level. By conceptualising the problems and
complaints worked up within the mediation session as a lack of
"understanding" at lines 4 and 5, the mediator constructs a non volitional state
of affairs. In terms of the management of mediator neutrality, the use of the
descriptive "understanding" dissolves potential sources of attribution and
blame. The common sense notion of "not understanding" is that it is not a deliberate or confuscating act and that a lack of understanding does not of itself make relevant categories of trouble making and hostility. The ascription of a lack of understanding can also be apportioned equally and to both sides, thus maintaining a neutral position within the interaction. Furthermore, a "lack of understanding" is both quantitative absence that may be redressed, and an obstacle which may be overcome in a manageable way, unlike other states of mind, for example hate. To be charged with a lack of understanding does not ascribe or pathologise in the same way that being charged with hating your ex-partner does. As will become apparent from further examples, "understand" appears to lend a flexibility and fluidity to accounts that enable a variety of undermining, accusing, and attributional work to be managed with a delicacy that avoids the risk of those issues being directed back to the "understander".

Extract 2

1 Carol: W[e went]=
2 Jack: ["that's why you went"]
3 Carol: = to a do on th- at the end of November
4 (. ) Jack was very quiet with me (. ) I asked him >what was
5 wrong↓<
6 he said (. 0 ↑I don't trust you↓ (0.2 secs) I really don't know
7 why↓ so I took Dan over to my parents because they looked
8 after him on a Friday she looked- my mother looked after
9 him on a Friday (0.2 secs) and: I didn't come ba:ck↓
10 FM2: So (. ) if I understand you correctly: you're happy for
11 Jack: to look after Dan >from time to time< but you don't want
to be involved in that arrangement (.) is that what you're saying?

Carol: I- initially I did because I used to take Dan over >you know<

"Understand" can also be used as a fact checking marker. In the above extract the Family mediator is attending to the business of formulating a gloss of Carol's previous turns. By "hedging" (Pagano, 1994) this gloss with an appeal to Carol (line 269), the Family mediator is signally that although his gloss may not mirror he words exactly, his gloss will provide an adequate synopsis. The gloss does not attend directly to Carol's previous turn, and frames the talk back into the procedural business at hand, that is making arrangements for future contact. By using the marker "understand" as an opener to the gloss, the family mediator mitigates against a possible revoke and interruption, in signaling that this gloss will not be a repetition but rather a transformation of Carol's narrative. Interestingly, the family mediator ends his turn by again appealing to Carol (line 298), this time to confirm that his gloss captures what she is "saying". This "saying", however relates not to actual utterance, but in reporting terms to an indirect quoting of Carol. The Family Mediator attends not to Carol's words but rather what he constructs as their "meaning", in lay terms what she's really saying. This construction attends to issues of stake, and can act as a repair to a potentially risky turn in terms of the procedural business of moving on with negotiation. To be constructed as saying one thing when you really meant to say another, is a resource akin to being misquoted, which can manage accusations of non co-operation.
3.10. **Closing Arguments**

Through an initial exploration of the legal practice of child contact letter writing, it is possible to build a picture of dilemmas managed by the solicitor and the function of legal language and formulations within the letters. In attending to complaints and allegations between clients, the solicitor is practiced in deflecting and avoiding direct and potentially damaging attributional work, by finessing accounts with the inclusion of legal terms. This practice of institutional writing will not be left behind with this chapter, rather it is a central feature in exploring the letters and issues of footing will be taken up in the following chapter.

The use of the regular terms “instruct” and “advise” provides a starting point to exploring the complexities on solicitor’s letters. The practice of reformulating client’s narratives involves a great degree of delicacy. The ways in which accounts are packaged and introduced by specialized legal terms makes relevant notions of evidencing practices and the legal business which these accounts attend to. The relative ontological status of descriptions which become packaged as client’s own or professional opinions is the central to the use of “advise’ and “instruct”.

The focus within this chapter on the use of the term “understand’, may seem to be something of a diversion. Having stated throughout the introductory chapters, that analysis would try to explore participants “understanding” of what constitutes contact, it would be amiss not to look at some length at the discursive work which “understanding” accomplishes. This is not intentional reflexivity, but rather an attempt to begin to see the ways in which what would
appear to be an internalized, cognitive process is both accomplished through interaction, but also used as a resource in the production of accounts and versions. The range of activities which "understanding" can be used to manage goes beyond simple acknowledgement of its use as an "empathy token". As has been explored, the process of understanding can be used to mark up disagreement, to undermine alternative versions and dissolve agency when making assertions and claims which are liable to challenge.
4. **Footing: Making “cases” out of contempts**

4.1. **Opening statements**

This chapter will continue the work of the previous exploration of the dilemmas faced by the solicitor in presenting client’s account of contact disputes. The focus of this section will be on the footing practices found in the letters. The practice of “footing” is taken in this thesis, from the work of Goffman (1974) and used in discursive analysis to look at the ways in which the authorial stance is constructed within the text to manage issues of agency, stake and interest (Potter, 1996, p 143). In particular, the ways in which solicitors formulate potentially contested versions as neutral descriptions of events.

Footing, as described by Goffman (1981, p,126) is the alignment which the speaker or writer takes in relation to their audience. Although the concept of footing has been developed in relation to speakers and hearers, it is Goffman’s original concept which will be used as the basis for this chapter.

The practice of footing which Goffman (1981) details derives from his concern to capture the multiple activities evident in any stretch of talk or text. The following account of Goffman’s concept of footing will focus on the application of this concept to text rather than talk. Goffman outlines the range of participant roles which writers and speakers adopt and extends these beyond simple notions of writer and reader or speaker and hearer. These roles appear to be fluid and most easily identified when writers or speaker move between them (Goffman, 1981, p 128). Goffman identifies three participant roles that writers and speakers adopt and shift between. In
essence the metaphor which Goffman adopts to explain these roles is theatrical and makes relevant the relative social identities of those involved in dramatic production. These roles will be outlined with a focus on those available to the writer or speaker. In Goffman's original outline this notion of multiple roles is extended to the hearer or audience, however as the concern of this chapter is with solicitor's role in the production and crafting of the letters, it is only those available to the writer which will be detailed. The categories available to the writer in Goffman's model are that of the animator, which Goffman describes as the one who narrates the words, the author who composes the words and the principle, who has ownership and responsibility for the words (Goffman, 1981, p 174).

The use of footing in the legal arena has focused on the alignment of witness testimony. In Matoesian (1999) the testimony of a defendant is analysed to illustrate the ways in which the testimony shifts between "expert witness" and "defendant" alignments (Matoesian, 1999, p 494).

In relation to the letters which are analysed in this thesis, the multiple roles which the solicitor enacts in writing can be understood in terms of Goffman's categories of participant roles. It is the solicitor who appears to act as author; the letters appear on headed paper and conclude with the solicitor's signature. In the body of the letter, however the solicitor must manage the dilemma appearing as animator rather than author of the accounts which the parents present. The solicitor must also balance the parent's need for including detailed and often divisive accounts with the need to appear as neutral animator in the context of letters composed for an audience of fellow professional and the other parent involved in the case. Through the use of
legal terms as discussed in the previous chapter, accounts are introduced and
narrated by the solicitor as animator and agent for the parent. The dilemma
faced by the solicitor is how to narrate emotive accounts whilst marking out a
degree of professional distance between the content of the accounts and their
own status as animator rather than principle. The role of principle is also
complicated by the balance which the solicitor must achieve between
accurately representing the accounts given by the client whilst attending their
status as evidence within the contact negotiation and therefore open to
challenge.

This chapter will explore the normative footing of the letters and the
ways in which solicitors work up accounts and descriptions as neutral and
factual. The chapter will then move to examine instances when this normative
footing is breached.

4.2. The business at hand

The relationship between solicitor and client is primarily a practical one
governed and constrained by the course of action needed or wished by the
client. Although solicitors advertise and are visible through offices and
corporate identities, most especially in the case of personal injury litigation,
the normative nature of these relationships is client-lead with client seeking
out the services of a solicitor in a particular and often exceptional set of life
circumstances. The limitations of this relationship are governed not only by
practices but also in documentary form. At the outset of any course of action
solicitor and client enter into a written contract, which outlines expected costs
and duration of the action taken by the solicitor. The nature and scope of this relationship is also governed by the details of the Solicitor’s Code of Practice as laid down by the Law Society.

The expense of seeking legal action and advice also has an influence on solicitor client interaction and can dictate its scope of interaction. The business of legal practice is time oriented with most practices having an hourly charging rate, with additional costs for specific services in a way similar to that of builders and prostitutes. Time is money for both client and solicitor and therefore the focus on efficiency and time pressure are considerations. Some cases require less action than others, most child contact cases require involvement over lengthy periods, sometimes years and therefore letters as a resource, are costly to a client and therefore need to be efficient in the business they perform and execute.

4.3. Normative neutrality

The normative footing of solicitors’ letters is established in a number of standardized ways which are apparent throughout the data corpus. From a detailed analysis of the example below, five of these regular features will be discussed, that is: layout, the use of particular membership categories, standard phrases and the use of plural pronouns. The ways in which these features contribute to managing issues of neutrality and distance between the writer (that is the solicitor) and teller (that is the client) of accounts is an ongoing concern of this thesis and the following exploration of footing will provide a way into exploring these complexities and dilemmas.
19 August 1999

Dear Sirs,

Re: Our Client - Mr. R. C.
Your Client - Mrs. E. D

We thank you for your letter dated 17 August 1999, the contents of which are noted.

We have contacted our client and informed him of your client’s request that his mother does not attend the Contact Centre at the next scheduled session, on the 21 August 1999.

We have advised our client that, as a gesture of goodwill on his part and in order to keep matters as amicable as possible, he should attend the Contact Centre alone this coming Saturday.

In view of the fact that

A: Layout

Solicitors’ letters adopt several regular features, some of which this thesis is unable to reproduce for reasons of retaining anonymity. The above example begins with the layout below a thick black line which separates the letter from the corporate heading of the sender above. The solicitor’s letterhead, along with address, phone and fax numbers as well as the internal case reference numbers of both solicitors form the initial footing of these letters. These, then appear as institutional letters, the product of a corporate identity rather than of an individual. In terms of footing, the authorial stance (Goffman, 1981) is distanced from the individual opinion of the solicitor and framed as the business of the practice of which they form part.

In lines 1 – 7, the date and details of the addressee are established in a conventional format which mirrors that of other business letters. Again this
layout invokes a corporate rather than an individual footing, with its attendant formality. This standard layout balances the representation, as this letter is framed as being a communication between firms rather than individuals. The equilibrium works to distance the footing of the business of the letter, which may be the details of an acrimonious dispute between parties, from a direct engagement between individuals to a mediated business.

Although the main part of the letter begins in line 9 with “Dear Sirs”, the body of the letter is separated from the greeting and does not begin until line 13. Before going on to address the intervening lines, it should be noted that the letter, as with the majority of the letters in this corpus, is addressed to plural but unspecified recipients. The greeting may be a standard formal letter opening; the use of “Sirs” implies that this letter will be read by more than one party. In accordance with the other features of the initial layout of the letter, a candidate option is that this letter is addressed to the corporate identity of the opposing solicitor that is the named firm which appears in line 3. The relevance of these features is that together they establish a formal and institutional footing for this letter, this is a piece of legal business, rather than an informal communication between two parties who both happen to be solicitors. The individual attributes, characterizations and motives of the individual solicitors are managed by the framing of this letter as a piece of collective business.

As previously indicated, the letter does not begin immediately after the formal opening. Lines 9-12, provide an opening in which the business of this letter is introduced in a minimal and regular way. This minimal opening performs a number of functions, in that it makes apparent on whose behalf the
letter is written, in Line 10 and to whom this letter is directed in Line 11. The parties involved in the case are not only referenced but their respective solicitors are also invoked as the letter will be directed to the appropriate member of the firm based on this information. Although this opening does not attend to specific business, it does invoke the case and will be read in the context of the legal dispute in which the parties are involved.

**B: Regular phrases**

Throughout the corpus, certain phrases and wording are continually used. These regular phrases and their use are part of the practice of legal letter writing extends beyond allowing for an efficient and minimal practice of letter writing.

In S/CW/19/8/99, the letter begins on line 13 with the phrase “We thank you for your letter....”

13 We thank you for your letter dated 17 August 1999, the contents of which are noted. 

This is a common opening in letters and in addition to invoking the language of polite formality, the courtesy works to manage the footing in that the subsequent contents are framed by this courtesy and acknowledgement token. This then is an interaction which is rooted in the norms of politeness and “good manners”. This evocation serves to manage the footing of the letter as acknowledging these norms and conventions.

The second part of this clause “the contents of which are noted”, is also a regular feature of the letters. The practice of “noting”, works to give a minimal account of the receipt of the letter referred to. “Noting” is an organization
process which allows for the management of any issues and problems raised by the previous letter to be constructed as part of a process and not as an immediate and spontaneous reaction.

C: Membership categories (a brief dip into)

The invocation of parent as either "our client" or "your client", both establishes relationships between and amongst parties as well as enabling the management of other issues which the invocation of familial categories may make relevant. For example, in cases where the child around which the case revolves is living with one parent and their new partner, as in the case of Mr. R. C. above, degrees of parenting and involvement become pertinent.

S/CW/12/5/98

1 12th May 1998
2 Name of addressee
3 Solicitors
4 Reference number
5 Town
6 Dear Sirs
7 re: Our Client: R. C.
8 Your Client: M. D.
9 We are instructed by the above named client in relation to
10 pursuing contact with his son, J. C (d.o.b. )
11 Our client informs us that contact he exercised with J. was on
12 the 17th April 1998 and since then, despite him attempting
13 amicable arrangements for contact, we understand that your
14 client is refusing to co-operate.

By invoking the category of "our client" at line 7 to refer to Mr C, the solicitor utilizes the normative features of legal language and avoids any potential problems which the category of "father" may raise. The business of the letter is framed not as a dispute between parents, but as a piece of legal business. Although this is finessed in line 10, this gloss is again minimal in the category work it performs. The gloss of "pursuing contact with his son"
invokes the legal category of child parent interaction and manages the potential dilemmas of the nature and quality of the relationship this father is seeking to establish with his son. As these dilemmas often form the kernel of child contact disputes, their management is an important concern for the solicitor.

The rhetorical alternative of referring to Mr. C as “the father” would implicate issues of what constructs this relationship, invoking not only issues of fitness to father but also what constitutes a “father”, that is biology or husbandry. As will be discussed at length later in thesis, these categories have implications for parenting practices. If the “father” has no contact with the child, then is “father” an appropriate membership category and as it is the “father’s” involvement with the child which is being resisted by the mother, then use of the category “father” may be felt inappropriate or threatening to the management of the case which the mother is seeking to build against her former partner. There are a range of other membership categories available to invoke Mr C, amongst them would “absent parent”, “biological father” and even “deadbeat dad”, however, they share the same implications of parenting style and practices which lie at the heart of most arguments within child contact cases. The use of legal categories avoids these potential dilemmas and these are commonly used by both solicitors to refer to the parents and construct a neutral category of reference from which disputes can be addressed to incidents and perceived behaviours.

Interestingly, this same professional and legally bound categorization is not seen with reference to the child. Although the child could be categorized as the object of the action or simply “the child”, the child, as in the example of
the case of Mr C, is always referred either by name or in terms of their relationship with the client. That is, although the parent may be "our/your client", the child is categorised as J. or "son". This attention to differential categorization practices reflects dilemmas in the formulation of child contact arguments. What is under dispute is parental behaviour and conduct, that is the practice of contact rather than principle.

**D: Plural pronoun**

Throughout the above examples, the use of plural pronouns "we" and "our" are typical features found throughout these letters.

*S/CW/12/5/98*

11 Our client informs us that contact he exercised with J. was on the 17th April 1998 and since then, despite him attempting amicable arrangements for contact, we understand that your client is refusing to co-operate.

The use of plural pronouns works to manage issues of agency from the particular solicitor. In line 11, the client has informed "us", rather than the named solicitor. The usefulness of this practice in managing accountability for the transmission of information and accounts relates to the unspecified nature of the source. The "us", that is the informants are a deindividuated collective, comprising the named solicitor and other staff members of the firm. The flexibility of this construction is that the collective pronouns can serve to manage individual accountability as well as work up the corporate nature of the letter and information source. The "we" which advises and reports can be seen as part of a wider process and organization, with attendant checks and balances on any action and information given.
Whereas, "I" may be prone to individual foibles and idiosyncracies, and thereby have "my" interests and motives challenged, "we" may be more difficult to challenge and undermine. The collective invokes the product of agreement between individuals. In the case of legal letters that is the collective expertise of a number of practicing solicitors with their combined knowledge and experience.

4.4. **Cracks & Fissures**

Within letters some of the features of managing neutrality, with particular emphasis on the transmission of client's accounts have previously been illustrated. In looking at the case files as a whole, however it is evident that there are times when this "neutrality" and professional distance between solicitor and client slips. To begin to explore the ways in which this happens, a first point is to look more closely at when these breaches occur. Most of the case files under examination cover protracted periods. Within the context of child contact negotiations, actions are ongoing with arrangement being negotiated and issues revisited throughout the period until the child is normatively considered to be of an age when they are able to make their own decisions about contact. During the intervening years, as can be seen in the generalized maps of selected case files, activity occurs in flurries around problems and issues which arise from the ongoing process of contact. Argument and resolution of these issues does not appear to follow a sequential pattern with one problem or issue being resolved before the next is tackled. Letters cross, other incidents and problems arise to complicate matters and add to potential difficulties in reaching agreement. It is apparent
that these periods of intense activity and increasing problems tend to match those times at which footing breaks down and "neutrality" slips. The examples of slippage analysed in this chapter are primarily taken from those case files previously mapped.

The most obvious place to look for footing breaches may be in communications between the solicitor and their own client. These letters are subject to the scrutiny of only the client themselves and it may be that formality will be relaxed. In looking through these letters, however, they retained the normative features of letters written between solicitors and footing breaches are handled with equal delicacy.

In the example below which is taken from case one, the letter comes from near the end of the action, indeed only a month before the action settled.

S/LG/13/1/98

1 Dear Mrs. L

2 With reference to your telephone conversation with Miss C's secretary on the 12th January, we confirm that what your former husband told you is complete rubbish! We refer you to the Court Order, a copy of which we have already sent to you, dated 10th October which states quite clearly that the property ... should be transferred to your sole name, we have already advised you that Transfer has been completed, and that you assign your interest in the Life Policy with... to Mr. L and that any further claims by you against him or him against you are dismissed. This means that neither you, nor he, can make any further claims at all. This is not affected by whether you remarry or cohabit or whether the property is sold or. Mr. L has no other claims against you either now or at any stage in the future.

15 Yours sincerely

In the above example, Mrs L.'s divorce and child contact arrangements have been finalized previously and sanctioned by the court. The letter begins in line 2 with a regular and neutral opening "with reference to". This neutral footing is continued with the introduction and listing of the sequence of events
which preceded this letter. In lines 2 and 3, the route by which this letter came to be written is marked out by a description of the client's interaction with "Miss C's secretary" (line 3), the institutional identity further builds on the neutral footing of the letter, as this letter is in response not only to a conversation with a third party to the writer, but also a party whose institutional position provides for this letter to be written. The category of "secretary", has relevancy with administrative procedures rather than legal expertise and advice giving. The change in footing, then, begins at line 3, when the evaluation of Mrs L's concerns is given. The evaluation is made in informal terms as "what your former husband told you is complete rubbish!" (line 4). The extreme case formulation used here indicates that no part of the husband's claims stand up to scrutiny. The informality of this construction also differentiates the product of the former husband's "telling", from the accounts produced by the solicitor. Information transmitted from solicitor to client, as been previously discussed, is performed as "advising". The practice of "telling" has connotations of tales and yarns that fictionalize or embellish accounts (Wooffitt, 1992, Ch 1).

Interestingly, many of the footing breaches occur in the letters that pass between solicitors. The position of the letter S/CW/6/8/99 below, is from the fourteenth month of case two, as can be noted with reference to previous mapping work. With reference to the general scheme of this case it is apparent that this letter comes at a time when there is a continual exchange of letters between solicitors during which specific incidents are being reformulated and argued over. Relative to the process of negotiation within
In this case, arrangements for contact have already been discussed and argued over for a prolonged period that is more than a year already.

This letter serves to illustrate a feature of footing breaches that occurs most often in the letters and which works to frame accounts and reports as problematic.

S/CW/6/8/99

Dear Sirs

Re: Our client - Mr. C.

Your client - Mrs. W.

We acknowledge receipt of your letter dated , the contents of which we note.

We are amazed to note that J., has allegedly, advised that he did not want to see “that nasty man” referring to our client. When contact has taken place in the past J. has placed a great attachment to our client and we can see no apparent reason why J. should now be reluctant to exercise contact with our client unless your client had discouraged contact from taking place.

Echoing

In this letter, as with all letters in the corpus, the initial footing in lines 1 to 5 retains the standard features as previously described. The change in footing is signaled by the echoing in line 6 of the standard device of “noting”.

The letter begins with the use of the regular acknowledgement token at lines 4 and 5

We acknowledge receipt of your letter dated , the contents of which we note.

This regular phrase has been previously illustrated in the footing work it regularly performs. In this example, as in others where breaches occur, this construction is, however reconstructed in an altered state in line 6.
We are amazed to note that J., has allegedly, advised that he did not want to see "that nasty man" referring to our client.

