

Impact case study (REF3)

Institution: University of Sussex		
Unit of Assessment: 18 – Law		
Title of case study: Improving mediation services for sexually- and gender-diverse families		
Period when the underpinning research was undertaken: Jan 2015 – Dec 2019		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Maria Federica Moscati	Senior Lecturer in Family Law	Jan 2015 – present
Period when the claimed impact occurred: Jan 2016 – Dec 2020		
Is this case study continued from a case study submitted in 2014? N		
<p>1. Summary of the impact</p> <p>Moscati's work on sexual and gender diversity in mediation has been integrated into the work of national mediation bodies and organisations supporting couples and children through family conflict in the UK and Italy, resulting in:</p> <ul style="list-style-type: none"> • Changes to the policies and practices of mediation bodies and organisations supporting couples and children through family conflict; and • Improvements in the training of new and existing family mediators. <p>Her work has also created new understanding in other European countries of the diversity of family structures and what this means for professionals and service providers who work with families. It is contributing to more responsive – and therefore more effective – mediation and dispute resolution services for the sexually- and gender-diverse couples, families and children using them.</p>		
<p>2. Underpinning research</p> <p>European legislators and governments emphasise the use of mediation and its benefits for families, in terms of avoiding the often taxing and potentially damaging experiences of engaging with the formal legal system. At the same time, European countries increasingly recognise same-sex and gender-diverse relationships in a variety of forms. Despite these phenomena, mediation and dispute resolution services have continued to prioritise the needs of heteronormative relationships, assimilating the experiences of sexually- and gender-diverse couples and their children on the basis of hetero-normative assumptions (R4). These overlook: the variety of family structures, the way in which children are conceived, the lack of harmonious legal frameworks and their impact, and the existence of social prejudices and stigma. As a result, inadequate attention has been paid to the particular needs of families that do not conform to the heteronormative family model, including in their diverse structures (R2, R3). Moscati's research, building on her particular expertise and experience in the UK and Italy, addresses this gap. It breaks with traditional approaches to family mediation, and to the involvement of children during family mediation, to suggest a theoretical approach which draws upon the intersection of dispute resolution, access to justice discourses, the concept of 'child protagonism' which recognises the agency of the child and their ability to contribute to processes that affect them, and the UN Convention on the Rights of the Child (R4).</p> <p>The research addresses the following questions: First, what is the nature of disputes within sexually- and gender-diverse families? Second, to what extent and why do sexually- and gender-diverse families or family members resort to mediation? Third, what kind of issues arise during family mediation within sexually- and gender-diverse families? Finally, in what ways and to what extent might the concept of 'children's protagonism' be effective when applied to the role of children during such family mediation experiences?</p> <p>Moscati's research methodology critically applies dispute resolution literature in the context of same-sex legislative developments and related family mediation in the selected jurisdictions. It is</p>		

also based on qualitative methods which include: semi-structured interviews with same-sex couples, lawyers, mediators and judges; a survey of mediation service-providers' websites; and analysis of Moscati's training for mediators (Section 4). Through the use of these methods the findings demonstrated that:

- Recourse to mediation for sexually- and gender-diverse families is still limited;
- In the jurisdictions analysed, there are no specific guidelines for mediators regarding mediation with sexually- and gender-diverse families (R3);
- There is a lack of informative, relevant material focusing on the needs of partners and children in sexually- and gender-diverse families (R4);
- Mediators tend to assimilate members of sexually- and gender-diverse families, adopting the same styles and models of practice as they use for third party intervention in disputes within heterosexual and cisgender family settings (R4);
- Debates and practices relating to the involvement of children during family mediation overlook the needs of children raised in sexually- and gender-diverse families (R3);
- Religion may influence dispute resolution between same-sex couples in several ways, including causing family disputes, determining whether and how to take legal steps, and influencing the mediation process (R1);
- Domestic violence and abuse between lesbian partners can be a source of dispute and may influence the mediation process (R5).

The data collected has provided new insights into family mediation, with implications for policy, practice and training. Furthermore, the findings have filled a gap in the literature and practice of family mediation and increased understanding of the many reasons members of sexually- and gender-diverse families attend mediation, including common grievances around parenting and finances, but also problems relating to coming out, sexual and gender identity, and internalised homophobia, biphobia and transphobia.

While research on these issues began prior to Dr Moscati joining the University of Sussex, the majority of this body of work was conducted and published – and the most significant and tangible impact activity was undertaken – after January 2015 (when Dr Moscati started her appointment at Sussex) and while she, as Principal Investigator, coordinated 'Litigious Love: Same-Sex Couples and Mediation in