In this "echo", the practice of noting is altered from the minimal attending and organizational practice as previously seen in other examples, to carry an cognitive element in "we are amazed to note" (line 6). Whilst "amazed" is not a legal category, nor an extreme case formulation it is a category of experience that is out of the common sense scope of reaction to a letter. This marks the previous letter as something problematic. The inclusion of "amazed" and in other examples "alarmed" and "distressed", invokes an emotional element to the standard practice of "noting". This pattern appears to alter the frame of the subsequent report and takes the footing beyond that of a solicitor reporting and accounting for problems in negotiating contact. The trouble which this particular example frames is the report of the child's description of Mr. C. Within the context of child contact negotiations, the base line for any decision on contact is that it be in the child's best interests. The trouble here relates to an account of the child describing Mr. C as "that nasty man" (line 7). If this is to be taken as an expression of the wishes and feelings of the child, then contact is potentially difficult to justify. The slight footing shift indicated enables the solicitor to undermine the version without having to directly question the credibility of the child as author of this talk. The management of the construction of the child in this type of account will be explored more fully in the following chapter, as the issue here is limited to the slight footing change.

Again this accomplished through a slight shift in footing without the necessity of either providing alternative versions or attributing this quote to other sources.
4.5. "The solicitor has left the building"

In illustrating points at which footing breaks down, the intricacy of the ways in which these breaches are framed have been pointed out. The work to manage these breaches and manage the dilemmas which they raise within letters which are constructed as pieces of institutional business, indicates the effort and care with which these letters are constructed in order to represent the client's position without leaving the client open to counter allegation. There are however, within the context of these long and protracted cases, times when delicacy becomes difficult to sustain and footing shifts become massively apparent. The letter below comes eighteen months into the contact dispute of which it forms part. It comes at the end of a two month flurry of letters between the solicitors and also the Court Welfare Officer involved. During this period, arrangements have broken down and lengthy accounts of three separate incidents have been formulated and reformulated by both parties.

S/CW/27/9/99

1 Dear Sirs
2 Your Client:- R C
3 Our client M E W
4 We enclose herewith copy letter sent to the Court Welfare Officer for your information.
5 Referring to your letter of 8th September, you will note that Mr K agreed with our client that contact could not take place at the Contact Centre and therefore suggested a fresh venue for J to have contact. The reason that contact took place successfully in front of Mr K could be that J has no reason to distrust him.
6 As for your client trying to involve the extended family in his contact application we would refer you to the enclosed letter to the Court Welfare Officer.
15 Referring to your letter of 2nd September, it appears
16 your client is doing his level best to land all the
17 "blame" upon our client. With the greatest respect, our
18 client has moved mountains to force her son to have
19 contact with your client. Whilst your client may be of
20 the view that our client enjoys giving up her Saturdays
21 and seeing her son in tears and having to physically
22 man-handle him to try to make him go into the contact
23 centre we would confirm that this really is not the case.
24 We could understand your client's continued antagonism
25 towards our client if she did not take J for contact.
26 We would submit that your client's comments only serve to
27 provoke and antagonise and certainly are not constructive
28 or in the interest of J. We feel that our client
29 deserves a great deal of credit and would ask that your
30 client show some patience when it is obvious that contact
31 needs to start very gradually.
32 Yours faithfully,

The normative footing here breaks down in the second paragraph, from lines
15 to 23. Prior to this breach the solicitor addresses two previous letters from
the father's solicitor and the alternate versions of disputed events which they
contain. Interestingly this massive breach of footing occurs not in reference to
the most recent letter but to a letter that comes prior in the exchange. This
apparent oddity in the ordering of letters addressed by the solicitor which
common sense could suggest would be addressed in the order in which they
were received, can perhaps be clarified by their relative threat to the
construction of the mother as being unco-operative during attempts at contact.

In addressing the response to the letter of 8th September, the solicitor
attends to a clarification of the Court Welfare Officer's position (lines, 6-14),
and accounts for changes to arrangements as legitimized by the court welfare
officer's intervention. This footing avoids direct conflict with the father's
complaints, in placing responsibility for the details of the contact order with the
directions of the Court Welfare Officer rather than the wishes of the parent.
The breach comes when addressing a previous letter.

15 Referring to your letter of 2nd September, it appears
16 your client is doing his level best to land all the
17 "blame" upon our client. With the greatest respect, our
18 client has moved mountains to force her son to have
19 contact with your client. Whilst your client may be of
20 the view that our client enjoys giving up her Saturdays
21 and seeing her son in tears and having to physically
22 man-handle him to try to make him go into the contact
23 centre we would confirm that this really is not the case.

The contents of this section of the letter attend to the father's account of an
incident which occurred at the Contact Centre on the 26th August and which
has been attended to in a previous letter. The flurry of letters which occur from
July onwards (see S/CW) would indicate that the dispute between the parents
has become intense with versions and counter versions of events being
produced. The breach of footing at this point may indicate an element of
exasperation on the part of the solicitor who is attending to an incident which
has already been argued over on two previous occasions.

The breach of footing begins with standard formal language indicating that
the business of this section of the letter is to respond to a specific letter from
the other party. This letter is summarized in an unusual formulation.

15 Referring to your letter of 2nd September, it appears
16 your client is doing his level best to land all the
17 "blame" upon our client.

Although the construction may appear to be neutral, the agentic article "it"
being generic and unspecified; this is anything but a neutral gloss of the
contents of the previous letter. The gloss is achieved by producing an account
not of the contents of the letter, or undermining the accuracy of any account
or version, but rather by orienting directly to the motivation of the father. This
motivational account uses an almost colloquial description of the father as
"doing his level best", the extreme case formulation here providing an account of the father as making an extreme effort to achieve his aims. The intended aim of this effort is given in quotation marks. "Blame" is a risky motivational category to apply within child contact negotiations, the business of the solicitor is manage to personal acrimony within accounts in order that the client is perceived to be acting from or resisting a concern with the best interests of the child rather than a selfish motive. In addition, blame carries an element of emotion. In using this word in parentheses, the solicitor would appear to indicate the potential trouble in using this description. "Blame" in parentheses, then should possibly not be read as blame exactly but as "something like it". The hedging which is achieved through this construction is a feature of what appears to be an enormous breach of footing, lending a knowing quality to this account. This breach is packaged as an account which has a quality of self awareness about it in that, the solicitor appears to be aware of stepping outside of normative footing but is almost compelled by circumstance to produce this account. The account is produced from the tension between the solicitor's production of a normative, institutional response and the outraged and emotional individual that the solicitor is in addition to their role.

17 With the greatest respect, our 18 client has moved mountains to force her son to have 19 contact with your client. Whilst your client may be of 20 the view that our client enjoys giving up her Saturdays 21 and seeing her son in tears and having to physically 22 man-handle him to try to make him go into the contact 23 centre we would confirm that this really is not the case.

This can be seen in extract above, which again continues with previously explored features of normative footing, that is formal language and the institutional agent "our". The "other" voice however breaks through in the
ironic account of the father's almost sadistic enjoyment of the mother and child's suffering. The use of yet more extreme metaphors, "moved mountains" (line 18) and the language of physical struggle and emotional distress add to the construction of this account as not simply a breach of footing, but an account in which the solicitor is moved by the situation of their client to step briefly outside of their institutional role and respond as a concerned observer.

4.6. Is footing simply an analyst's concern?

Having analysed the normative footing of letters and the ways in which breaches occur, the relevance of this began to wane. One of the questions that may spring to mind is whether it is possible to show that recipients attend to the footing of the text. In order to consider this, this chapter will conclude with an analysis of some handwritten notes found on the back of one of the letters as mentioned at more length previously in the method chapter of this thesis.

The extracts show the first two lines of the original letter S/CW/13/8/99, along with the first lines of the recipient's handwritten notes S/CW/13/8/99n which were on the back of the original letter. Copies of the full versions of both the letter and the notes can be found in appendix S/CW.

S/CW/13/8/99

1 We understand that, as anticipated, contact did not take place on Saturday the 7 August

S/CW/13/8/99n

1 They anticipated -?
The notes begin with an attendance to the footing work of the original letter. In line 1, the mother reworks the neutral and agentless formulation, “as anticipated” (Original letter, Line 3). The insertion of the pronoun “they” to the original clause works to give agency and embodiment to the state of “anticipation”. This embodiment works to produce “anticipate” as a psychological state and can therefore enable ascriptions of motive and attribution to be worked up in the context of the undelineated but relevant “they”. By producing an alternative version of anticipation as the internal state of mind of “they”, the neutrality of the original construction is managed. Indeed, this alternative version makes relevant “anticipated” as a psychological state with the emotional and physiological manifestations of this arousal. The quality of “anticipation”, when embodied in even a relatively weak pronoun class as “they”, makes relevant possible attributions of motive and accountability. Anticipation, as being an out there in the world state of affairs as described in the original letter, is countered and an alternative, internal and psychologised version is constructed which leaves the reasons for this state of anticipation open to reasonable questioning and scrutiny. The process of “anticipation” is transformed from a minimal accounting device (S/CW/13/8/99, line 1) to a questionable psychological state of arousal is further strengthened and marked as unusual by the mother’s addition of a question mark

They anticipated - ? (S/CW/13/8/99n, line 1).

The use of the dash and the question mark signal a sense-making process at work and an ironizing of the original footing. For the mother, this anticipation is troublesome and by marking this as something unusual, the
lack of accounting on the mother's part is managed. The candidate alternative here is that for "they" to anticipate contact failure is not a state of affairs that can be easily accounted for and explained; rather "they" have an account which is not given. In order to anticipate an occurrence, there must be a regularity and pattern to events which enables extrapolation and prediction.

In attending to this, the mother demonstrates that the footing, which is originally constructed as neutral, is problematic and in producing a counter version indicates that her concern with the original letter encompasses not only accounts and descriptions but also elements of footing.

4.7. Closing arguments

This chapter has explored the footing of child contact letters. Through an analysis of the normative footing and regularities of language use within the letters, the institutional context of these letters is worked up. Features used to do this include the minimal receipt tokens for example "note" and the layout of the letters. These features work to construct the letters as institutional. Although authorship is accounted for as letters are signed by the individual solicitor, the footing within the body of the letter is constructed as representing the group of solicitors that is the practice, as having authorial ownership.

The dilemma of representing interests of clients in long, often bitter and acrimonious actions whilst presenting a professional front (Goffman, 1981), leads to subtle shifts in footing. These minor breaches work to undermine and counter competing versions whilst retaining the overall footing of the account as factual and neutral. Although these are accounts of parents, the use of
footing enables the mediated nature of the accounts to be evident. The mediated nature of the descriptions contextualizes the accounts as having passed through professional hands and therefore been scrutinised by a legal professional.

Finally, when footing does break down within the letters and the solicitor adopts an interested stance, it is in the context of a dispute which has surfaced on repeated occasions. When the footing constructs stake and agency in the reported feelings of the solicitor, these are constructed as the result of a failure on the part of the other client to move negotiation forward. Rather than an absence of professional footing, the breach is constructed as warranted by actions, motives and attributions which go beyond what is expected in the course of child contact negotiation.
5. **What counts as “contact”**

5.1. **Opening statements**

Having explored the business of letter writing, attention will now turn to the notion of contact itself and the ways in which this practice is constructed and reconstructed during argument and negotiation.

Earlier in this thesis, research on child contact in social scientific research has been discussed. The picture that emerges from social work based studies is one of the costs and benefits of this practice. In effect, research has begun with the premise that “contact” is understood as a practice and a phenomenon, rather than questioning what “contact” is as a concept and what are the common sense notions of family, parenting and childhood, parents, solicitors and researchers bring to this practice in their negotiations and analyses. As a way in to exploring what “contact” means to those involved in the practice, that is parents and solicitors in the case of the letters, the following chapter will look at the categorization of contact within the process of negotiation and argumentation.

Within socio-legal research, the impact of the change of the term “access” to “contact” with the implementation of the Children’s Act 1986, has been defined in terms of a shift from parenting as a right to parenting as a duty (Maclean & Richards, 2000). In effect, the change in title has been linked to a theoretical shift in the focus of responsibility on the part of the parent, rather than a shift in what is defined as “contact”. Thus, within research and legislation “contact” appears to be undefined and taken for granted as understood by all parties. Arguments around what constitutes “contact” are
perhaps unsurprising and the nature of contact becomes apparent in argument in a way similar to how other "mundane" concepts are unraveled when challenged (Pollner, 1987).

The present chapter will explore both "quantitative" and "qualitative" arguments as to the nature and scope of child contact. By "quantitative" arguments this chapter will unpack the arguments found in the letters around how much time is enough for an absent parent to spend with their child. "Qualitative" arguments in the letters centre on the practice of having contact and the activities which parents and children engage in during these times. In addition, this chapter will explore the use of temporal markers and what light they shed on contact as a set of practices and as a feature of family and in particular parents lives. This is not an investigation of the linguistic relativity of the grammar and categorization of temporal markers in language. Instead, this chapter will look at the ways in which notions of time are used as discursive resources within arguments over contact arrangements. Through this approach, the ways in which dilemmas of time construct the process of "contact" and child-adult interaction as a practice outside of family life and something other than everyday childhood experience will be unpacked.

5.2. Setting a baseline

The most obvious use of temporal markers within child contact letters comes when arrangements for contact visits are proposed by the absent parent. These proposals come at two points within negotiations, either in the early stages as an offering from which to move negotiation forward or
immediately following a County Court hearing in which these proposals have been mandated as an interim measure.

Within the letters, these proposals for contact arrangements are set out in an institutional format, with dates and times only. This layout can be seen in the example below, follows an interim Family Court hearing of this case, at which temporary contact arrangements have been drawn up to enable contact whilst professional reports recommending permanent arrangements for contact continue to be worked up.

S/CW/26/9/99

11 We trust that you have reminded your client, in written form, of the arrangements for contact to take place between our client and the child J. For ease of reference we can confirm that this is as follows:

15 10.7.99 -2pm-3pm
16 24.7.99 -2pm-3pm
17 7.8.99 -2pm-3pm

18 21.8.99 - 2pm-3.30pm
19 4.9.99 -2pm-3.30pm
20 18.9.99 - 2pm-3.30pm

The above example begins with an invocation of the importance of written text at line 12. The inclusion of an imperative to provide a "written" reminder of contact arrangements makes relevant the process of negotiation which, whether written or through talk as in family mediation, has the goal of arriving at an outcome which can be turned into text in the form of a document. The importance of documentary versions is that arrangements are therefore available to a range of professionals and institutions both as evidence of a successful outcome and, as explored by Lynch & Bogen (1996), in the Iran Contra Hearings, as an accounting device to challenge perceived inaccuracies of memory or action. The permanence of written documents
provides for the process of verification and challenge in the context of accounts of remembered events.

The diary format of the arrangements above marks out the periods of contact as separate and distinct within the letter. Further, this formulation marks out "contact" itself as a time separate from the everyday and distinct from the complexities of day to day life. The format here pares down contact periods to a series of dates and times, with no specificity as to place, activity or what form the "contact" between child and absent parent will take. The purely numerical formulation (lines 15-20), is constructed as being made "for ease of reference" (line 11). By disengaging from the linguistic elements, for example named days of the week, the arrangements for contact visits take on an institutional quality, common to dates on a hospital appointment card and in particular documentation issued to maintain confidentiality in potentially delicate circumstances. These periods of contact are separated from the messy and often emotive business of negotiation and the relationships between clients and solicitors, parents and children, to stand alone on the page as a list of dates and times.

The list of contact times is separated into two separate lists, lines 15-17 and lines 18-20.

15 10.7.99 - 2pm-3pm
16 24.7.99 - 2pm-3pm
17 7.8.99 - 2pm-3pm

18 21.8.99 - 2pm-3.30pm
19 4.9.99 - 2pm-3.30pm
20 18.9.99 - 2pm-3.30pm

The break indicates a change in times, a progression from a period of one hour contact to one and a half hour contact sessions. The progression is
marked by a spatial marking in the form of an empty line, with no indication as to the reasons or decision making process behind this change. Again, this change is formulated only as difference in the numerical sequence of the arrangements, rather than in terms of conditions of commitment on the part of the absent parent or willingness on the part of the child. The spacing invokes a linear progression in the nature of contact, the absence between lines 17 and 18 works up a natural pause within the schedule. In common with the qualities of a pause in conversation, the space indicates a transition point. As with turn relevant places in conversation, there is no absolute requirement for these turns to be taken up, rather they indicate an opportunity for a new speaker. Equally the indication of a transition point in contact arrangement implies the opportunity not only of change to longer periods of contact but also for other strategies, for example resistance if previous arrangements have not been judged to be effective.

5.3. **Producing a formula for “enough” contact**

The numerical formulation of contact arrangements as seen in the first example, would appear to make relevant notions that contact can be quantified and measured against some standard to be found wanting or not.

The principle of contact in the Children’s Act talks of “reasonable” contact between the child and absent parent, what amounts to “reasonable” is again unmarked or stipulated. What amount of “contact” constitutes reasonable is equally undefined and laid out in strict terms. That there is an amount of contact which falls below this threshold only becomes apparent when arrangements are disputed and argued over, in a similar way to the notions of
what constitutes "speeding" which becomes unpacked in traffic court arguments (Pollner, 1987). This "baseline" is invoked when arrangements for contact have been proposed and rejected by one of the parents. In the examples below, the measurement of contact against a commonsense standard can be seen.

S/BB/1/2/95

15 Our client does not consider this level of contact 16 sufficient to allow a normal father and child 17 relationship to develop and proposes the following 18 for your client's consideration based upon a four 19 week cycle:-  
20 Week 1 - Sunday - 10.00 a.m. - 7.00 p.m. 21 Week 2 - Saturday - 10.00 a.m. - 7.00 p.m. 22 Week 3 - Sunday - 10.00 a.m. - 7.00 p.m. 23 Week 4 - Staying contact Friday 6.00 p.m. - Sunday 6.00 p.m.

In line 15, the letter refers to a "this level of contact". In order for contact to be formulated in this way, it suggests that there may be other levels of contact against which the arrangements under dispute can be compared and be seen to be "sufficient" or not. What the "sufficient" level may be is not stipulated. In comparison to S/CW/29/9/99, the periods of contact in example S/BB/1/2/95 are substantially longer and indeed contact periods vary across cases from one hour to overnight. The notion of a "sufficient" level of contact may be seen as a property of contact arguments that is indexical to the arrangements which are being disputed.

The reason for "sufficient" contact is given at line 16 as the "development of a normal father and child relationship". Again, the qualitative features of a normal father and child relationship are not defined; rather it is the amount of time which children and parents spend in each other's company which is seen as contingent on the development of this relationship. If periods of contact
Our client does not consider this level of contact sufficient to allow a normal father and child relationship to develop and proposes the following for your client’s consideration based upon a four week cycle:

Week 1 - Sunday - 10.00 a.m. - 7.00 p.m.
Week 2 - Saturday - 10.00 a.m. - 7.00 p.m.
Week 3 - Sunday - 10.00 a.m. - 7.00 p.m.
Week 4 - Staying contact Friday 6.00 p.m. - Sunday 6.00 p.m.

In addition to the above there be extra staying contact by agreement during school holidays.

We shall be obliged if you will take instructions as soon as possible.

Yours faithfully,

The notes detail the mother’s response to the proposed contact schedule given by the father’s solicitor. Of interest here are the last two lines of shorthand notation at the bottom of the page. Shorthand, although taught as a structured form of writing, is adapted over time by the individual to become personalized and is not easily translated even by other practitioners. The translation of this material was provided by the writer. The translation used for analysis was given by the mother. The translation given for the final two lines of shorthand on the letter are as follows:

I shall be happy to confirm that they do wish to keep Saturdays as they are. They are at church on Sundays and have common friendships on Sundays they are in the church choir and as such a Saturday would be my advice.
shorthand notation at the bottom of the page. Shorthand, although taught as a structured form of writing, is adapted over time by the individual to become personalized and is not easily translated even by other practitioners. The translation of this material was provided by the writer. The translation used for analysis was given by the mother. The translation given for the final two lines of short hand on the letter are as follows;

I shall be happy to confirm that they do wish to keep Saturdays as they are. They are at church on Sundays and have common friendships on Sundays they are in the church choir and as such a Saturday would be my advice

In presenting her counter text to the original proposal, the mother presents this as the reporting of her children's preferences. She begins with an agreement for the Saturday arrangements to remain. In common with disagreement in talk (Pomerantz, 1984), the dispreferred day is softened with the preface of an agreement.

The mother's resistance to the proposed schedule is accounted for in terms of her children's activities outside of the home. The account is formulated in terms of their loss of "common friendships" with others involved in the church and choir. The relevance of this counter text is that the mother accounts for resistance in terms of time lost from her children's activities and peer group rather than from her own interaction with them. In doing this, the mother resists issues of self interest in denying extended contact on Sunday. This is not presented as the account of a "selfish" mother but rather of children whose life and activities extend beyond home and family.

Interestingly this account appears only briefly in the response formulated by the mother's solicitor in S/BB/16/2/95, which is the official response to the
father's contact proposal in S/BB/1/2/95. This concern over the children's activities outside of the family becomes packaged in a broader range of concerns over times and places of contact.

The formulation of the new proposal for contact arrangements S/BB/16/2/95, shares features of the institutional format seen in other proposals, in terms of being separated on the page from the business of justification and argument. This separation provides a distance between the contact schedule which has been produced as a result of a previous court hearing and the management of complaints and accusations which have arisen since this schedule was agreed and are a product of the business of putting this schedule into practice. The empty line acts in a similar way to the "agreement in principle" approach taken by family mediators as a way of introducing agreement into disputes and constructing a trajectory of agreement rather than discord (Greatbatch & Dingwall, 1999).

S/BB/16/2/95

out our Client would suggest contact as follows: -

Week 1 - Sunday 10 a.m. until 6 p.m. (until 7 p.m. when the children are not at school)
Week 2 - Saturday from 1 p.m. to 7 p.m. (from 10 a.m. if your Client is not working).
Week 3 - As in week 1
Week 4 - Saturday from 1 p.m. to 7 p.m. (from 10 a.m. if your Client is not working). Sunday from 10 a.m. to 6 p.m. (until 7 p.m. if the children are not at school).

The alternative proposal sent by the mother's solicitor, brings in the qualitative categorization of contact which will be explored in more detail in the second half of this chapter and for now will be touched upon to show how
the quantitative argument makes relevant the rhetorical alternatives of life outside of contact.

Although the response retains the diary formula of contact proposals, there is the addition of other details of the child's and parent's lives outside of contact and the complexities of everyday life are inserted into the institutional layout as providing a rhetorical alternative to the original proposal by the father (S/BB/1/2/95) in that life exists outside of contact and can interfere with proposed arrangements.

It is not only the parent's schedule and commitment that is at issue. The stipulations within the list refer to the children's schedule outside of the family. The child's commitment to school is given as the reason for changes in contact time at lines 77 and 83. This places contact visits in the context of not only family but institutional life. The indication that the child has responsibilities and involvement outside of contact with the non custodial parent presents a more complex notion of contact and the business of fitting arrangements in the business of doing everyday life. The inclusion of school obligations is also a powerful argument, as this draws on notions of the responsibility of parents to be concerned with educating their children and being actively involved in this process. The risk to the father of arguing against this position is that it has the potential to be undermined as keeping the children out late on school nights is not a common sense notion of good and responsible parenting.
5.4. "Feeling the quality not the width"

Argument over contact arrangements is not limited to the amount of time spent with the child. These arguments do appear to form the starting point of the cases looked at in this thesis, with contact times being both the initial point of dispute for parents. When arrangements for time and duration have been reached and interim orders have been put into practice, the nature of arguments over contact appears to develop and encompass not only the scope and duration of contact, but also the content and activities undertaken within contact periods. When arguments over what happens in contact visits occur it is possible to tease out normative notions of parenting from the behaviours and activities which become the focus of complaints. It is only by comparison to what is deemed not appropriate for contact visits that the norms of contact can begin to be accounted for.

The quality of contact and the nature of interaction between the absent parent and child, is a feature of contact disputes which emerges once contact has been arranged and most often after an interim order has been put in place. In order to explore the nature of these arguments and the ways in which they form part of the overall process of negotiation, two main strands will be explored. Arguments over the nature of contact then appear to revolve around two main areas of contention which involve the activities which non resident parents undertake with children during these periods and the behaviour of the children directly following periods of contact.
5.5 The Content of Contact

One of the major features of the letters is the inclusion of detailed accounts of activities undertaken by non-resident parents during contact periods. These accounts are packaged by the resident parent as part of letters which put forward broad concerns over the ways in which contact arrangements are being managed. When detailed accounts of contact visits are framed by concerns and complaints, they can highlight normative notions of what activities and interactions contact ought and ought not to contain. The detailed accounts presented as part of this analysis of the quality of contact have been seen previously in this thesis where attention was focused on elements of footing and lexical introduction. The analysis of these extracts in the current chapter serves not only to unpack notions of contact but also to demonstrate that these accounts are carefully crafted and perform a number of functions. The multi-level analysis of particular accounts is designed to draw attention to the ways in which the prohibitive cost of these actions and the production of letters emphasises the considered use of letters and accounts to accomplish several elements of the case rather than a single function. These are not inconsequential letters or accounts in terms of the cost to the client in their production and also in the context of their availability for detailed scrutiny by the other parent in the action.

Whilst there are no rules laid down for what should constitute "contact", the letters construct instances of problematic contact visits, in only one case is an account of a "successful" contact visit given.

To begin analysis of the qualitative arguments around contact, problematic accounts will be looked. The inclusion of an account of "successful" contact
will be used as a deviant case, to highlight differences in construction and the rhetorical force.

In the example below, the account form part of detailed breakdown of contact times and periods, the quantitative elements of which have already been examined in this chapter on page 121. The focus of complaints around the quality of contact would appear to be a notion that "contact" should be separate from everyday life. This is a notion which has already been seen in the way in which contact is quantified. The complaints which detail instances on contact emphasise this notion and work up "contact" as a particular form of parent child interaction which is and ought to be notably different from the everyday routines of the parents seeking contact.

S/BB/1/2/95

(c) With regard to collection times on Saturdays we are instructed that your client works most Saturday mornings until approximately 12.15pm When he has had the children prior to this time they have spent the morning being driven round in your client's car. D. in particular, suffers from travel sickness and apparently your client has in the past given him tablets to counter this merely so that the children could spend the morning being driven round.

Although the account begins as a complaint around the technicalities of contact times and the quality of contact, which the children have with their father, this is potentially risky argument. Perceptions of "quality" can be seen as subjective and liable to challenge on grounds of being motivated by personal concerns which fall outside of the notion that in child contact cases, decisions are based exclusively on what is in the "best interests" of the child and not the parent.

The opening of this complaint is that the father is still "working" for the first few hours when the children are in his care. The children spend the first part
of their contact visit being “driven round” by their father in “item (c)”. This interaction between father and is children is challenged as being suitable “contact”. The lack of a common set of practices for “contact” visits would indicate that the degree of suitability of a particular activity for contact is dependant on the agreement of all parties, including the child, that what is being offered constitutes “contact”. Indeed there are a range of potential candidate reasons available to counter the mother's claim that this is not beneficial contact. Amongst potential counters could be that the children enjoy riding in the car and are taken to locations that they would otherwise not experience that is, they are being offered new experiences and sights. The argument then would become involved in a series of qualitative and subjective judgements that are messy, involved and again open to challenge as being motivated by parental rather than children's wishes.

By framing the complaint in terms of having a negative impact on the child D's health, the mother is able to avoid the minefield of personal stake. Not only does contact in the form of being “driven around” appear to have a damaging effect on the child’s health, it is an effect, which is recognized by the father who provides medication. Indeed, the action of providing medication to relieve symptoms of travel sickness which may be constructed as being in the D's interest, is countered by providing a motivational gloss for this action in that it fulfills the father's best interests rather than the child's.

apparently your client has in the past given him tablets to counter this merely so that the children could spend the morning being driven round.

Medication is given to the child, not to relieve their suffering but to enable to the father to continue with his practice of having the children accompany him in his car. Further rhetorical force is added to this claim by the insertion of
"merely" which downgrades the activity from father and children having car-based contact to one of the children 'being driven round' in order not to interfere with father's routine. Indeed, the father disappears from the construction as driver and participant in the activity, the agentless formulation of 'being driven round' diminishes the perceived interaction between children and father during this period.

Although contact would appear to be constructed as a time outside of everyday life, there is an assumption that the everyday needs of the child will also be met during these times. In contrast to the notion that parents everyday routines and activities should be set aside during contact times, the everyday requirements of the child should be fulfilled and the norms of parenting maintained. This can be seen in the extract below.

S/DD/12/8/97

1 Finally the children have on occasion complained that they have not had anything to eat on a Saturday. Our client understands that when they are fed it is either from McDonalds or the chip shop. Our client is concerned to ensure that the children do have a balanced diet and would therefore ask that your client provide lunch for the children. Our client would ask that he provide sandwiches and fruit for the children. They have a main meal when they return to our client and nothing more than that is required.

In this complaint by a mother over the nature of contact between her children and their father, the issue is the father's failure to provide food during contact visits. The complaint is warranted as being voiced by the children themselves in line 1 and in doing so the parent manages any potential accusations of self interest. The status of the complaint warranted is further managed by the construction of the father's failure to feed his children as being more than a simple lapse. The use of "on occasion" to frame the
children's complaint manages to invoke this as something that has occurred not every time but often enough times to be of concern to the mother.

The extreme case formulation (Pomerantz, 1986) that the children have not been given “anything” to eat during contacted is upgraded by choice of “Saturday” as a temporal marker. A common sense alternative would be to package the children's complaints as not having been given anything to eat during contact. As has already been shown, contact visits vary greatly in duration with many lasting for no longer than two or three hours. In avoiding a specific timeframe, the account invokes common sense judgements of how long the average child could go without food before becoming hungry, as well as making relevant notions of the children not being fed for an entire day. In presenting the complaint in this was the mother manages the dilemma of presenting the complaint as a genuine source for concern, rather than the carping of an over anxious parent.

Although previously in this chapter “contact” has been constructed as outside of everyday routine, it is the everyday routine of the parent which must be seen to be put aside for successful contact. The everyday needs and routines of the children must be attended and would appear to take priority over contact activities. Whether those everyday routines include school, church or eating, they must be attended to and worked around by the parent seeking contact.

Having laid out the children's claimed “need” for food during contact visits; the parent finesses this need to one of having specific food items provided for the children. In doing this, the parent uses the rhetoric of “healthy-eating” talk (Wiggins, 2004). In formulating a concern that the
children's need is met, the parent claims ownership of this concern and transforms the fulfillment of the need for food to a "concern" that the children have a "balanced diet". This becomes less a complaint that children should be fed during contact than of what they should be given to eat.

Having established this as a complaint by the children, the parent then undermines attempts previously made by the father to provide food on previous occasions. To do this, the parent uses what has been described in talk as a "show concession" (Antaki & Wetherell, 1999). The parent acknowledges that the children have been fed on Saturday, however this acknowledgement is provided as a counter point to their own concern with the quality of the children's diet.

2 had anything to eat on a Saturday. Our client understand that when they are fed it is either from McDonalds or the chip shop. Our 3 client is concerned to ensure that the children do have a balanced 4 diet and would therefore ask that your client provide lunch for the children. Our client would ask that he provide sandwiches and fruit 5 for the children.

In using the rhetoric of healthy eating practices, the parent shifts the focus of the complaint from one of providing food to one of parenting practices. This is emphasized in the final line of this complaint. In contrasting the mother's own attention to the children's needs by providing a "main meal" when they return, the work and effort required to provide food during contact is downgraded. The specification of appropriate foodstuffs, that is, "sandwiches and fruit" adds to the account as one of only interim care on the part of the father. Whilst these are formulated as meeting the requirements of a balanced diet, when juxtaposed with the mother's provision of a "main meal" following contact, they appear less substantial and lightweight. Indeed, these are foodstuffs typical of the practice of eating away from home and invoke leisure
activities like picnics. These items require minimal effort of preparation of the part of the provider and undermine any potential challenge as to the limited nature of contact visits.

5.6. The Outcome of Contact

A second source for complaint in the letters concerns children's behaviour when they return from contact. The common sense notion of contact packaged in these complaints attends to the outcome of contact, that is successful contact should equal a happy child. In everyday family life children experience a range of emotions; they laugh, cry, scream, get sick and have tantrums. Although these behaviours are often accounted for in terms of normative developmental stages, for example “the terrible twos” or “teenage angst”, when these behaviours appear in the context of contact visits they appear to be worked up as problems with contact rather the everyday experiences of growing up.

In the letters, children are not constructed as innately unhappy, unlike adult condition in which being depressed or miserable can and are formulated as personal attributes for example in Edwards (1995) analysis of relationship therapy in which Jimmy's jealous outbursts are constructed as dispositional, that is Jimmy as a jealous person rather than being produced as a reaction to the context in which they occur.

In the example below, contact has been extended to include an overnight stay with the father.
We have been instructed by our client following staying contact which took place on the 30-31st August. Our Client says this did not go well. When the children returned home D immediately burst into tears and said he did not want to stay overnight again. C indicated that he did not like it and was frightened. We understand D cried all night and C had to sleep in your client's bed as he was afraid. Our client does not wish to cause the children further distress and therefore the staying contact that should have taken place on the 22nd September will not now take place. Our client does not wish there to be future staying contact.

The account constructs the source of the children's distress as the result of overnight contact. The description of the children's emotional state is constructed to locate their distress as being due to the nature of contact rather than a disposition of the children themselves. The use of "immediately" at line 4 to introduce this account of distress manages the source of the children's distress as being the contact rather than any actions on the part of the mother on their return. In addition the description of D's emotional return home from contact is described as D. "burst into tears". The use of the pressure metaphor "burst" (Lakoff, 1987) to describe D's crying works up the tears as the product of internal pressure and D having held in the distress until it could no longer be contained. This metaphor also works to counter to notion that D.'s behaviour may be a disposition, in that an alternative explanation for the tears may be that D. is a weepy child, prone to crying. The crying which D. displays is accounted for here as the product of contact. Indeed it is the child who provides the explanation for their tears in their claim to not want overnight contact again.

The initial complaint by D is supported by the description of his sibling's actions on return from contact. Although C's actions are not described in the
detail which D's appear to be, they are used to provide support and indicate that the wish to discontinue contact is not limited to one of the children. Throughout the account, C's actions are used as the secondary clause, that is D's behaviours are accounted for in the first instance with C's behaviours following after. Whilst C's reported actions reflect D's they are less extreme, whilst D cries all night, C sleeps in the father's bed, whilst D bursts into tears, C "indicates" a dislike of overnight contact. These claims are organized in a pattern found in the reporting of sibling's wishes and which will be analysed in more depth in the next chapter that explores the ways in which children's voices appear in the letters. The pattern constructs the wishes and actions of siblings in a predictable formula, if sibling X says or does a particular thing, sibling Y will repeat the action or wish in a truncated or less extreme formulation.

The incidents which are described in complaints over the nature of contact do have alternative explanations that may locate these behaviours as part of everyday family life. In the case of C's decision to sleep in the father's bed, children share their parent's beds for a variety of reasons, C may have had bad dream. The reason given for C's decision to sleep in the father's bed is given as the child being afraid, which may support the notion of a nightmare. The way in which this behaviour is used to support the complaint that contact has not been comes successful comes from its placement within a narrative that is framed by the children's claim to not have overnight contact again.

8 your client's bed as he was afraid. Our client does not 9 wish to cause the children further distress and therefore 10 the staying contact that should have taken place on the 11 22nd September will not now take place. Our client does 12 not wish there to be future staying contact
In the final part of the complaint the mother accounts for the decision not to continue with overnight contact. This decision is constructed as in the interests of the children. The wish to "not cause further distress" is one which the father may find difficult to counter. By constructing the outcome of contact as being distressed children, the argument that contact is in the best interests of the child is effectively undermined.

As has been shown, what constitutes contact may be no different in terms of behaviours and activities from those which occur in family life, it is that these behaviours occur during contact periods that appears to lead to their construction as problematic. In the example below, the mother's complaint includes a variety of childhood behaviours which although unwanted are not necessarily confined to or a particular feature of contact visits.

The main issue that our client would like to raise is the marked change in J's behaviour since the contact session. On the Thursday after contact, J bit his brother and left a bruise. The last time J had a habit of biting his siblings was when he was two-and-a-half years old. J has taken to throwing things around, fighting and thumping his siblings. He refuses to sit and eat at meal times and also refuses to leave our client when she drops him off at nursery. She has been advised by the nursery staff that J doesn't want to play or know the other children. Our client is extremely concerned about the negative effects that having contact with Mr. C has had upon J's behaviour. Our client feels that J may now be remembering the things he used to do when Mr. C was looking after him.

The account S/CW/27/9/99 sets out the troublesome behaviour of J within the family as being the product of contact with the father. A candidate alternative to the mother's complaint and link with contact is that this is an unhappy home and trouble amongst siblings is part of the family dyad. The potential dilemma for the mother is to warrant this account of J's aggressive
behaviour as attributable to the contact experience rather than a troubled home life. In addition, rivalry and arguments between siblings are a part of family life. J's behaviour is marked as beyond this normal sibling rivalry through the nature of the physical injury which the biting produced. The effort and force required to leave a bruise marks this as an act of aggression rather than playfulness or even everyday sibling rivalry gone too far.

The complaint provides a contrast case between the incident of J biting his brother and J's current behaviour. Although J has previously bitten his siblings, the account manages the potential construction of this behaviour as dispositional with J "being a biter" by formulating previous incidents as a "habit" he no longer has. The relevance of describing J's previous behaviour as a "habit" goes further than managing issues of attribution. The common sense notion of a habit is a behaviour which is acquired and is noticed as being regular and marked as such. A habit is generally constructed as unwanted behaviour, for example nail biting or drug taking and which can be "broken" with outside help. In the case of bad habits in early childhood, for example bed wetting or hitting, these require intervention on the part of an adult, most frequently the parent. That J no longer has the "habit" of biting would indicate that this is a behaviour that was noticed by the mother, attended to and subsequently ceased to occur.

J is described as last having bitten his siblings for the last time at two and a half and as J now attends nursery, the implications of a return to former behaviour go further than the recurrence of a bad habit. This return to biting is
marked as deterioration in J's behaviour, a regression into earlier childhood actions and behaviours. In terms of normative child development, this is an adverse effect as J is not progressing or even standing still but actually going backwards.

The relevance of child development norms to this account is that the complaint extends the scope of J's negative behaviours beyond the family. J's other aggressive and antisocial behaviours, for example throwing things and thumping are described as behaviours which J "has taken to", emphasising these as novel and not part of J's character and everyday behaviour towards the family and other children.

The link between contact and child's aggressive behaviour is made explicit at the end of the account. Interestingly it is not contact itself which the mother glosses as producing these aggressive behaviours in the child.

The other children. Our client is extremely concerned about the negative effects that having contact with Mr. C has had upon J's behaviour. Our client feels that J may now be remembering the things he used to do when Mr. C was looking after him.

The final gloss which the mother provides for the negative outcome of contact on J's behaviour is one which has implication for the future of contact arrangements which goes beyond what may or may not have occurred in contact visits. In lines 13-14 the mother provides an account for J's behavioural problems which attends to the family history before separation. In constructing J's behaviour as produced by his "remembering the things he used to to do when Mr. C was looking after him", packages this account as part of prior problems in the parenting practices of the father. The notion that problem behaviours can arise from buried memories is a familiar theme in the
literature surrounding child abuse (Cederborg, 2000). The implications for the father in this account is one that goes beyond what happens during contact visits and the implication of prior abuse embedded in the account is one that can potentially be used to end all contact.

5.7. Closing arguments

In the letters, proposals for contact are structured in a pattern which is similar to diary entries and institutional appointment noting practices. When proposals for contact arrangements are negotiated two notions of contact are apparent. "Contact" is constructed as being measurable and quantifiable against an unwritten yet apparent ideal. This practice avoids engaging with other family concerns and constructs contact as separate practice from everyday life. Secondly, when proposals are challenged, the everyday patterns of family are inserted into the pared down format.

Arguments over the contents and outcomes of contact provide some insight into the ways in which contact is seen as outside of everyday life. The instances of behaviour which parent's use to formulate complaints over contact are not of themselves substantially different to thing that happen in everyday family life. Children cry, fight with their siblings, eat unhealthy food and are bored, afraid and unhappy at various times in their everyday routines. That these behaviours and emotions should be worthy of note and warrant grounds for altering contact arrangements would indicate that contact is outside of normal family life. The implication is that this is a time that should be happy, fulfilling and not subject to the normal trials of parenting and childhood.
One interesting feature which has come from the analytic work in this chapter is the ways in which elements of time and space are built into accounts and descriptions of child contact. There would appear to be some features of the construction of time and space which lead to the formulation of time as being almost elongated and relatively different to the ways in which time is accounted for in everyday accounts of adult experience. The construction of childhood as a separated "stage" and part of the process of maturity would appear to have relevance, in that childhood may be constructed as a "time" apart or at an angle with the rest of life. There has not been room within this chapter to more than make brief note of some of these features within the context of other analytic themes and to raise possible questions for further exploration.
6. **Children and contact: calling time on notions of a child-centred approach**

6.1. **Opening statements**

As has been discussed previously, there has been a marked change within the focus of social work theory around child contact. Much of the literature has described this as a child-centred process, with an emphasis of "hearing the voices of children" as an integral part of the decision making process (Day-Schlater, 2000). This focus seeks to establish a metaphor that is the child's "voice", through which the wishes of the child in question can be invoked and decisions taken can be measured in terms of their coherence with this expression of children's concerns. In contrast to the previous sections in which the child is constructed as almost a product of actions and situations and therefore to some extent passive within the descriptions of events and interaction, to have a "voice" constructs the child as an active participant within the decision making process. This has recently become a major theme in social work literature (see chapter 1). The status of the child's accounts and experiences in research has been considered in ethnographic work on childhood. As Strandell (2002) comments, representations of the child in academic and social work research appears to "......create the child as an object of their child work. The differences between the professionals and the sociologists representations of childhood probably have less to do with differences in any substantial attributes or characteristics attached to the child, or in different understandings of the child's ontological status, than with different needs, on the whole, to more or less define the child." (Strandell, 2002, p.30-31).
The representations of the child that have appeared in this thesis so far have appeared only fleetingly in the context of analyses of other issues in the letters. The "need" to define what constitutes a "child" in the letters is an obvious next step. As with definitions of what constitutes contact, childhood is in itself problematic to locate within background literature.

Notions of what constitutes a "child" only become apparent and open to challenge when actions or behaviours by children are judged to be outside of what is expected at their "stage" of development. Events of the nature of the killing of James Bulger have lead to sociological and psychological argument as to the nature and conceptualisation of the "child" (Jenks, 1996). Again the different theoretical positions within the debates as to the nature of child behaviour are of secondary relevance to the fragmented and contradictory nature of the literature around what constitutes "normal" child behaviour. Whether the literature relates to deviancy or credibility, as within the practice of child witness testimony in court (Howitt, 2002), the notion of the "child" as coherent is not apparent.

Given these arguments and fractured nature of much of the literature in fields of children's experience, it is interesting that within the field of child and family research, the focus is on providing interventions based on the concept of the "child's voice". Much of the current literature around child contact which has been reviewed in earlier sections of this thesis, has sought to construct this concept of the "child's voice", as a resource to aid practitioners in understanding the child's needs and best interests (James, 1999). Changes within the structure of the Court Welfare Service, along with current research which constructs itself as "child-centred", has created an ethos in which the
“child’s voice” has become crucial and seemingly emblematic of child contact negotiation and outcomes.

An unanswered question within this strand of research and policy is what exactly constitutes the “child’s voice”. Examples of research in this area appear to indicate that this “voice” is formed from a reportage of quotation, with analytic focus on the thematic content of selected quotations rather than an exploration of discursive issues (Pryor & Rogers, 2002). The endpoint of social work based analyses of the child’s voice would appear to be one of cohesion, to provide a commonality of understanding in which the child’s voice is seen as cohesive of children’s experiences, needs and wishes and which can be invoked across practitioner boundaries as a metaphor to construct an “actual” model of what is best for the child.

This chapter aims to explore the conflicting accounts of the “child” within the letters, not in terms of thematic unities but rather through the rhetorical and discursive resources which the child’s voice mobilizes and which are located in broader accounts and complaints around contact.

From this framework, the construction of the child within both the process of contact negotiation and as participant in contact will be looked. In particular, working within the context of a literature which treats the wishes and feelings of the child as an endpoint and treats the production of children’s account’s as not only unproblematic but also emblematic, this chapter will explore the ways in which these accounts by children are taken up and reworked into parental arguments to support or discount claims to contact.
The analysis of the accounts of the child’s wishes will focus on the features of tale telling and reported speech which are used to build factual accounts and manage issues of agency and stake (Wooffit, 1992).

6.2. The child speaks: when enough has become too much

The child’s “voice” appears in the letters as the expressed wants and denials of the child. These are formulated in two main ways. The most obvious is in the use of reported speech. This active voicing has already been noticed when looking at issues of footing, the focus here however is on the ways in which this “voicing” works to construct the child within the letters. The child’s voice is also introduced indirectly by reference to their wants and wishes in formulations which do not contain constructions of “their own words”.

S/BB/16/2/95

(iii) C does not wish to stay overnight.
(iv) D does not wish to stay overnight if C is not prepared to stay.

The indirect voicing of the child’s wishes can be seen in S/BB/16/2/95. Again, as in previous examples; the formulaic nature of this construction emphasizes a linear and sequential process and embeds “logic” to the rhetorical reasoning given by the children. This is a patterned account based on mathematical and linear progression, with the account of D resulting from the account of C.

The account begins with the simple formulation of C’s wish not to have “staying” contact. The use of “wish” to make this claim gives the formulation a formal construction. In terms of constructing the voice of a child, a candidate and perhaps more reflective choice of verb would be “does not want to”. In
using the verb wish rather than want, a formality is built into the account. To use the word “want” may make relevant common sense notions of the demanding child and the “I want...” script, which is called upon to describe the unreasonable behaviour of children whose demands either can not be met or are outside what is perceived to be reasonable by the parent. This then, can be constructed as an adult formulation of the child’s “voice”.

The second part of this formulation, expands the logic of the first (line iv). Although the “voices” of two children are being given in the account, D’s “voice” is constructed as a logical progression from C’s. Again this structure makes relevant common sense notions of sibling experience, if one child wants X, then their sibling will want to be given X too. In terms of parenting, common sense notions of treating siblings equally also inform this account. This is not an easy account to resist in that it formulates D’s desire not to have contact, not in terms of the child’s own reluctance to go as intrinsic to the parent’s circumstances or their relationship, but as a product of the child’s relationship with their sibling. It is not that D will not go, but that D will not go without C. As C has already expressed a wish to not go, the construction has a circularity, which disables an easy counter or direct appeal to D.

6.3. The active child: agency & competence

The most commonly found form in which the child’s expressed wants are found is through “active voicing”. For the purposes of this chapter, issues of footing are only briefly attended to, as these issues have already been more fully explored in earlier analysis of footing issues generally within the letters. In order to explore the use of the child’s speech within the letters, two extracts
from the S/CW will be used. Although they feature extracts of the child J's directly expressed wishes, the polarity of the accounts in which they feature will enable an exploration of the differential ways in which the same child's voice is used as a resource by parent's rather than as an illustration of the "truth" of what is in the interests of the child.

S/CD/19/8/99

"J soon felt relaxed and comfortable exercising contact with our client and said to him "you're my nice daddy aren't you" and "I can come and stay with you at your house". At the conclusion of contact J went on to advise our client that he would see him again."

The inclusion of the "voice" of the child within this account provides a discursive move from a potentially risky account of the child's emotional state, which adopts a conventional narrative opening. This opening description of J's emotional state could be challenged as motivated or erroneous on the part of the witness. The inclusion at this point of J's quoted words serves to evidence that J does indeed feel comfortable with his father. The rhetorical construction of J's words makes relevant the child's family situation. This is J's "nice daddy", as opposed to another presumably "not nice daddy". As has already been addressed in this thesis, satellite family members including potential step-parents are a source of argument and contention within the letters. In formulating the father as J's "nice daddy" through the child's "own words", the father can manage potential accusations by the mother that he is not a "good father". The perception of what kind of parent the father is, is invoked as the property of the child who has the strongest claim to those categorical judgments.

Two excerpts of J's "voice" are included in the account and although made separately are linked by the word "and". Their linkage in this way provides a
progression, in that J's second utterance is based on the establishment that J perceives his father to be his "nice daddy" rather than any other candidate influence. The second extract of J's speech formulates the child's desire to visit the father. Interestingly this is formulated not as a "want" but in terms of "I can". This makes relevant complaints on non co-operation on the part of the mother in this action and has a discursive force when mouthed by the child, which is more difficult to counter. The upgrading of this account is bolstered by the formulation of this as a statement rather than a request on the part of J.

An alternative version of "Can I come and stay with you at your house" would not appear out of place in the context of a child having contact with their father after a prolonged period of separation. However, the risk of formulating this as a question is that it would make relevant the second part of this potential pair, which is the answer. By formulating J's words as a statement of "fact" rather than as a question, there is no room for an answer and possible refusal either on the part of the father or the mother.

The strength of this claim by J. is continued at the close of account by an indirect report of the child informing the father that he would see him again at the conclusion of contact. As has been previously addressed, the choice of the verb "advise" is unusual in this kind of account. When used to report the voice of a child it appears to give a sense of formality to the description. Indeed, by the end of the account, there seems to be a role reversal, with the child taking an active role in guiding the course and nature of this and other potential contact visits, with the semblance of a young Buddha talking to a disciple rather than a child telling a father that they will see each other again.
We will now detail the events of last Saturday: our client told J that he was going to see his other daddy. She spent approximately an hour trying to get him into the car. J kept saying "I don't want to see that nasty man."

In S/CW/ 26/9/99, active voicing is used, not to locate the account as the property of the child, but to provide a gloss and account for the actions of the parent. Within this account, the failure of contact to occur is the key issue and the reasons behind this "failure". What is at stake for the parent here, is to provide an account in which contact failure is managed and accounted for whilst avoiding potential allegations of non co-operation from the other parent.

The account begins with a description of a prolonged period of struggle between the child and the parent. In this account J's speech is introduced as a scripted activity (Edwards, 1995). That J "kept saying", not only emphasizes that this was not a passing remark from J, which may have been taken out of context by the parent but also provides an upgrading for this remark. That the child continued to voice this opinion for over an hour is constructed as evidencing the child's strength of feeling. This account of the child's voice is unusual in that it formulates the child's words as a "want". As has been shown, this word appears to be less frequently used than may have been expected. Its use here not only serves to emphasis the force of J's refusal to go for contact, but also fits neatly with the account as one of a period of emotional distress for both the parent and child. The common sense notions of the way in which a distressed child might speak would not include words such as "wish".
The inclusion of the child's voice within this description enables the mother to provide an account of contact troubles in which her own motives are managed. It is the child who is resistant to contact, not the parent. Indeed, the child's words serve to show that J does not claim this person as his "father" but rather "that nasty man". For the mother, this gloss provides a resource for resisting contact, in that the child's perception is constructed as one of being taken to see an unpleasant figure rather than a warm and welcoming father.

It is interesting to note extract S/CW/19/8/99 is taken from a letter which pre-dates S/CW/26/9/99. These are the words of the same child who on seeing their father some six weeks later produces an almost diametrically opposed account of their perception of their father.

In contrast to social work models of the "child's voice" as the essential "truth" of arguments over child contact, exploration of examples within the letters show that the "child's voice" is regularly used as a rhetorical tool to build cases and arguments which may be liable to challenge if formulated as a parental desire to resist contact. The ways in which the child's voice is built into accounts provide, not a measure against which the validity of claims and complaints can be measured, but rather a resource to build arguments and cases for and against contact occurring.

6.4. The emotional child: constructing needs & effects

The "needs" of the child are not limited to bodily requirements and indeed much of the social work centred literature already reviewed in this thesis, emphasis the need for children to have emotional stability. This concern with avoidance of emotional distress as a factor in the production of happy, healthy
children is one which drives many areas of child-centred research, from the effect of witnessing domestic violence (Hester & Radford, 1987) to the provision of educational resources and support for children with special educational needs. The common link between the various strands of child centred research is the emphasis on the social aspect of emotional distress. Whilst traditional psychological theories of emotion have traditionally internalized emotional states as mental processes, within child centred literature there is a marked focus on the ways in which these mental states are the production of external and situational factors.

This approach to the construction of children's emotions can be seen in other contexts, in particular the social negotiation of emotion within other cultural contexts. Of relevance is the practices identified by Catherine Lutz in which the Ifaluk people construct emotional displays as the product of specified and culturally available social conditions and situations (Lutz, 1992). As has been previously noted in the preceding section, the emotional state of the child is used as a resource for making relevant a failure to provide for the child's needs. In this section, analysis will focus on the descriptions of the child's emotions as contingent on the described behaviours of parents and the rhetoric of unfulfilled needs.

S/CW/13/8/99

1. 13 August
2.
3.
4. Dear Sirs
5. Re: Our client - Mr R L C
6. Your client - Mrs M E W
7. We understand that, as anticipated, contact did not take place on Saturday the 7 August
8. Your client did attend the Contact Centre with J who was visibly upset upon arrival at the Contact Centre. We understand that a voluntary worker managed to calm him down and that he was comforted by the presence of our client's mother, Mrs C.
The child's emotional state is at the heart of the above account. The temporal and geographical location of emotional states provides another resource for argument within the letters.

As discussed more fully in Chapter 3, the use of "understand" enables accountability for potentially contentious and risky accounts to be managed through the formulation of a cognitive process in which motivation can be discounted. If the account is challenged, the candidate response to this challenge is that of "misunderstanding" rather than lying or exaggerating. The evoked attribution is one of failure rather than malice. The insertion of "as anticipated" (line 7) works to build on the neutral footing which is being established. The lack of agency formulates and scripts the business of the account, which follows as one, which is familiar and potentially expected. The locus of control for this state of anticipation is formulated as external to the account builder, based on previous events in the world rather than an internal psychological state of arousal (Coulter, 1989).

The above description of the child's emotional state in lines 9 and 10, is a recurrent theme that is used in other letters in part as an accounting device for the failure of contact to occur and to point agency for these failures towards the child rather than the parent, as will be explored in later examples.

At lines 9-10, J's is described as being "visibly upset upon arrival"; this formulation upgrades the child's emotional state. The difference between the perception of being "upset" and being "visibly upset" works to formulate J's emotional state as one which is "obvious", available as a category to any
witness, rather than a judgment call on the part of the parent and therefore at risk of being liable to challenge.

The temporal placement of J's emotional state as being "upon arrival" (line 9) further builds to manage issues of parental interest in this description, as this distress is already in progress and can not be easily attributed to the father's involvement with the child. Equally, this temporal accounting device evokes other candidate explanations for the child's distress that is events or actions attributable to the period before the child's arrival at the contact centre whilst they were in the care of the mother. This implication is made relevant by the scripted introduction of this account as one of regular contact failure and can be contextualised by other, previous accounts of contact failure in which direct accusations of non-co-operation are made against the mother.

The externalisation of the child's emotional state enables a variety of potential causal attributions to be made relevant and may be used to account for failures and actions on the part of the other parent which are thereby implicated in the "distress" of the child. This emotional state and its description provides a discursive move in which the emotional state which is described is the property of observers and interested parties, rather than the child itself. That is, this emotional state is liable for interpretation and theorizing by any and all concerned parties.

The relevance of this externalization of the child's emotional state can be seen in the counter text provided by the mother in the handwritten notes, which accompanied this letter.

S/CW/26/9/99n

1 J started crying when we pulled into the car park
2 He kept saying he wanted to stay with me.
3 J did not even recognise Mrs C let alone
4 feel comforted by her presence.

The mother seeks to manage and reconstruct the child's emotional state within her notes. The mother's version of J's emotional state is downgraded from being "visibly upset" (S/CW/26/9/99, lines 9-10) in the original letter, to "started crying" (line 2) in her handwritten notes. To "start crying" is a description of a physiological state and invokes the potential for a broader range of potential causal explanations than an internal psychological model of "distress" (Coulter, 1979, p 49). For a young child to "start crying" is not an exceptional event in the understanding of being a child in the way that the same formulation of "started crying" when attached to an adult may be seen as an exceptional event (Coulter, 1979, p53). Equally, this construction works to counter the potential for this state to be categorized as one of emotional distress, due to the range of alternatives implicated.

Further, the account is spatially and very specifically located as happening "as we pulled into the car park" (line 2). This narrows the timescale of this account in that common sense would dictate that the distance between pulling into the car park and arriving at the centre would be relatively short and J's emotional "state" is linked to their arrival at the Contact Centre.

Although the mother goes on in line 3 to produce an account for the reason for J's "crying", she provides this as a scripted version of J's in which J's "crying" is attributed to his repeated requests to stay with her. This emotional state then is formulated as a psychological object, as a description of a child's anxiety at their possible separation from their mother. As a description then, this account becomes managed as a formulation of an unfulfilled "need" on the part of the child. J's emotional state is constructed as
coming from a desire to stay with the mother (line 2) The active voicing produces an internal attribution, this emotional state being the property of the child's innate and psychologically validated desire to stay with the mother, rather than a product of any action on her part or of any other external stimulation. The importance of the management of the child's emotional state as a psychological object, rather than a situationally produced account of emotion, is that it can be potentially managed in terms of the theoretical models of child behaviour which are a requisite part of social work training. Indeed, current social work training shows a concern with furthering and developing the notion of what is theoretically constructed as "attachment theory". If recognized in this way, it may provide the mother with a reasonable account of her failure to facilitate contact with father. If the child's emotional distress is constructed as a desire not to be separated from her, then to be asked to facilitate that separation risks causing further distress.

In terms of the construction of child's needs already discussed, the child's emotional state is not only relevant as a way of invoking the failure to provide for these needs, it is also constructed as a "need' within itself. That is, the need for the child not to experience emotional distress.

6.5. Children: in their own words

The examples of the child's "voice" presented so far in this chapter share the common feature of being reported through an adult third party. Although children may be consulted and asked for wishes their accounts are not reported directly to the solicitors.
The case files that form the data for this thesis include a range of other documents, many of which are unavailable for analysis due to restrictions placed on access by the parents and institutional participants. There is, however, one place in which the child reports their views directly and this will form the final part of this chapter. In case S/BB an order was made by the Family Court for "written contact" between the father and his children. The terms of this order were that the father was permitted to write to his children at regular intervals and that the letters should be passed on to them. The children were placed under no obligation to reply or even read these letters, only that these letters should be placed in their hands. This contact arrangement continued sporadically for two years and the letters that constituted contact were made available for analysis in addition to the solicitors' letters.

The extracts which appear in the following analysis are taken from a letter written by the father after almost a year of written contact. The relevance of this particular letter is that the father includes a series of questions to his children. On the back of the letter one of the children writes their answers to his questions.

S/BB/24/1/96

1 I want to ask you some questions that you will answer to
2 yourselves.
3
4 1) When you look away from me when I pass you in my car, is it
5 because you hate or fear me, or is it to please someone else?
6
7 2) If you are afraid of me, is it because of what I have done to
8 you or is it because of what you have been told I will do?
9
10 3) Who closes the curtains on the Thursday that I call with your
11 letter but not on any other night at that time?
12
13 4) Who is afraid that either I may see you in the house or that
14 you may see me calling?
5) Why have I been denied any opportunity to defend my actions over the last twelve months?

6) Who is better at confronting people who may bully or abuse you? (remember when H made you drink her urine, or that girl Bullied you at school, it was me who went to school and it was your mother who told me not to confront Mrs S because your mother didn't want to upset her friend!?)

7) Who is more likely to talk to your teachers and head teachers when you need help?

8) Do you really want the rest of your lives avoiding me and Missing out on all that I can give you?, not just material things. but love, affection and warmth?

9) Whose lust for revenge are you satisfying, yours, or your mother's?

The extract S/BB/24/1/96 shows the father's questions to his children. As the analytic focus of this chapter is on the child's voice, relatively little time will be spent on the father's letter itself. What is evident from these questions is that although they are framed as questions about the children's views of contact, they reveal an increasingly evident appeal to the children to make a choice between their parents. In questions 1 and 2 the father provides the children with a choice of answers to account for the behaviour he is questioning.

1) When you look away from me when I pass you in my car, is it because you hate or fear me, or is it to please someone else?

2) If you are afraid of me, is it because of what I have done to you or is it because of what you have been told I will do?

In question 1, the father asks if their decision to turn away from him is because of their own emotional state or to "please" someone else. Although the mother is not explicitly named, in the context of a child contact dispute, hers is the common sense answer to the question of "who". The contrast between "looking away", as an expression of emotion and as a way of
pleasing another, is not an obvious one. To "look away" from someone in order to please another would indicate a concurrent but other narrative, a history of interpersonal conflict between the person looked away from and the person being pleased by the children's actions. In the context of post separation parenting the most obvious candidate for the unnamed other whom the children would seek to please is the mother.

This formulation of providing two candidate solutions to the question being asked continues until question 5 at which point the father ceases to invoke unspecified other's as influencing his children's actions and decisions.

In question 6 at lines 19-23 the father provides two scenarios of past incidents as a guide for the children to formulate the most pertinent answer to his questions.

19 6) Who is better at confronting people who may bully or abuse you? (remember when H made you drink her urine, or that girl Bullied you at school, it was me who went to school and it was your mother who told me not to confront Mrs S because your mother didn’t want to upset her friend!?)

Although there may be other candidate individuals which the children may give in answer, such as friends and members of the children's extended family, the father presents his own solution to the question he has posed. The father provides two instances of bullying in order to guide the answering process. The relative status of their parents' involvement in confronting those who may abuse the children is performed through a contrast case. Rather than provide evidence of two instances of his own intervention, he contrasts his own action in intervening over a school bullying incident with the mother's failure to act in the second example. The relevance of the mother's failure to intervene lies in the father's gloss that her failure is motivated by a desire not
to offend her friend. In the context of child contact negotiations, as well as common sense notions of parenting, the parent's primary concern should be seen to be the welfare of the children rather than friendships outside of the family.

Question 8 at lines 28 -30 marks a turning point in the rhetorical force of the questioning. This question marks the first point in which the father mentions the emotion associated with a father child relationship.

8) Do you really want the rest of your lives avoiding me and missing out on all that I can give you?, not just material things, but love, affection and warmth?

9) Whose lust for revenge are you satisfying, yours or your mother’s?

This is the only time in which the father indicates his feelings for his children. Although he writes of "love, affection and warmth", these emotional states are constructed as being benefits of a return to contact, rather than feelings which the father has for his children in their absence. The rhetorical force of this question is directed at calling the children to account for their decision to forgo the potential benefits of contact with the father rather than formulating his own suffering at being unable to share these feelings with his children.

The mother is only explicitly mentioned in the final question (lines 31 -33). Until this point, the questions have gradually built in terms of emotional content from asking about particular behaviours like "looking away" and closing curtains to asking the children directly about their emotions. Interestingly, the final question the father poses asks about a "lust for revenge". Of the range of emotions presented in contact letters, fear, anger, love and warmth, lust for revenge appears to be an odd choice. Indeed
revenge is an action rather an emotion, the emotion component of the question asks the children about lust. In asking the children to account for their "lust for revenge", the father is constructing a common sense category of emotion and behaviour which do not readily map onto normative notions of childhood. The candidate alternative owner for this "lust for revenge" is provided as the mother. In asking the children to claim and explain an emotion state which is primarily associated with adult experiences, the choice of answers for the child is problematic. Either the child must claim an emotion they may not fully understand or offer the alternative answer which is that it is the mother's "lust for revenge" that is the upshot of the contact difficulties.

On the back of the first sheet are the handwritten answers given by the child. These answers are written in pencil and difficult to reproduce, therefore a typewritten copy is presented below. The original copy can be found in appendix S/BB.

S/BB/24/1/96n

1. I turn away because I hate and fear him. So does D
2. We are afraid of him because of what he has done to us
3. We always close the curtains but I ask mum as I'm not tall enough
4. D and I are scared. L can't spell 'cos he's thick.
5. Because D and I say so.
6. My family (Dad is not included in the family anymore.)
7. My mum
8. YES!
9. Mine and D's.

The child's responses on the back of the letter mirror the original format of the questions. The answers are brief and direct. Throughout their answers the
child avoids the preferred answer, formulating agency for decisions and actions as their own rather than their mother's.

In answer one, the father's words are recycled. Indeed as the child answers the father's questions, candidate answers are picked up by the child. The child includes their sibling's in the pattern which can be seen in other letters. The sibling's answer follows and reflects their own with only minimal accounting given. Whilst C, who writes the answers, offers their own account for their behaviour as being produced by hate and fear, there is no similar account for D. who simply follows C.

From question two onwards, the child constructs their answers as representing both children either through the use of "we" or providing both C and D and subjects of the answers.

In answer three the child indicates that closing the curtains is a routine household event. The inclusion of "always" manages the construction of closing the curtains on the night in question as not being an exceptional event as in it is marked out as being in the original question. This is the first answer to include extra information to the original question. The child's explanation "ask mum" manages the possibility that father may have witnessed mother closing curtains or that he is likely to know that the child is too short to close the curtains on their own. This answer attends not only to the child's ability to provide clear answers to the father's questions but also demonstrates an sophisticated understanding of the arguments which may be offered to undermine their answers.

Throughout the answers the child refers to the father as "he" or "him", at only two points does the child use other ways of naming the father. The first of
these can be in answer 4. In this answer the father is referred to by his first name, L. This is constructed as part of the child’s answer, but in a comment on the father’s spelling mistake in the original question. The child’s comment “L can’t spell ‘cos he’s thick” is an inversion of the common sense roles of parent and child. It is more usual for the parent to comment on and correct the child’s spelling mistakes, by pointing out the father’s mistakes the child undermines the father’s status as the more sophisticated language user and questioner. The account given by the child for the father’s spelling mistake is located not in error but in an attribution to the father’s lack of intelligence.

The father is mentioned as “dad” only once. This comes in answer to question 6.

S/BB/24/1/96

19 6) Who is better at confronting people who may bully or abuse you? (remember when H made you drink her urine, or that girl Bullied you at school, it was me who went to school and it was Your mother who told me not to confront Mrs S because your mother didn’t want to upset her friend?"

S/BB/24/1/96n

6. My family (Dad is not included in the family anymore.)

As previously mentioned this question by the father includes an account of two instances of bullying and for the first describes instances of both the father and mother’s behaviour. In the child’s answer, it is the “family” which is used to account for who is able to confront individuals who bully the children. The “family” however includes a range of relatives including the father. The child provides a qualification as to who is entitled to claim membership of the family which protects the child. Although the child may still refer to him as “dad”, the father is constructed as no longer having the any claim to be part of the family. This formulation demonstrates a sophisticated awareness on the part of the child not only of the ways in which the category of family makes
relevant a variety of participants but also how in post separation relationships the constituents of what is and who is known and recognized as “family” may alter. This account also demonstrates an awareness of the ways in which fatherhood may not be an innate quality but one that comes from social interaction rather than biological connectedness.

Question 8 in which the father makes relevant the positive emotions associated with the father child relationship for the time in his questioning elicits the shortest answer in the form of a “yes”.

8) Do you really want the rest of your lives avoiding me and missing out on all that I can give you?, not just material things, but love, affection and warmth?

8. YES!

This “yes” is not simply written as in the original (see appendix S/BB) the letters are drawn in an exaggerated and rounded style, there is an exclamation mark and the word is underlined several times. The style and punctuation of the answer act as emphasis and give rhetorical to the child’s answer whilst managing to avoid having to account for why the child may want to “miss” out on the positive emotions of “love, affection and warmth” which the father offers.

Throughout the child’s answers, C provides a clear position and manages a range of complex dilemmas posed by the questions. In the final answer, C continues this pattern.

9) Whose lust for revenge are you satisfying, yours, or your mother’s?

9. Mine and D’s.
This is perhaps the most contentious question asked of the child. C provides a straightforward and clear answer. In doing so the child claims ownership of a seemingly adult set of emotions and actions. It would easy to assert that the child may have little understanding of what constitutes a lust for revenge. What has been demonstrated through the close analysis, is that these answers present not only the voice but also demonstrate an awareness of the complexities of both post separation family life and the implicit counter texts which the father works up in his original questions. From this analysis, it can be surmised that when the child’s own voice appears in the letters it is clear, articulate and aware of the dilemmas which being the object of a contested contact action present.

6.6. Closing arguments

In exploring the ways in which contact is constructed as differentiated and marked out from everyday routines and practices, this chapter has pointed out some of the dilemmas managed by parents and solicitors in building cases for and against contact.

The picture of the “child” which emerges from the letters is not consistent in terms of being an active or passive participant. Rather, the construction of what constitutes a “child” appears to be dependent on the context of the accounts and the business which the accounts seek to manage.

The common strands, which inform vast areas of child-centred literature, in particular those of social work and education, would appear to be more complex in their use within the letters. The child’s “voice” is called upon as a tool to inform and guide professional thinking and interventions. Although it is
possible to tease these devices from the letters, an exploration of where and the ways in which, this feature of the letters occurs, reveals that this does other work than simply illuminate essential truths about children's experiences.

When children's "wishes" are called upon within the letters, they are mobilized to do more than simply call attention to an absence or a failure to provide. In invoking the child's needs, whether for food or contact with both parents, issues of motive, blame, and complaint become packaged into accounts which are constructed to highlight instances in which the child's needs are or are not met. By contextualising complaints and attributions in this way, it appears possible for the complaining parent to manage counter complaints of self-interest, bitterness, jealousy and other damaging implications.

The overarching context of all the letters which form the data corpus is the process of child contact negotiation. As such, this is perceived both legally and in terms of social work practice as being "child-centred". Given this context, it would appear that arguments around arrangements should share this concern and be focused on concern for the child. The importance of the child's "voice" is central to both the theoretical background and professional practices of this arena. The use of the child's "voice" within the letters, however, does not share the characterization of both research and policy documents. Within the letters, this "voice" is not the light which illuminates the best interests of the child but rather a resource which parents can draw on to frame their arguments and complaints. As has been noted by Hyden (2001), the child's "voice" can be used to warrant complaints and accusations. The
formulation of these complaints as "voiced" by the child it is possible manage a variety of issues with regard to stake and interest which may be risky for the parent seeking to further or to resist a contact claim.
7. Parents, partners and entitlement to contact

7.1. Opening statements

Having explored constructions of the child within the letters, it seems only appropriate to afford the same courtesy to the parents. Although policy and statute state that claims and resistance to contact must be in the best interests of the child, it has already become apparent in previous chapters that this is not always the only argument. Indeed, it is not only parental concerns that appear in the letters.

In addition to, the accounts given of parental behaviours, other family members appear to be involved in the process of contact negotiation to varying degrees. As has been previously explored, although contact is constructed as a separate space, this is at odds with the structure of family life. The tension between everyday life and making time for contact is further complicated by the demands of the family members. In exploring where and when these family members are invoked and ways in which these tensions are managed, this chapter will look at what and whom may be categorized as family and entitled to contact. The analysis of accounts will use membership categorisation analysis, to tease out the category bound activities invoked by naming practices as they appear in descriptions of family members (Lepper, 2000).

Membership Categorisation Analysis draws on seminal work by Sacks (1974). Sack's analysis of a line from a children's story “the baby cried, the mother picked it up” (Sacks, 1974/1992, p, 216) in which common sense categories and the relationship activities of mother and child are made
relevant to the reader/hearer. This approach to analysis has been developed in later years through a concern shared by discursive researchers into the ways in which people describe events and happenings. The concern which Membership Categorisation Analysis seeks to explore is that these descriptions are not simple but rather always reflect and construct some form of moral and social activity (Jayyusi, 1991).

A major area of Membership Categorisation Analysis research is looking at identity work in accounts and descriptions. Baker (1997) makes the link between the practice of accounting for the self and the ways in which knowledge claims are often framed within claims to entitlement of various social identities. As Baker claims, there is a degree of difference between speaking as a "mother of three" or as a "professor" (Baker, 1997, p 261). It is the category entitlements which mobilizing these differing identities makes relevant which forms the basis of membership categorization analysis. In teaching approach to undergraduate students, one of the easiest ways of demonstrating and recognising the ways in which categories work to construct not only relationships but activities is through a relevant example. This process begins with choosing the identity of student from among a list of their individual social identities. From that point, by listing the various entitlements, activities and obligations which the category of student may make relevant to a friend or family member who has no experience of being a student. These common sense activities, like not having to work full time, not paying tax, drinking heavily or doing exams are easily listed and indicate to students that the description of "student" is not simple but carries a range of connected
As common sense categories of mother and father are not used, notions of what constitutes a parent appear to be worked up within descriptions and accounts of instances of contact. The analysis of the ways in which parental actions are constructed will focus on several of these detailed accounts. These accounts however are not simple descriptions of contact visits. They appear within the context of arguments over when, where, how and even whether contact occurs. As such, what is revealed about the common sense notions of parenting must be regarded in the context of the business which these accounts manage. That is, how do these accounts of parental actions work to strengthen or undermine claims of entitlement to contact?

7.2. What makes a parent?

The sets of letters under analysis in this thesis are linked in respect of the direction that contact takes, that is the children are resident with the mother and it is the father's who are seeking contact. It is necessary then to make some qualifications to the constructions of parenting to be made.

In exploring the way in which parenting is constructed through the letters, it should be noted that the mothers involved in these cases are resisting or seeking to renegotiate contact. Indeed, one of the main features of the letters is the frequent complaints of lack of co-operation directed towards the mother.

S/CW/5/98

1 Our client informs us that the last contact he
2 exercised with J he 17th April and since then, despite
3 him attempting to make amicable arrangements for
4 contact, we understand that your client is refusing
5 to co-operate.
The lack of co-operation attributed to several of the mothers in these cases is not constructed as a passive state or as a “failure” to co-operate. As can be seen in the above example, lack of co-operation is constructed as an active and volitional state (lines 5-6). The use of the verb “refusing” constructs the lack of co-operation by the mother as wilful and deliberate. Unlike a refusal to “act” or “stop”, a refusal to co-operate involves a difference in directional metaphor. To refuse to act or stop makes relevant an outward momentum away from the area of concern. With “co-operation”, the momentum is inwards, or towards a common goal. By refusing to co-operate the mother is constructed as resisting the ideal outcome contact negotiations which is to produce the closest version of joint parenting possible for the interests of the child. The mother’s “refusing” forms the second part of a contrast case to the father’s “attempting to make amicable arrangements.” In doing so, the mother’s refusal to co-operate is further upgraded as this a denial not only of contact but also to take part in an “amicable” framework of negotiation. This lack of co-operation is not constructed out of omission or negligence, but out of volition to deny the child access to the father.

This contrast between the actions of the mother and father is another regular feature of the letters. When maternal or paternal behaviours are accounted for, they often appear embedded in contrastive reports of the other parent’s actions or reactions. This interplay between the relative actions of parent’s involved the contact cases, is a feature which will form part of the following analyses of mothering and fathering practices as they appear in the letters.
The analysis of the construction of parenting will focus on a particular sequence of letters taken from data set S/CW. The three letters used in the following analysis document a one month period of contact visitation during one of the interim contact orders which were made by the Family Court in this case. The analysis will focus on the way in which accounts of co-operation and attempts to facilitate contact are worked up by the mother and her solicitor and subsequently reformulated by the father's solicitor. To demonstrate the nature of this process and embed the analysis within the context of an ongoing dispute, longer extracts of three letters will be presented. The decision to focus and present this section in this way was taken in order to illustrate the process of argument and reformulation more clearly.

The first extract is the initial account of a previous contact visit given by mother. It should be noted that this series of letters are taken from a point at which contact negotiation had been proceeding from a period in excess of one year. Interim orders had been previously made and had faltered. Prior to the current order which provides the context for these letters, contact had taken place in an informal setting and attempts had been made to facilitate the handover of J through third parties and in public places. At the time of these letters another interim contact order had been made to include provision that contact should occur at a specialist Contact Centre where trained staff and volunteers are on hand to facilitate and supervise contact sessions. At the point where the first letter occurs, this arrangement had had only limited success, with contact visits scheduled for the previous month either failing to occur or not lasting for their full duration.
An issue within the construction of this account is an accusation by opposing legal representative that the mother has continually disregarded court ordered contact instructions. This allegation is cited immediately before the account (S/CW/6/8/99) at the opening of the letter and is used to warrant the inclusion of a detailed account of events at contact to both refute the allegation and warrant an alternative understanding of the father's version of events. At stake within this account are the issues of non co-operation on the part of the mother and the accusation of disregarding judicial instructions. For the mother, construction as non co-operative and failing to obey the court's instructions, pose a threat to the credibility of her argument for refusing contact. The implications of not managing this threat are that the mother could potentially be constructed as not acting in the child's best interests and denying contact for other, self interested reasons. If accepted by the Court this would result in both the failure of the mother's attempts to deny contact as well as the prospect of imprisonment for breaching the Court Order.

S/CW/6/8/99

1 We will now detail the events of last Saturday:
2 Our client told J. that he was going to see his other Daddy. She spent approximately an hour
3 Trying to coax him to get into the car. J. kept
4 Saying "I don't want to see that nasty man". Our
5 Client left the property at approximately 1.30pm
6 and arrived at the contact centre in good time for
7 1.50pm. Our client told J. that a man had said
8 that he had to go and told J. that inside was very
9 similar to play group that J. regularly attends. She explained that J. would have the opportunity
10 to draw pictures and play with the toys. Upon
11 arrival and until J. became so hysterical that the staff in the contact centre had to come out, Mr W.
12 Stayed in front seat of the car and opened J.'s
13 door. J. gripped the release mechanism of his seat belt and would not let our client undo it. Our
14 Client physically forced J. to take the seat belt
15 off, at which point he climbed out of his seat and
tried to crawl onto the other seat. Our client was able to grab him and dragged him out of the car. She put J. on the pavement and he immediately he pushed past her and climbed back into the car. He shut the door and put the seat belt back on. Our client repeated the exercise and once more physically dragged J. out of the car; she tried to carry him to the front door of the contact centre. Throughout this process J. was wriggling and kicking and our client had to let go. Once free he ran back into the car and refused to let go of the Handle. By this point he was crying and hysterical.

The account is opened with the mother's efforts to "coax" the child to leave home. The inclusion of temporal markers adds emphasis to the construction of the parent having made extreme efforts to persuade the child to go to the Contact Centre. The time line of the narrative provides a resource for warranting the assertion of the mother that she has acted outside of their own self-interest. The time line begins with an hour spent "coaxing" the child within the parental home at lines 3-4.

She spent approximately an hour trying to coax him to get into the car.

The relevance of this opening is that it frames the account within the context of the mother's efforts to enable contact to occur. Further, these are not constructed as half-hearted or even ordinary attempts at enabling contact. This is an account of extreme effort. To spend a period of an hour trying to coax a child into a car requires extreme patience, indeed the use of "coax" to describe the mother's attempts to get J into the car, would indicate gentle persuasion. The word "coax" has associations with the luring of shy woodland creatures. Unlike other potential candidate alternatives, for example "persuade", "encourage" or "cajole", by using "coax" the account suggests both the vulnerability of the child and the gentleness of the mother.
This initial description of preparation for contact is embedded within an account of the child's resistance. What is of relevance here is that the opening description of preparing J to go to contact is rich in narrative detail and includes the stylistic device of "active voicing" (Wooffitt, 1997, Ch 4). It is immediately followed by the inclusion of a more formally constructed section detailing the journey to the Contact Centre (lines 5-8).

5 Our
6 client left the property at approximately 1.30pm
7 and arrived at the contact centre in good time for
8 1.50pm.

Within the organisation of the account, these lines act as a break or punctuation, as the richly detailed style continues at Line 9 to describe the mother's in-car persuasion strategies. The importance of lines 5 to 8 is that they attend to timekeeping practices and demonstrate the mother's efforts to arrive "in good time" for contact. Their insertion into the otherwise richly detailed account of her efforts to persuade J to go to contact, acts to reinforce the concern of the mother to attend contact and furthermore to attend "in good time" thereby managing potential accusations by the father of non-cooperation.

The account continues to focus in detail on the mother's efforts to "explain" and verbally persuade J that the Contact Centre is an interesting place at lines 8-12.

As the narrative continues, however the time line disappears, replaced by an emphasis on the physical struggle between the parent and child (lines 14-32). This shift is accomplished through the change of location. As the scene shifts from home and car interior to the Contact Centre, the nature of the
account also changes at line 13. This part of the account has a staccato pace, with actions rapidly succeeding one another, the sensation of swift, complex action is used to emphasise the reactive nature of the parent's actions. The narrative is built around a series of extreme case formulations (Pomerantz, 1986), which signal the extremity of effort required by the mother to facilitate contact.

14 staff in the contact centre had to come out, Mr W. stayed in front seat of the car and opened J.'s door. J. gripped the release mechanism of his seat belt and would not let our client undo it. Our client physically forced J. to take the seat belt off, at which point he climbed out of his seat and tried to crawl onto the other seat. Our client was able to grab him and dragged him out of the car. She put J. on the pavement and he immediately he pushed past her and climbed back into the car. He shut the door and put the seat belt back on. Our client repeated the exercise and once more physically dragged J. out of the car; she tried to carry him to the front door of the contact centre. Throughout this process J. was wriggling and kicking and our client had to let go. Once free he ran back into the car and refused to let go of the handle. By this point he was crying and hysterical.

The extreme case formulations (Pomerantz, 1984) can be seen in the use of the adverb "physically". At lines 18 and 26, "physically" is used to describe verbs which already indicate bodily effort, that is "physically forced" and "physically dragged". "Force" and more obviously the verb "drag" imply physical effort; it would be difficult to imagine how a child could be dragged by a mother if not by physical effort. The use of "physically" then may serve to emphasise and upgrade the actions of the mother and indicate the extreme nature of her efforts to enable contact.

The child becomes the initiator of the abortive attempts at contact and active in their resistance to contact. The parent's actions are constructed as
swift and reactive managing the potential reading of this account as one of mother acting in a self consciously unco-operative manner. Indeed, there is no mention of the mother’s emotions.

The actions of the mother are described purely in terms of their verbal and physical content. At no point during the mother’s “explaining” or “dragging” is her emotional state described. Indeed, there is very little description of the emotions of parent and child provided. Crucially, where emotion description is provided it has works to organise the account by bracketing off the mother’s actions and embedding them in the context of a child distressed by being taken to contact. This can be seen as the account is framed by a description of J as “hysterical” at line 12 and subsequently at line 32, where J has become “crying and hysterical.” During the intervening struggle, however, the language of emotional states is absent and all the verbs used in this account relate to physical states and activities at lines 16-31.

In order to avoid the construction of being non co-operative, the mother’s formulates the narrative of their attempts to facilitate contact in terms of a struggle against the child who physically resists all attempts to enter the Contact Centre. The mother’s failure to facilitate contact is warranted through the rhetorical reconstruction of the child’s distress and refusal to leave the parent’s vehicle and enter the centre. The efforts made by the mother are worked up as a physical conflict, in effect the battle to achieve co-operation. The mother’s attempts to get the child to exit from the vehicle are described in the language of violence and battle, using a variety of verbs indicated physical effort and momentum, for example “forced”, “grab” “dragged” and “carry”. This language would appear to be at odds with idealised notions of parental and,
more especially maternal behaviour. Indeed this section of the account contrasts sharply with the previous descriptions of her efforts to get her child to centre which have been constructed using words which describe verbal efforts, which are “told”, “coax” and “explained”. The switch to the language of bodily rather than physical effort is located spatially with their arrival at the Contact Centre.

20 tried to crawl onto the other seat. Our client was
21 able to grab him and dragged him out of the car.

The account becomes increasingly fraught in tone; the language of struggle and violence becomes more intense. Indeed, the narrative bears similarity to accounts of violence in the statements produced from police interrogations. Taken without context, the narrative could be read as an account of an unsuccessful assault and attempted kidnap, in the same way as sexual assault narratives entered in testimony can also be read as accounts of romantic encounters (Coates, Bavelas & Gibson, 1994). Indeed, consent in a central issue within this account, as the dilemma for the mother is to formulate the account as contingent on the child's lack of consent to go to contact, rather than her own refusal to co-operate. It is the actions of the child which are constructed as active, as in lines 28 - 31.

28 Throughout this process J. was wriggling and
29 Kicking and our client had to let go. Once free he
30 ran back into the car and refused to let go of the
31 handle. By this point he was crying and

As has already been noticed in Chapter 5, this account contrasts with the common sense notion that contact should be a happy experience for the child. This account is built to reinforce contact as an experience which is traumatic
for the child, but most importantly, in which the trauma described is linked to child's refusal to go to contact rather than mother's lack of co-operation.

This account receives no response and the next letter in this sequence is again from the mother's solicitor. This letter is sent shortly after the next scheduled contact visit and again details her efforts to enable contact. Although a detailed analysis of the letter's construction would seem appropriate, what is of interest in the sequential nature of the letters is which details of the mother's efforts to enable contact are continued and what new information and description is added.

S/CW/26/8/99

1 We are instructed that our client arrived at the Contact Centre at the proper time. She tried to force J out of the car and was able to unclip his safety belt. J clipped it back into place immediately after. Our client used another ploy to coerce J to go into the Contact Centre. She told him that she would take J into the Centre and as previously indicated the contact centre was like a playgroup and would be something that J would enjoy. She also told J that one of Mr W's children has visited a contact centre so as to further encourage him. After numerous efforts to force J out of the car, our client went into the centre. Your client approached her and told her that she was not trying hard enough. His tone was aggressive. He told her that he was to have contact for an hour and a half this week and that our client had not tried hard enough in previous weeks. He suggested that our client drive round the block and return. Our client took the view that this would not help or encourage J and would only serve to confuse him further.

22 An assistant from the contact centre came out and witnessed our client trying to unstrap J and force him out of the car. The assistant advised our client that if J did not want to go that he should not be forced. Our client tried approximately four or five times again to get J out of the car. At this point she returned to the contact centre to talk to the supervisor. Your client then approached her and started to interrupt a conversation with the supervisor. The supervisor made suggestions such as telling J that the centre was a nice place to visit. Your client interrupted and said that our client would end up in court again and would be going to prison. His manner was still aggressive. The supervisor asked him to move away and your client moved
down one of the corridors. The supervisor asked our
to consult ourselves and the court welfare officer,
particularly as it was affecting the other children in the
Contact Centre who were coming for contact. The
Supervisor told our client to leave.

Our client informs us that she made every possible effort
to make J’s visit to the contact centre sound as
appealing and interesting as possible and as evidenced has
used further tactics whereby she will take J into the
Contact centre rather than Mr W. As you will be
aware this left our client open to further aggressive
behaviour from your client.

This letter differs from the first in that it contains no detail of the efforts made
to enable contact prior to arriving at the centre. This account begins by re-
presenting the physical efforts made by the mother to take the child the
relatively short distance from the car to the Contact Centre. The details from
the first account which are repeated attend to the mother’s arrival at the
proper time and J’s refusal to leave the mother’s car. In presenting these
details the mother manages the issue of not co-operating with the contact
order as in spite of the previous visit, she has again arrived promptly for
contact.

Although the mother does provide an account of her physical efforts to
take the child into the Contact Centre, it is far less detailed than the first
account. Whilst in the first letter, the mother’s efforts to take her child from the
car were described at length, in the second letter they appear in a shortened
form. What details remain and are repeated from the first account are her
“numerous” attempts to physically take the child to contact and her verbal
attempts to work up the Centre Centre as an exciting place (lines 2 – 12).

The relevance of the shortened account of her own efforts is that this is
used to package the incident which the mother works up as central to the
problems with contact. The business of this account is the father's behaviour at the Contact Centre.

of the car, our client went into the centre. Your client
Approached her and told her that she was not trying hard
even. His tone was aggressive. He told her that
he was to have contact for an hour and a half this week
And that our client had not tried hard enough in previous
weeks. He suggested that our client drive round the

The mother's efforts are set up as a contrast cast in which to highlight the unreasonable nature of the father's behaviour. At lines 12-13, the father is reported as telling the mother she has not tried hard enough. This accusation appears embedded in an account of the mother's extreme efforts to enable contact which works to undermine the father's reported allegation when embedded in an account of extreme effort. This accusation by the father is repeated. This repetition is used to bracket off a motivational account for the accusations. The account provided for the father's accusations of a lack of effort on the mother's part is given as his concern with the time he was to spend in contact (line 15). The relevance of this reporting is that it presents the father as attending to his own concerns rather than the distress of his child who has resisted contact on two occasions and has been described as hysterical, crying, kicking and refusing to leave the car.

The letter moves on to detail the mother's interaction with the Contact Centre staff. This account packages the involvement of the father in enabling contact.

contact centre to talk to the supervisor. Your client
then approached her and started to interrupt a
conversation with the supervisor. The supervisor made
suggestions such as telling J that the centre was a nice
place to visit. Your client interrupted and said that
Our client would end up in court again and would be going
to prison. His manner was still aggressive. The
Supervisor asked him to move away and your client moved
This section of the letters attends to both the father's actions and manner. The account packages the father's actions as an interference with the business of enabling contact. The sequence embeds the father's actions in a description of the mother's attempts to gain assistance from the Contact Centre staff. The father is described as interrupting this exchange in lines 29 and 32. The contrast between the reporting of the exchange between the Centre Manager and the mother which details suggestions to facilitate contact and the father's interruptions which include threatening the mother with prison, distance the father's involvement from one which is actively seeking to resolve the situation. Once again the father's actions are accounted for as being directed towards the mother rather than towards with the distress and trauma of his son. In the context of an account which details the efforts of both the mother and the Contact Centre staff towards the welfare of the child, the father's actions are polarised and framed as being at odds with those around him.

The upshot of the account is presented in lines 46-48.

At the centre of this complaint is the behaviour of the father. In accounting for the failure of contact, it is the father's actions and behaviour which are worked up to constitute a risk to continued contact.

The father's response to the previous letter will be used for the final section of this analysis. The father's response takes the form of two letters.
written on 2nd September. A detailed rebuttal of events is addressed to the mother's solicitors, this accompanied by a letter sent directly to the Court Welfare Officer which contains a shortened version of the rebuttal. Analysis of these letters will focus on the ways in which details of the mother's two previous narratives are reformulated and used to counter her claim to be actively co-operating in contact arrangements.

S/CW/2/9/99

1. We attended our client on 26 August and received quite a differing account from him as to occurrences on 21 August.

2. We understand that J was reluctant once again to enter the Contact Centre or indeed leave your client’s vehicle. We understand however it was your client’s tone that was aggressive and that she raised her voice to such an extent that she had to be advised by the voluntary staff at the Contact Centre to calm down because her behaviour was distressing.

3. The children.

4. We further understand that a volunteer at the Contact Centre suggested that your client take J for a walk around the gardens of the Contact Centre and that your client made no attempt to put this proposal to J in an attempt to encourage him out of the car in order to exercise contact with our client.

5. At no point has our client ever suggested that J should be physically forced out of the vehicle and your client’s continued attempts to “force J out of the car” serve only to cause him further distress.

6. We anticipate that J is now likely to become distressed merely at the sight of the Contact centre building, particularly as each occasion upon which he has attended with your client has been traumatic, probably in large part due to your client’s attempt to physically force him from the vehicle.

7. We suggest that if the supervisor at the Contact Centre advised client to consult yourselves and the Court Welfare Officer this was a result of her inappropriate behaviour exhibited in front of our client and the other children and parents at the Contact Centre.

The letter begins by orienting to the status of the mother’s original account. The mother’s version of events will be contested by presenting “quite a differing account”. This signals that this is not a minor quibble over some of
the details of contact present in the mother's account but marks this as a major disjuncture. The issue for the father is whose behaviour warranted the breakdown of contact and the removal of the child from the Contact Centre.

The mother's attempts to facilitate access are rhetorically reconstructed as actions outside the "best interests" of the child and upgraded as causing the distress and suffering which the child is reported to have experienced at the Contact Centre.

The mother's account of events on the 27th July is not explicitly attended to by the father; however quotes from the mother's initial narrative are recycled in the father's version to construct the mother's action as unreasonable and acting outside notions of appropriate parental behaviour.

18 At no point has our client ever suggested that J should be
19 physically forced out of the vehicle and your clients continued
20 attempts to "force J out of the car" serve only to cause him
21 further distress.

The letter is constructed to distance the father from both involvement in and support for the actions of his ex-partner. The use of quotation marks to bracket the section of text from the mother's letter, "force J out of the car" which is recycled by the father's solicitor marks this action as the property of the mother alone. The rhetorically constructed outrage of the father and their solicitor are used to resource the formulation of the father as a concerned parent, whose self interest in having contact is outweighed by concern at avoiding further distress to his child which is located as being produced by the actions of the mother rather than the experience of contact itself. In essence, within the competing accounts, the father warrants the distress of his child not through his own self-interest in demanding contact arrangements are adhered
to, but rather through the unreasonable and uncooperative behaviour of the mother.

At stake within this dispute is the father’s past criminal record and history of domestic violence which has been used as an argument for supervised contact. As has been shown it is this which provides the final gloss of the mother’s last account of contact failure (S/CW/26/8/99). The father’s response is to build an account in which it is the behaviour of the mother which is constructed as hostile and aggressive.

The gloss which the father presents is that the problems surrounding contact do not come from this child’s resistance or from his own actions but rather from the behaviour of the mother. The extreme nature of the mother’s actions is constructed through the “suggestion” by the father and his solicitors that it is the mother’s behaviour which warrants the concern of the Contact Centre staff and works to undermine the mother’s account which attributes blame to the father’s aggressive behaviour.

The rhetorical shift accomplished in the father’s reformulation of events, is enabled in part by the invocation of outside witnesses. The description of the mother’s behaviour is warranted by these outside sources. The source of the complaint about the mother’s behaviour is attributed to the Contact Centre staff. This constructs the father’s interpretation of the mother’s behaviour as not merely a subjective judgement and serves to undermine any potential
accusations of bias and frustration. It is the detached and objective Contact Centre staff who note and account for the mother's behaviour as problematic. In this account of events of by the father, the child J is absent. The distress which the father's account describes is attributed to other children visiting the Contact Centre (lines 9 -10). The physicality, which was accounted for in terms of attempting to facilitate contact and in reaction to the child, is now reformulated as extending beyond an effort to enable to contact and as actually interfering with the business of the Contact Centre. Furthermore, the invocation of other children within the contact upgrades the mother's behaviour and problematises her self-construction as a concerned parent.

In the letter sent to Mr. K. the Court Welfare Officer, this reformulation enables the father to problematise previous complaints by the mother as "allegations". Although this is not seen in the father's response it comes in an accompanying letter which has been sent directly to Mr. K (see appendix S/CW) on the same day.

S/CW/2/9/99K

Our client believing that he was acting in the best interests of the child, refrained from leaving the Contact Centre to speak to his son fearing that Mrs D. may make allegations that his conduct was, in some way, inappropriate.

It is the father who invokes the central tenet of the legal discourse around child contact; that is "the best interests of the child". This shift in footing is used as a resource to warrant refutation of the account of child's distress at contact and provide a rhetorical alternative. This alternative is grounded in pathologising actions of mother as not being those of a concerned parent,
rather an abusive woman whose extreme behaviour is not tempered by consideration for children. In the context of a child-centred process, this strategy is used to undermine arguments that failure of contact is grounded in anything other than parental interests and failure to act in a co-operative way.

In trying to unpack notions of parental behaviour in the letters, it become apparent that what constitutes appropriate behaviour is open to question. As has been shown, the dilemma faced by parents in evidencing their entitlement to maintain or resist contact is fraught with difficulties. The actions of a mother or father are liable to challenge and reformulation as each seeks to undermine the other.

7.3. **Q: When is a step mother not a step mother?**

Although child contact orders and negotiations focus on the rights of the parent to have time with the child, other individuals are often present at contact visits. The most common feature found within the letters is the use of a range of terms to describe the non custodial parent's new partner. Interestingly, there were no cases in which these individuals were referred to as step-parents. Although partners may be settled into new relationships, remarried or be living in other households containing children, the choice of descriptions used to account for these new arrangements perform activities and attributions beyond describing new arrangements.

_S/LG/_

1 re: L. G. and L. G.

2 We refer to your letter of the: 30th September in relation to the abovenamed. We are able to confirm that our client is agreeable to your client having
contact away from the former matrimonial home so long as he is unaccompanied by his current partner.

In the above example, the solicitor writes to indicate their client's agreement to a change in contact arrangements which has been requested. Although this is formulated as an agreement as to a change of contact venue, this change is not as simple as it may appear. The point of conflict is not the venue, but the presence of the new partner. Interestingly, the partner is described as "his current partner", orienting to this being one of a series. This formulation downgrades the entitlement of the partner to be present at contact as it invokes a lack of stability within the relationship.

A more extreme example of the notion that it is length rather than quality of relationship which enable step-parenting claims can be seen below.

S/DD/26/4/96

Our client has also instructed us that you client has had a series of different woman in the car with him when he has collected the children. Our instructions are that over the last five weeks, your client has had four different women in the car with him. Our client considers this is unsettling for the children and does not present a stable environment in which contact is taking place. Our client takes the view that your client has all week to make arrangements to see these women and when he sees the children on a Saturday the time should be spent with them. We are therefore instructed to inform you that your client should collect the children alone but if there is someone else in the car, our client will not allow the children to go. We would point out that our Client does not object to your client having a partner and if he was in a stable relationship our client would have no concerns. It is simply the fact that there appears to be a succession of different women.

In S/DD/26/4/96 the status of the women who accompany the father to collect his children for contact is undermined in a variety of ways. The entitlement of these women to be present at contact is challenged by the mother. The women who attend contact with the father are described as a
"series" and "succession", this suggests that individually they have no special status but represent a pattern in the father's post separation life. Indeed, the account provides detail of the number and timescale of the father's partners. The account describes the father arriving to collect his children with "four different" women in the course of a five week period (lines 4-6). The inclusion of the number of women and the timescale constructs this as extreme behaviour, the candidate explanations for being that the father has multiple or extremely short relationships with these women.

The mother works to warrant this account as representing the best interests of her children. This complaint could risk being challenged as a complaint motivated by jealousy or bitterness, perhaps even envy. The motivation given for this complaint is however one which invokes the notion of stability in relationships as being in the best interests of children. The mother manages her interest in the love life of her former partner by formulating his riding in his car with different women as an activity which is not appropriate for contact days and one which should be conducted when the father does not have his children with him (lines 8-11). Indeed the mother works to distance herself from any potential accusation of self interest or of interest in her former partner's life as can be seen in lines 14-17.

14 allow the children to go. We would point out that our
15 Client does not object to your client having a partner and
16 if he was in a stable relationship our client would have
17 no concerns. It is simply the fact that there appears to
18 be a succession of different women.

This then is not constructed as a complaint over the presence of a future partner at contact. This complaint is packaged as a concern with the quantity
of potential partners the father brings to contact, rather than the quality of any individual woman he chooses to bring.

Even when there is apparent agreement over the presence of new partners during contact, tension is still evident.

S/BB/16/2/95

(d) So far as "week 4" in your letter is concerned, our Client would comment as follows:

(i) neither C nor D speak to the lady with whom your client lives.

(ii) your Client lives in two bedrooomed accommodation which our Client thus believes does not provide adequately for the children to stay over night.

(iii) C does not wish to stay over night.

(iv) D does not wish to stay over night if C is not prepared to stay.

(v) C is asthmatic. The lady with whom your Client lives, smokes.

In view of the foregoing and until such time as your client has more appropriate accommodation and the relationship between your Client's friend and the children improves, our Client would suggest contact as follows:

Although the mother gives no outright objection to the presence of the new partner, the series of qualifiers above builds an account which effectively discounts any interaction between the new partner and the children.

In this account, the partner is describes as "the lady with whom your client lives" in lines 63-64 and 71-72. Although this orients to a level of commitment and stability within the relationship, the formulation is uneasy. There is a tension between the category label "lady" with its connotations of past times, manners and Victoriana and the notion of "lives with" which invokes a modern, cohabiting relationship.

The restrictions which the mother builds into her proposal are extreme in nature, whilst agreeing that the children may stay at the house where the new
partners lives, they should not speak to her. This would not appear to be an easy, comfortable or even reasonable to condition to fulfill.

From this opening condition, the mother goes onto build other objections, which would be more difficult to counter and undermine. C is not described as "having asthma", but "is asthmatic". This condition, then, is not simply an illness but a characteristic of the child itself. C's asthma is innate and invoked as part of C's identity, rather than a condition from which C is suffering. As such C's need for care appropriate to a child with this condition is constructed as one which would be readily available to the parent, as this is not a condition which is transitory or constructed as recently manifested.

This account is not produced simply in the context of providing C with clean air, rather the relevance of invoking the asthma is framed in terms of the partnership choices made by the non custodial parent. In formulating the responsibility for failing to provide an appropriate environment for contact to the "lady with whom your client lives", the mother may be liable to accusations of stake and interest. By framing concern within fulfilling C's health need, the mother may seek to manage potential accusation of jealousy and bitterness. Indeed, the passivity of the construction "the lady with whom your client lives, smokes", would appear to present this as a statement of "fact" rather than an account of the moral character of the father's new partner. This, then is not an invocation of the child or the parent's dislike of the new partner or even of her smoking habits, this is the construction of a failure on the part of the father and the new partner to be responsible for the care of an asthmatic child.
7.4. DNA Versus TLC

Whilst the new relationships of former partners may be attended to in a few words, the entitlement claims of other satellite family members require more work to counter and resist. In the aftermath of separation, the child is not simply separated from one parent, but also from a set of extended blood relations. In recent years, there has been debate over the rights of grandparents to contact, these being the closest biological relatives after the parents. Although there is no legal entitlement to contact for other family members, there is a common sense notion that contact with biological family members is in the best interests of the child. Unlike the claims of step families and non biological relatives, these claims to contact invoke notions of kinship, heritage and family which are difficult to counter. Indeed, DNA testing to verify the biological family of children whose parentage is in doubt or dispute has become a regular feature of daytime talk shows. There do, however, appear to be ways in which these claims are managed and resisted. The primary argument within these arguments against contact would appear to be an echo of the nature/nurture debate, that it takes more than sperm to be a father.

In looking at the ways these claims are resisted, a starting point is to unpack the ways in which family members invoke their entitlement to be present at contact visits.

s/cw/13/8/99

1 13 August
2
3
4 Dear Sirs
5 Re: Our client - Mr R L C
6 Your client - Mrs M E W
7 We understand that, as anticipated, contact did not take place on Saturday the 7 August. Your client did attend the
Contact Centre with J who was visibly upset upon arrival at the Contact Centre. We understand that a voluntary worker managed to calm him down and that he was comforted by the presence of our client’s mother, Mrs. C. Our client’s mother did feel intimidated however by the conduct of Mr. W who stared at our client’s mother whilst your client stood by her vehicle with her arms folded, making no attempt whatsoever to encourage J to enter the Contact Centre.

The paternal grandmother is introduced into the account at line 12. This introduction is made through her categorization as “our client’s mother”. The relevance of this description is that it maintains the neutral footing of the account, which is being constructed. To directly categorize Mrs. C as the child’s grandmother would perhaps seem logical, however as has been shown, adult family members are rarely directly categorized in this way. The neutral footing of this categorization precludes the invocation of family activities and behaviours, which could be liable to challenge in the sense previously discussed. The category of “grandmother” is invoked indirectly, in line 12. — “he was comforted by the presence of our client’s mother, Mrs. C”. The passivity of this construction evokes the mythic narrative figure of the grandmother as a source of gentleness, warmth and indeed vulnerability, as in the traditional fairy tale image of grandma. This is reinforced by the ethereal quality of the account, in that the child is comforted not by her actions but rather by her “presence”.

Part of the business of accounting for the presence of Mrs. C in this passive formulation can be in seen in line 13, in that it provides a contrast case to the subsequent account of the actions of the mother and her partner, Mr. W. The passive accounting of Mrs. C’s involvement is changed at this point at line 13. Mrs. C becomes active at this point in the account; however this activity is constructed to build on the passivity demonstrated earlier.
Our client’s mother did feel intimidated however by the conduct of Mr W who stared at our client’s mother.

The formulation here of Mrs. C’s activities builds on normative notions of “grandmotherliness”. The account of Mr. W’s actions is embedded in the construction of Mrs. C as passive and a figure of comfort and well-being. The formulation of Mr. W’s actions, that is he stared at Mrs. C, are not in and of themselves unusual. The act of staring has a range of attributional implications from amazement and wonder through love and desire. It is the contrast between the formulation of Mrs. C’s innate nature and her feelings of intimidation that contextualise Mr. W’s staring as potentially threatening. Within the account, the deviant nature of Mr. W’s actions link to the account of Mrs. C as a source of “comfort” to the child. To look with hostility on a woman who has performed this act of goodness can be pointed up as marking this as an exceptional act and a reaction which Mrs. C could not reasonably expect to receive in the context of her actions.

7.5. The other side of the blood line

On the back of the original letter, the mother provides the counter text to original letter. The notes are logically organized in terms of structure and theme, but have little and sometimes inaccurate punctuation. The transcript below is intended only as guide to aid analysis with the inclusion of the conventional feature of line numbering.

In S/CW/13/8/99n, the mother provides her own alternative version of the events recounted in the letter. In doing so, she attends to those candidate
alternatives and concerns, which are relevant to her own reading of the original letter and in which the entitlement to contact of the paternal grandmother is questioned and undermined.

S/Cw/13/8/99n

1 They anticipated -?
2 J started crying when we pulled into the car park
3 He kept saying he wanted to stay with me.
4 J did not even recognise Mrs C let alone
5 feel comforted by her presence.
6 Mr W had not expected Mrs C to be
7 there and was not sure what she would do. As she was
8 not allowed to be there. I was asked at court and said no.
9 My arms were folded but I was talking to
10 the center worker and did not know how
11 to get J out of the car.
12 She was talking to J and myself all of
13 the time. If his mother was there to give
14 an account of what happened. She really ought
15 to get her facts right.

In line 4, the mother produces an alternative version of Mrs. C's involvement.

4 J did not even recognise Mrs. C let alone
5 feel comforted by her presence.

In the mother's alternative version, Mrs. C is not given even minimal acknowledgement as having entitlement to claim the category grandmother. Although Mrs. C may claim a biological right to the category entitlement, the version which the mother provides takes a sociological perspective on family relationships. The distance between the idealized notion of "grandmother" and Mrs. C's relationship to the child is constructed at line 4, with the mother's account of her child's failure to recognize this person as his paternal grandmother. The contrast case established between recognition and comfort, undermines the original version which has been built on the construction of Mrs. C as a comforting presence and thereby a potential facilitator of contact.

Although the mother appears to move on at line 8 to provide an explanatory account of the actions of Mr. W, this account also works to attend
to the relevancy and description of Mrs. C. In contrast to the original letter where the categorization of Mrs. C serves to provide the foundation for the construction of Mr. W's actions as deviant, in the mother's version the candidate explanation of Mr. W's action further erodes the account of Mrs. C as a caring, passive grandmother. The "staring" is accounted for in terms of the unexpected nature of Mrs. C's presence at the contact centre as she "was not allowed to be there." (lines 7-8). The mother provides an account of being asked to give her permission for Mrs. C's attendance during court proceedings and refusing to allow this. Whilst this builds a reasonable explanation for Mr. W's actions, it further erodes the credibility of the original letter's account of Mrs. C's involvement in contact. Mrs. C's presence at the contact is in violation of court instructions. The relevance of this to the categorization of Mrs. C is that it makes relevant the common sense category of a person who would, in effect, break the law and not recognize the court's authority.

The work done by the mother in working up Mrs. C as being somewhat distanced from the passive grandparent of the original letter, provides the background to the denouement of her account in which she gives an alternative explanation for Mrs. C's presence.

13 the time. If his mother was there to give
14 an account of what happened. She really ought
15 to get her facts right.

The mother's candidate explanation is that Mrs. C's presence was to act as witness for her son, who in previous court instructions had been advised to remain inside the contact centre until, J's arrival. This account is introduced with the qualifier "If". In using "if", the mother introduces her own version as one possible explanation and thereby manages any accusatory force in the
account. By presenting this account, the mother makes relevant her previous account of Mrs. C's breach of court instructions. Given that part of the practice of witnessing depends on formulating the witness as trustworthy and credible, the act of court defiance can be constructed to further damage this potential formulation of Mrs. C. The common sense counter to managing this potentially damaging formulation, that is a grandmother acting out of love for her grandchild and putting that love before all other, even legal considerations, has already been weakened by the mother's construction of Mrs. C as having had so little interaction with her grandchild that the child failed to recognise her at line 4.

Within her notes, the mother works to build a description that runs counter to the original account and shifts the categorisation of Mrs. C in particular. As in other accounts, contact entitlement claims put forward by other members of the child's family would appear to require attendance to the sociological norms of family relationships to provide a counter text which can be seen to resist the right to category entitlement on the part of blood relatives.

7.6. Way beyond the blood line

Having looked at ways in which accounts of entitlement by other family members are attended to and the counter versions produced to undermine commonsense notions of kinship and biological ties, it seems appropriate to move on to an extreme example of an account of unfamilial behaviour.

S/CW/2/6/99
1 Our client has advised us that on the 29th May 1999
2 herself, her new husband and the children, including J,
3 were driving along L Road heading in the direction
of S. Mr W noticed your client's sister, Mrs S, had pulled out behind him. He observed that Mrs S successfully stopped at a set of pedestrian traffic lights. In the meantime our client had joined the end of a queue of traffic. Mrs S then drove over the crossing and proceeded to ram the rear of Mr W's car. Our client noticed that Mrs S and your client's mother's reaction was simply to laugh. Our client, Mr W and the children were very shocked by the incident and in view of the fact that your client simply drove into our client's stationary car can only conclude this was a deliberate action.

We understand that Mr W approached Mrs S's car with a pen and paper. Initially your client's sister stated that her name was L C and then admitted that her name was really L S and she kept refusing to provide her address and was extremely sarcastic in her tone.

Mr W returned to his car and drove to an Estate Agents. Our client was left in the car whilst Mr W went inside. Mrs S then pulled up to the side of the car and started to make obscene gestures and mouthing words at our client. Our client had a real effort to keep the children calm for the duration of this incident.

In the above account, the mother's solicitor reports an event which takes place outside of the context of contact visiting. The use of material and accounts which are drawn from outside of this context are rare. The risk with including this kind of material is that it risks taking arguments over contact beyond the scope of the best interests of the child. Where material from other sources is used, it is generally from professional sources, for example police reports and is used to evidence behaviours and life style choices on the part of the non custodial parent which may pose a risk to the child.

Interestingly, this account does not concern the father who is seeking contact, but describes the actions of other members of his family. Of these family members, only the paternal grandmother has been present at contact on previous occasions. Whilst there are many interesting features in the
construction of this account, analysis will focus on the attributional work within
the account.

The account itself begins then, with a detailed account of a traffic accident. The
inclusion of details such as the direction in which the family were
traveling, echo the formal language of professional witness statements for
example accounts produced in court testimony by police officers. The
relevance of the account to the business of the ongoing dispute is worked up
at lines 4-5, with Mr. W's "noticing" of "your client's sister". Although this is the
aunt of the child at the centre of this dispute, by using the formulation "your
client's sister", the blood link to the child is distanced. Whilst the relevance of
this account is that Mrs. S, as she is later called, is the father's sister, the use
of an alternative term like aunt would invoke a category of familial behaviours
which this account is seeking to undermine. Equally, this absence of
familiarity is worked up by the description of Mr. W's "noticing". Given the
close genetic relationship between Mrs. S and the child, this minimal
"noticing" indicates that the relationship between the family may be
problematic. Mrs. S is close enough to be "noticed" and yet there is an
absence of acknowledgement either by Mrs. S or the family, either by gesture
or signal.

Following the account of the traffic incident, which is worked up as a
"ramming" rather than a collision, the reaction of the two close relatives, that is
the aunt and the grandmother is described as "simply to laugh" at lines 10-12.
This account is noteworthy as it would appear at the very least an odd
reaction for close family members to have, having just potentially injured and
shocked young members of their family. Although a candidate explanation for
this unusual reaction may be that this was a relatively minor incident, this is managed as the account continues to provide details of police involvement which construct this an incident serious enough to need police intervention.

The denouement of the account sets the behaviour of the sister and grandmother at odds with the welfare of the children. This is the crux of the argument and sets in context the preceding details.

26 Our client had a real effort to keep the children calm for the duration of this incident.

This then was not a minor incident, as the mother is described as having to make an effort to keep them calm. This pathologises the behaviour of the sister and grandmother still further. The reaction of aunt and grandma to laugh and make no effort to comfort their young relatives would appear to be out of the range of expected behaviour for family members or even for non related adults. As a resource to disable entitlement claims it would seem that kinship is constructed of more than simply blood but is performed through action and reaction. in contrast it is the mother who demonstrates caring and concern, normative features of family relationships.

7.7. “Significant Others”

In addition to letters written by solicitors, case fie SD/BB includes letters written by the family’s neighbours, friends and church elders in support of the mother’s resistance to contact. The relevance of these letters is that they employ membership categories to evidence the salience and credibility of the accounts which are presented. These accounts are unmediated by solicitors and the individuals who write these letters have no direct involvement in the child contact negotiations.
In letters written by neighbours and friends, for example those written in support of Mrs. B's complaints of harassment by her former partner, the writer may need to work up their own relationship with the parent in terms of years known and spatial and familial proximity, in order to account for the business of their letter. In order to show this process analysis will focus on a letter detailing the concerns of Mrs. B's neighbour.

SD/BB/10/4/95

10th April 1995

To whom it may concern,

As a neighbour of the B family for the past ten years, and over those years having been witness to some of the activities and events that have taken place at Road, I feel that in the current circumstances with the situation that Mrs B and her two children C and D find themselves in that I am obliged to speak out about some of the past exploits of Mr B and the current campaign that he is waging against his Ex wife.

My hobby causes me to spend a considerable amount of time working outside and inside my garage and therefore I have witnessed many of Mr B’s exploits which range from the comical to plain dangerous and irresponsible and these were prior to the breakup of the marriage.

As an example Mr B allowed children of 7 and 8 to play and fire air rifles in the back garden, this man also when the children's fire failed to light poured petrol onto the smouldering fire which ignited and leapt back into the can he was holding, so he promptly threw the can on the fire ‘Bang.’

In the above example, the membership categorization work which this writer does is fairly extensive and is an illustration of the way in which membership categories can act as mapping as relevant descriptions and knowledge claims in the way Georgia Lepper (2000) proposes, particularly when those knowledge claims may be liable to challenge. In order to locate themselves as having relevant knowledge, the writer categorises themselves as “neighbour” and sets a time frame for this relationship of ten years. This time frame works in two ways, both in establishing that this is not an account
based on a short involvement as well as acting as a common sense indicator of the writers entitlement to comment. Having lived next door to a family for ten years would indicate that the members of that family would be known to this individual, at least from the perspective of “neighbour”, which is a category entitlement which they claim to be experienced in, this is not a “new” neighbour but rather a person who claims to be seasoned and experienced in the role of being of “neighbour”.

The inclusion of this time frame of ten years also makes relevant the question that, having witnessed events which are constructed by the writer as being at times “dangerous and irresponsible”, why would they choose this time to comment? This issue is managed by the neighbour through their categorisation of witnessed events. Initially these are categorized as “events”, “activities” and “exploits”. “Activities” and “exploits” do not make relevant notions of danger and risk, indeed “exploits” has connotations with the adventuring and heroic figures whose actions are regarded with awe and admiration rather than fear and horror. The categorization of Mr B’s behaviour in this way does however distance these actions from those which might be thought of as parental. The membership category of father makes relevant duty, protection and even dullness as in evident in the notion of “dancing like your dad”, for a father to be described as indulging in “exploits” signals that Mr B’s behaviour is considered problematic. However, when accounting for their decision to describe these events at this point in time, other categorisation work is employed.

At the end of the first paragraph (lines 9 -11), the neighbour locates their decision to write as being in response to Mr B’s “current campaign".
properties of this description bring in accounts of military actions, and make relevant issues of planning and motivation. When accounted for in this way, the neighbour can address issues of motivation through the categorization of Mr. B's actions potentially hostile and malicious and so manage their own interests in making the statement. Again, the decision to document events is constructed as based on the influence of external events that is the change from "events" prior to the breakup of the family, to a "campaign" by Mr. B. With reference to the mapping concerns, the category work done by the term "campaign" invokes a direction of action, this direction being volitional and motivated. As in the military and political connotations of this term, "campaign", these are actions and events which have a specified endpoint and objective which comes as a result of planning and are not constructed as the consequences of accident or lack of forethought.

This spatial proximity to the family is further mapped out in the second paragraph at lines 13-14, in which the writer gives details of an unspecified "hobby" which places them outside of their own home and within view of the B residence. The relevance of the category "hobby" enables the neighbour to construct an alternative reason for overlooking their neighbours activities, that is, they are not a nosey neighbour. In terms of the working this categorization as a mapping device, it resonates with Robin Wooffitt's (1997) device of "I was just doing x....when y", which tellers use to account for paranormal experiences. This, then is a neighbour going about their ordinary business when the extraordinary events occur next door and catch their attention due to their "out of the ordinariness."
The relevance of the spatial categoriation of the neighbour’s hobby as located in their “garage”, goes further than simply indicating proximity and vantage point. The first incident to be described involves Mr. B’s use of petrol in lighting a fire for his children. The relevance in the neighbour’s accounting is based on their opinion that his actions were “dangerous”. The knowledge claim here is based not only on their observations as neighbour but is also based on their leisure time activity of working in and around their “garage”. The category of “garage” invokes the practice and experience of working with machinery, cars and their attributed processes, which include petrol and oil. Unlike, the invocation of a hobby which takes place in a garden or outbuilding, a working knowledge of the properties and potential risks of working with petrol can be claimed by the neighbour. This then is a risk assessment based potentially on knowledge and practice as well as common sense.

7.8. Closing arguments

The entitlement of absent parents to contact with their children is the business of the letters in this thesis. The arguments which are formulated and reformulated indicate that what constitutes appropriate behaviour by either parent is open to challenge. Actions which are presented as examples of extreme efforts on the part of one parent to enable contact may be undermined and reformulated as hostile and counter productive. What is clear from the letters is that when parents are polarised in their positions over contact even the smallest details of contact are up for grabs and available for argument.
The process of child contact negotiation would appear to go beyond arguments around what constitutes appropriate parental behaviour. To return to Sacks' (1961) description of the role of the lawyer, the lives of those involved in child contact negotiations are messy and complex. This complexity is further confounded by the wider family relationships which are strained after parental separation.

Whilst arguments between parents can be liable to challenge with regard to partnership history, factors including jealousy, revenge and spite, the entitlement claims of other relatives, somewhat removed from the relationship provide a different set of resources to challenge.

In contrast to the construction of new partners, whose entitlement to be present at contact can be contested through a questioning and undermining of their relationship with the non custodial parent, the position of grandparents and other satellite family members has a claim through blood and genes. In order to challenge these claims, an alternate construction of family is resourced, drawn from the nurture side of the nature/nurture debate. For a grandparent or other family member to be acknowledged it appears that they must perform this role, through interaction and empathy.
8. Overview and concluding remarks

8.1. Chapter by chapter summary

Chapter 1

This chapter presented an overview of the issue of child contact, giving a broad gloss as to the number of families affected and the legal framework for contact decisions. This was followed by a reflexive account of the research process from initial interest in the area through to the production of this thesis.

The chapter then narrowed to present the particular focus of the thesis as an exploration of the ways in which parents and professionals involved in the process constructed instances of what constituted contact.

The literature review engaged with three methodological approaches to child contact. "Effects" research which is located in a scientifically oriented literature aimed at measuring the effects of contact or lack of contact on the well-being of the child. Qualitative work on the representation of "experiences" of contact and discursive work attends to constructing "discourses" of post separation parenting in narratives and accounts of contact. Research into child contact using a discursive approach is limited at this time studies are mainly located in the broader area of legal and courtroom interaction.

This section presented an in depth exploration of several key examples from the theoretical strands of child contact literature. The focus was to engage with the construction of models and types of contact and the ways in which the strands of literature, although diverse in analytic approached shared
a common principle of reducing rather than unpacking meanings and understandings of contact.

Chapter 2

This methodological chapter began by reviewing the ways in which the analysis of letters has been undertaken in other institutional contexts, the primary area of research using this type of written data being Family Therapy. The analysis of letters in socio-linguistic literature was considered, the focus of this approach being to gain an understanding of the ways in which writers orient their work to their perceived reader.

In this chapter the theoretical basis of the thesis was outlined. A brief introduction to the principles of ethnomethodology was given to illustrate the theoretical background to an approach which explores member's practices and the socially constructed nature of stable and mundane concepts.

The chapter moved on to outline the theory and methodology of discursive psychology. This approach forms the theoretical and analytic framework of the thesis and enables the exploration of the practices and dilemmas of parents and professionals involved in contact negotiation. The focus of discursive psychology on language as constructing social practices best reflects the interests of this thesis which are on the ways in which contact is constructed in the business of negotiating arrangements through the medium of solicitor's letters.

The discursive analysis of letters was introduced and other approaches to the study of textual material were outlined. The aim was to introduce the relatively small body of work which exists in relation to the discursive and interactional analysis of letters.
The data for the thesis were outlined and two case files were charted to illustrate the general amount and organization of letters. The complex web of potential and actual audiences of the letters was outlined. Although the addressees remain constant, the implications of the standard practice of sending copies of all letters to relevant parties in addition to the addressee was considered.

The limitations of the data were introduced as a forward to ethnographic details of the letter keeping practices of several participants. The inclusion of this material was to illustrate the relevance of these letters to their senders and recipients and the importance of institutional letters as an analytic resource.

Finally this chapter gave a brief outline of the analytic methods to be employed in the thesis, that is the discursive analysis of texts.

**Chapter 3**

The analytic section of the thesis began with a chapter which explored the use of regular terms in the letters. The use of the terms “instruct”, “advise” and “understand” was analysed to illustrate the ways in which these terms were used to introduced accounts in the letters. The use of “instruct” and “advise” which are part of a specialised legal lexicon performed a range of activities. The term “instruct” was used to introduce accounts which were on based on external sources of evidence. The main use of the term “advise” found to mark out the status of professional knowledge from accounts based on the narratives given by parents.
Whilst both "instruct" and "advise" are also used in the legal context to describe the functions of the solicitor/client relationship, "understand" which was found to introduce many narratives in the letters has no such legal use.

The chapter broadened out to consider the notion of "understanding" as a discursive practice rather than a cognitive process. This chapter analyses the notion of understanding from a discursive viewpoint, as a topic constructed in and through language rather than a cognitive process and internal mental state.

The features of understanding as a discursive practice were outlined as used in the letters. These features include the management of agency in the production of attributions and complaints and a reporting feature of accounts which undermine contested versions. In addition, understand is used is to engender skepticism in the reporting of seemingly factual accounts.

The chapter ended with an illustration of the use of understanding in talk using examples drawn from family mediation session. As noted in the letters, the use of "understanding" in the contextually related practice of family mediation session works to dissolve agency in accounts which do attributional work. This section was included to open up interest and potential future research into the uses of "understand" in everyday talk.

Chapter 4

Chapter four analysed the normative footing practices used by solicitors in the production of child contact letters. Goffman’s original notion of footing was outlined and the relevance of this particular model to the letters was
discussed as it was best able to capture the complex nature of the collaborative audiences of the letters.

The features of normative footing found in the letters included the practices of echoing and minimal receipt tokens in constructing accounts as neutral. The relevance of footing practices is that they enable the solicitor to manage the dilemma of maintaining a professional distance from the emotive and potentially divisive accounts the parents wish to provide as evidence in their disputes.

Breaches of footing were analysed and their sequential organization in the sequences of letters that the case files consist of. Breaches of footing appear to occur in the midst of flurries of letters at points of fierce argument between parents. In child contact cases, the length of solicitor involvement is lengthy with many cases continuing over a period of several years. When breaches of normative appear they do so after many months of protracted arguing and failure to resolve disputes. As such these breaches many indicate an element of frustration on the part of the solicitor whose efforts to facilitate agreement have no reached no conclusion after a protracted period of time.

The chapter ended by considering whether the analysis of footing practices was the product of academic concerns or whether the recipients of the letters attended to their alignment and construction. By using a mother’s notes on the back of one of the letters, it was possible to show that the normative footing of letters is noticed and commented on by their recipients.
Chapter 5

This chapter marks a shift in the analytic concerns of the thesis from the production of solicitors’ letters to what these letters can illustrate about the practice of child contact.

This chapter began to unpack constructions of contact within the letters. The format of contact proposals indicated that contact was constructed as measureable and comparable to an idealized but absent standard of contact time.

The organization of contact proposals constructed periods of contact as separated from the business of everyday life, being pared down and lacking detail with exception of the time and the duration of contact visits.

Where contact proposals were resisted, counter versions were constructed to include details of life events outside of contact. These counter versions were worked up to re-assimilate contact visits into the routines and practices of everyday life.

Complaints over the activities engaged in by parents and children during contact visits were used as a starting point to explore the notions of what contact should be for parents involved in contact disputes.

In particular the ways in which a range of behaviours and activities on the part of parents and children which go unmarked in everyday family life becomes problematic when reported in contact. These “qualitative” constructions of contact continue the notion first commented on the “quantitative” arguments, that contact is constructed as a particular and different form of parent child interaction. Contact visits would appear to be a time during which parents should put aside their everyday routines.
In addition, parental arguments in the letters also reveal that contact is somewhat idealized. The construction of contact as "being in the best interests of the child" is taken up and evidence of children displaying everyday childhood emotions like tearfulness or hostility in the aftermath of contact are constructed as evidence that contact has been unsuccessful. The implied notion is that the outcome of contact is a happy child.

Chapter 6

Moving on from notions of contact, this chapter explored the ways in which the child's wishes and emotions are worked up in the letters. The chapter analysed instances of the child's wishes for and against contact as they appeared in the letters. The constructions of the child's wishes found in the letters appear to be packaged in parental accounts designed to pursue or resist contact. These instances of child's reported speech or wishes were used to manage issues of stake and interest on the part of the parent when pursuing or resisting contact. These reports were constructed as factual retellings of the child's wants and needs through conventional features of reported speech.

The chapter ended with the inclusion of notes written by a child which was provided in one of the case files. This material represented the closest version of the child's voice found in the letters. The child's notes demonstrate a sophisticated understanding of the complexities of post separation family life.
Chapter 7

This chapter focused on entitlement claims by parents and a range of other satellite family members. The practice of Membership Categorisation Analysis was outlined and the relevance of this form of analysis considered. The application of this method to analyse written texts was outlined to support its particular use in this chapter.

The first analytic section of this chapter explored the ways in which a mother and father engaged in a bitter and acrimonious dispute over contact. The chapter moved on to illustrate the ways in which naming practices with regard to new partners worked to distance and undermine their claims to be present at contact.

In cases where claims were made by family members with a genetic relationship to the child, different resources were used to counter entitlement. In these claims, accounts and descriptions were built around attributions of self interest and unfamilial behaviour. This strand within the letters is seen as the DNA versus TLC argument, where claims are countered and undermined by the family members, in constructing the relative importance of a social rather than a genetic relationship to the child.

8.2. General themes

From the particular interests of the individual chapters, the concluding pages of this thesis will try to draw together some general themes which have emerged. These themes recur across chapters and are interwoven through the separate strands of analysis.
1. **Non direct communication and letters**

The first general theme is that of the practice of non direct negotiation and the production of mediated accounts. The challenge for the thesis is to find an analytic method that captures both the fine grained complexities of the letters and their interactional nature. The analyses of footing practices, normative features and the discursive qualities of understanding form the first half of this thesis. These are issues of business for child contact letters and the ways in which these practices enable the reformulation of personal narratives into professional and institutional letters is the theme of the first half of this thesis. The relative success of the analyses will be discussed later.

2. **The practice of legal letter writing**

One of the key features of this thesis is that it marks a first exploration of the practice of legal letter writing in child contact negotiations. At present there is very little material for training and guiding solicitors in crafting the kinds of letters found in this type of action. The material which does exist provides templates for making orders and applications.

In addition the move towards mediation which has continued to grow over the past ten years has used the argument that solicitors and the adversarial mode of contact negotiation through the Family Court impede rather than facilitate agreement. This argument undermines the skill and craft solicitors demonstrate in managing the dilemma of enabling parents to present their arguments in a professional and organized manner.
The disputes which find their way into Family Court and are of the type found in the letters are difficult to resolve. For those parents who unable or unwilling to enter into face to face mediation, the solicitor provides a valuable resource in mediating and managing potentially damaging complaints, accusations and narratives of bitterness before they reach the wider audience of the former partner and Court appointed professionals.

3. The child in contact

The child is at the centre of the thesis. In particular, the thesis has analysed the ways in which children appear in the letters. The children at the centre of these contact negotiations appear in descriptions of their behaviour, reports of their words and summaries of their wishes. The analyses in the thesis locates these various appearances as packaged in letters and accounts which are doing various pieces of business, for example making complaints about or asserting rights to contact. Rather than take up these appearances as being simple and unproblematic expressions of the child’s views and experiences, by analyzing where and in what ways these reports and descriptions occur, it is possible to illustrate the business that they perform. In working to manage issues of agency and interest, the use of the child’s wishes distances claims and complaints from the potential risks of being countered as selfish or the product of bitterness and acrimony.
4. Parents, partners and other family members

Although contact must always be argued to be in the "best interests" of the child, contact disputes appear to have parental disputes as their basis. The thesis analyses the ways in which parents warrant their claims for or resistance to contact. The notion of what constitutes good and bad parenting practices is difficult to define as parents construct and reconstruct narratives to pursue their position.

The categorization of family members is worked up to produce a tension between biological and social notions of the family. The analysis of the entitlement claims of other family members also works to support the construction of contact as embedded in everyday life and complex social relationships. The particularization of contact as a practice outside of everyday routine is another feature within the letters and is used as a resource to distance complaints about parent child relationships during contact from the complexities and emotional hangover that often comes with fractured family relationship ties.

8.3. Discourse, data and method making

As previously stated, one of the main challenges in writing this thesis was to find a method that could produce a closely detailed analysis of the content of the letters whilst capturing at least some of the sequential and contextual features of the negotiation process. The discursive approach chosen used a combination of discourse analysis, discursive psychology membership categorization analysis. The application of these methods to institutional letters in social science literature is rare and it is hoped that work
from this thesis will add to a relatively small body of research which seeks to expand the scope of discursive methods to areas of interaction beyond everyday and institutional talk.

Although letters have been analysed in the areas of linguistics and literary studies, the approach which these fields take incorporate the notion of the reader as an unspecified entity, a phenomena which the writer orients to in composing written texts (Thompson, 2001). The letters provide a resource in which the recipient is an active participant in the production of the text.

One of the unique features of the letters is that many contain contemporaneous notes made by the participant. As a resource, these notes enable the analysis of potential counter texts and candidate alternatives to be grounded in the concerns and features of the letters which recipients attend to in their note making practices. This practice is one that has not yet been fully explored and the potential for further work in this area is one of the strongest contributions which this thesis makes.

The discursive approach has enabled the fine detailed analysis of the content and the business of solicitors' letters. The exploration of footing practices for example has enabled the thesis to demonstrate the complex and multi layered nature of the letters. The ways in which the messy and complex personal narratives are reformulated into legal letters extends research in solicitor client interaction which has so far been centred on courtroom interaction.

There are however limitations to this method. In trying to analyse the ways in which arguments develop over a sequence of letters, the fine grained nature of the analysis which discursive methods enable proves to be an
impediment in teasing the broader interactional features and sequential nature of the letters.

8.4. Lawyers, letters and legal practices

The thesis also locates itself in the field of socio-legal research. The practice of representing the client in child contact negotiations raises a series of complex dilemmas for the solicitor. The types of cases which come into the purview of the solicitor are those which are beyond the scope of Family Mediation. As such these are difficult and complex cases in which the parents are polarized by a variety of factors including previous violence, geographical distance, bitterness, jealousy and all the hostility which relationship break ups can entail. The business of managing and mediating interpersonal acrimony into accounts which

Although solicitors receive extensive training, the templates which exist for legal letter writing are limited and contain guidance on the construction of legal forms and documents (Harper, Woelke & Baldwin, 2001). This thesis attends to and illustrates the practices involved in a different kind of legal letter writing. The rhetorical skills and regularities which the analyses have explored not only demonstrate the craft of solicitors' letter writing but can enable an appreciation of the need to equip solicitors with a range of writing skills at the start of their practice.
8.5. **Constructing “stable” relationships from fractured families**

In the field of social work based research into child contact negotiations this thesis has explored an area in which the literature is growing steadily. The contribution of this thesis to that literature comes from the analysis of contact as practiced in the letters.

The child’s “voice” is a recurrent theme in this literature. The analyses of where and in what ways the child’s “voice” appears in child contact negotiations unpack this notion of “voice”. The findings of this thesis that the child’s “voice” is not a simple reflection of what the child may or may not wish in terms of contact, but rather is used as a resource to warrant complaints and assertions supports recent work by Hyden (2003) in which parents’ present their narratives in the “child’s voice”.

The notion of stability as a theme in child contact literature is supported by the analysis in this thesis. The ideal which lies at the centre of the child contact negotiations would appear to be the successful production of regular and therefore “stable” patterns of contact. This need for stability as a part of normal development is a common sense notion evident in the proposals for contact which have been analysed. This emphasis on establishing regularity of contact and therefore “stability” is not unproblematic. From the analyses presented as to the nature of “contact” itself, it is clear that “contact” is not a set of practices and parent child activities which are understood or readily agreed upon. This thesis has illustrated that the notion of “contact” itself is not stable and is open to challenge and argument. So if what constitutes contact
is not stable, how safe are the conclusions drawn from the mundane assumptions made about contact as a practice?

Finally, in taking non direct negotiation practices as an area of exploration, in the form child contact letters, the thesis has explored a discursive and interactional approach to the analysis of institutional letters. This analytic work is by no means ideal and builds on a relatively small literature of practice and expertise in this field. It is hoped that the relevance and potential in the analysis of institutional has been demonstrated as a valuable analytic resource in understanding the ways in which individuals interact with and through institutional processes.

8.6. Concluding remarks

The main challenge in bringing this thesis to a close is that from a pile of papers emerges a world so complex and rich in analytic possibilities it becomes a balancing act. The strain of keeping so many analytic interests in focus may show at times. In common with the footing breaches that occur in the letters when solicitors have been engaged in long contact disputes, the thesis may falter and creak at little at times. The attempt to contribute to three distinct areas of research may still prove too ambitious. The letters however do provide an important resource for unpacking legal practices, the analysis of institutional letter writing and notions of what constitutes "child contact".

This thesis will end as it began with the words of T. S. Eliot. and place a rider on the efforts of this thesis. Whatever claims are made, whatever
patterns are found, whatever effects are measured in research, the everyday experiences of those parents involved in contact disputes are unique and will never be exactly repeated. Most importantly, in the midst of acrimonious and bitter disputes it is often impossible to see beyond the chaos that whirls around you.

There is, it seems to us
At best, only a limited value
In the knowledge derived from experience.
The knowledge imposes a pattern, falsifies,
For the pattern is new in every moment
And every moment is new.

References


Appendix 1

Data Access Information.
The data used for this thesis is restricted access due to the sensitive nature of the content. Anonymised extracts and selected letters were made available for wider dissemination. The data samples contained in the appendices are reflective of this and included for illustrative purposes only.
Appendix 2

Data Corpus for Chapter 3
"Understand"

S/CW 2/9/9

"We understand that J. was reluctant once again to enter the Contact Centre or indeed leave your client's vehicle."

"We understand however that it was your client's tone that was aggressive and that she raised her voice to such an extent that she had to be advised by voluntary staff at the Contact Centre to calm down because her behaviour was distressing the children."

"We further understand that a volunteer suggested that your client take J. for a walk around the gardens of the Contact Centre and that your client made no attempt to put the proposal to J. in an attempt too encourage him out of the car in order to exercise contact with our client."

S/CW 8/9/9

"We understand that contact successfully took place......."

"We understand that some mention was made to our client as to the possibility......."

S/CW 8/9/9/

"We understand that contact took place on ............ in the presence of Mr. K."

S/CW 8/9/9

"We understand that J. was distressed initially for the first 2 minutes...."

S/CW 22/9/9

"We understand that Mr. K, recognizing that it would be appropriate to change the venue for contact has identified that a place is available at the H. Contact Centre."

"We understand that your client has advised that she is unable to attend the H. Contact Centre,"

"We understand that your client has access to a vehicle and can see no valid reason why she would be unable to attend the Contact Centre to ensure that our client exercises contact with J."
"We understand that the matter was discussed in depth and your client had ample time to provide instructions for the matter to be listed for the enforcement of the Order."

"We understand that you advised your client on the basis of the alleged assault on Mr. W on ....... and indeed the contents of the Court Welfare Officer’s report dated...."

"We understand that you have suggested that our client write to Mrs. W apologizing for his past behaviour."

"We understand that there was no investigation as to the possibility for example of our client’s mother attending the property with and consider this would have been an appropriate consideration particularly as J. has only been in your company on one occasion and is likely to be wary of strangers."

"We understand that your client is unwilling to allow any contact to take place following an incident between herself and our client’s sister when your client’s vehicle was allegedly shunted by a vehicle being driven by our client’s sister."

"We understand that your were unable to attend your appointment."

"We understand that there has been some significant involvement of the voluntary staff at the Contact Centre who have endeavoured to encourage J. to enter the Contact Centre apparently without success."

"We understand that your client is refusing to co-operate."
"We could understand your client’s continued antagonism towards our client if she did not take J. for contact."

"We understand that the police officer dealing with the actual incident is WPC B."

"We understand that the WPC has visited Mrs. S and warned her to keep herself away from our client and her family."

"We understand D. cried all night and C. had to sleep in your client’s bed as he was afraid.

"Our client understands that when they are fed it is either from McDonalds or the chip shop."

"We understand that, as anticipated contact did not take place on......”

"We understand that a voluntary worker managed to calm J. down and that he was comforted by th presence of our client’s mother, Mrs. C.”

"We understand that Mr. K is away on leave and is due to return on......”
"Advise"

S/CW 8/9/9

"Mr. K. had advised our client that he could take his mother and niece with him to exercise contact with J."

"At the conclusion of contact J. went on to advise our client that he would see him again."

S/CW 6/8/9

"We have advised ....... solicitors that our client’s mother, the paternal grandmother, will attend the Contact Centre on ....... merely to welcome J. when he arrives (as our client will remain inside the building) and deliver J. to our client."

S/CW 19/8/9

"We have contacted our client and advised him of your client’s request that his mother does not attend the Contact Centre at the next scheduled session on ......."

"We have advised our client that, as a gesture of goodwill and in order to keep matters as amicable as possible, he should attend the Contact Centre alone this coming Saturday."

S/CW 4/11/9

"We are concerned that you have advised your client to cease contact despite the Interim Contact Order of ......."

"We trust that you will advise your client that the Interim Contact Order is to remain in force."

S/CW 12/7/9

"We have been advised by our client that your client failed to attend M. Contact Centre on ....... as per the order made by Judge ......."

"We trust that you will advise your client that she is now in breach of an Order of the County Court."
"We are amazed to note that J. has allegedly advised that he did not want to see "that nasty man", referring to our client."

"We have advised our client that contact will take place on........and that again he should remain in the Contact Centre until J. enters the building."

"We have recently attended our client who advised us that contact did not take place, apparently because J. was distressed when you attended his mother's home address."

"We will certainly not be advising our client to adopt the suggestion."

"We trust that you will advise your client of the importance of allowing regular contact to take place in accordance with the agreement reached at court on the last occasion, as any difficulties or further lack of co-operation on her part will be addressed in the addendum Court Welfare report and indeed raised by ourselves during our next attendance at court on........"

"We have advised Mrs. S. of M. Contact Centre that unfortunately, as your client is unwilling to allow contact to occur, the place which was available is no longer required."

"Our client has advised us that on............herself, her new husband and the children, including J., were driving along L. Road heading in the direction of S."

"She has been advised by the nursery staff that J. doesn't want to play or know the other children."
“Kindly confirm, by return, that you have advised your client accordingly and that you have the reassurance that she will make the child available for contact on......in accordance with the Order of the Court.”

“We would it extremely hard to advise our client that continued contact is in the best interests of J.”

“We have advised our client that he is likely to be successful in an application for a Supervised Contact Order and therefore on this basis we write to make the following proposals.”

“The assistant advised our client that if J. did not want to go he should not be forced.”

“We suggest that if the supervisor at the Contact Centre advised your client to consult yourselves and the Court Welfare Officer, this was as a result of her inappropriate behaviour exhibited in front of our client and the other children and parents at the Contact Centre.”

“Would you please advise us whether you are agreeable to the Statement being amended to provide that in time your husband will be able to have contact away from former matrimonial home.”

“Our Mr. S would advise you to agree to such an amendment but obviously it is a matter in your discretion and we look forward to receiving your instructions in relation to this matter.”
“Instruct”

S/BB 28/2/9

“Our client instructs us that the events were witnessed by the children who, she tells us, were very upset.”

S/DD 18/9/9

“Our client has also instructed us that your client has had a series of different women in the car with him when he has collected the children.”

“Our instructions are that over the last five weeks, your client has had four different women in the car with him.”

“We are therefore instructed to inform you that your client should collect the children alone but if there is someone else in the car, our client will not allow the children to go.”

S/CW 6/8/9

“We have received confirmation from ..... solicitors today, who are instructed by Mrs W., that J. will be made available on that occasion.”

S/CW 12/5/9

“We are instructed by the above named client in relation to pursuing contact with his son J. C.”

S/CW 26/8/9

“We are instructed that our client arrived at the Contact center at the proper time.”

S/CW 6/8/9

“We refer to previous correspondence and have now received our clients detailed instructions.”

S/CW 20/10/9

“We are instructed that your client assaulted Mr W., our clients new partner, on...”
S/CW 3/6/9

“We have advised our client and solicitors instructed by Ms. D. accordingly.”

S/CW 18/5/9

“We will take our clients instructions on the specific proposals made in your letter and we will advise him not to contact your client directly in the meantime.
Appendix 3

Sample Letters from corpus S/WC
Dear Sirs

Your Client: R C
Our Client: MW

We refer to previous correspondence.

Our client has advised us that on the 29th May 1999 herself, her new husband and the children, including J, were driving along L Road heading in the direction of S. Mr W noticed your client's sister, Mrs S, had pulled out behind him. He observed that Mrs S successfully stopped at a set of pedestrian traffic lights. In the meantime our client had joined the end of a queue of traffic. Mrs S then drove over the crossing and proceeded to ram the rear of Mr W's car. Our client noticed that Mrs S and your client mother's reaction was simply to laugh. Our client, Mr W and the children were very shocked by the incident and in view of the fact that your client simply drove into our client's stationary car can only include this was a deliberate action.

We understand that Mr W approached Mrs S's car with a pen and paper. Initially your client's sister stated that her name was LC and then admitted that her name was really LS and she kept refusing to provide her address and was extremely sarcastic in her tone.

Mr W returned to his car and drove to an Estate Agents. Our client were left in the car whilst Mr W went inside. Mrs S then pulled up to the side of the car and started to make obscene gestures and mouthing words at our client. Our client had a real effort to keep the children calm for the duration of this incident.

Our client reported the matter to K police station to a PC D. We understand that the police officer dealing with the actual incident is WPC B. We understand that the WPC has visited Mrs S and
warned her to keep herself away from our client and her family.

Further on 31st May 199 our client and her family were driving through K and happened to see Mrs S. She made various lewd gestures with her fingers and then drove off. Our client suspects that she saw Mr C in the car.

The behaviour of your client's family does not reassure our client in any shape or form that J having contact with your client would be in his interests. Please take your client's instructions as to whether he is willing to provide an undertaking in non-molestation terms with a provision to prevent him from instructing others to carry out molestation.

We look forward to hearing from you.

Yours faithfully,
Monday 27 Sep 1999

Dear Mr K,

M Wilkinson -v- RC
Child: JC
Hearing date: Wednesday September 199
N County Court
Case Number:

We have taken our client's instructions upon the contact session that took place between Joe and Mr Cooper.

Our client was frustrated to see that Mr Cooper's mother and cousin were involved with the contact session. It has previously been agreed at court that they are not involved in these proceedings. The reasons for this are that they have been openly antagonistic towards Mrs Wilkinson and her family and do not acknowledge Joe when they see him in the street.

The main issue that our client would like to raise is the marked change in J's behaviour since the contact session. On the Thursday after contact, J bit C. and left a bruise. The last time Joe had the habit of biting his siblings was when he was two-and-a-half years old. Joe has also taken to throwing things around, fighting and thumping his siblings. He refuses to sit and eat at meal times and also refuses to leave our client when she drops him off at nursery. She has been advised by the nursery staff that Joe doesn't want to play or know the other children. Our client is extremely concerned about the negative effects that having contact with Mr Cooper has had upon Joe's behaviour. Our client feels that Joe may now be remembering the things he used to do when Mr Cooper was looking after him.

You will note that this matter is up for review on cont/...
on Wednesday 29th September 1999 and will anticipate that any future contact can be discussed at that appointment.

Yours sincerely,
September, 1999
Dear Sirs

Re: Our client - Mr R L C
    Your client - Mrs M E W

We acknowledge receipt of your letter dated the 3 September 1999.

We understand that contact took place on Saturday the 4 September 1999 in the presence of Mr K. Mr K had advised our client that he could take his mother and niece with him in order to exercise contact with J. We understand that your client objected although provided no reason for such objection and that our client, in the interests of minimising any potential dispute between the parties, agreed that his mother and niece would remain in a separate room.

We understand that J was distressed initially for the first 2 minutes and we anticipate that this was as a result of the fact that he has been unable, for whatever reason, to exercise contact with our client for some significant time.

J soon felt relaxed and comfortable exercising contact with our client and said to him "You're my nice Daddy aren't you" and "I can come and stay with you at your house". At the conclusion of contact Joe went on to advise our client that he would see him again.

Contact is due to take place next on the 18 September 1999 at 2pm for a duration of 1 hour 30 minutes. We enclose a copy of a letter which has been forwarded to Mr K today for your attention.

We would appreciate it if you could take your client's instructions and confirm why in the opinion, contact was able to successfully take place in the presence of Mr K when this has not been possible previously and why your client is objecting to permitting our client's mother, Joe's paternal grandmother, to exercise contact with him.

We look forward to hearing from you.

Yours faithfully
I June.
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Dear Sirs

Re: Our client - R L
Your client - MED

We write further to our letter of the 3 June 1999 and the subsequent telephone conversation between Mr S and Ms B on the 10 June 1999.

We understand that your client is unwilling to allow any contact to take place following an incident which occurred between herself and our client's sister when your client's vehicle was allegedly shunted by a vehicle being driven by our client's sister.

Although we note that this matter has been reported to the police we would appreciate it if you could confirm why your client believes that the act was a deliberate one rather than a mistake and indeed why, in any event, she considers that our client and the child in particular, in effect, should be punished by preventing contact taking place when our client was clearly not involved in the incident at all.

Your client will, of course, be requested to give an account as to her reasons at the final hearing but we would appreciate it if you could confirm the same in writing to us in advance of that date so that we may take our client's instructions.

We have advised Mrs S of the M Contact Centre that unfortunately as your client is unwilling to allow any contact to occur, the place which was available is no longer required.

We look forward to hearing from you very shortly.
Yours faithfully
Dear Sirs

Hearing Date :- 20th Oct 1999 - M County Court

We have today obtained our client's instructions upon the Court Welfare Officer's report and Mr C's statement.

As regards the Welfare Report, our client does not have any comments save that the report's conclusions are unclear.

As regards Mr C's statement, she comments that the parties split up in March 1997. She says that her former partner has never had contact at the contact centre as he was not violent. Therefore it is untrue to say that she knew where the contact centre was.

Mrs W queries how Mr C can say that she lives 10 miles away from H Contact Centre, has he been trying to find out where she lives?

Our client feels that at every opportunity Mr C has used contact to threaten her now husband and threaten Mrs W. Mr C appears to have lied to APAS when he says that the last drink that he had was in April 1998. He was charged with drink driving in July 1998 and no longer uses his car. His statement is accurate in that 15 months from October 1999 is July 1998.

We previously forwarded to you a copy letter received from the respondent's solicitors objecting the filing of Mr W's statement. We feel that his evidence is necessary as he has been supporting Mrs W throughout these stressful proceedings and has also had first hand experience of J and his behaviour.

Counsel will have received earlier a paper from a psychologist stating that young boys will store up their emotional pain until a later date whereas young girls will
show their emotions straight away. This may or may not be helpful to counsel.

If counsel has any queries please telephone instructing

Yours faithfully,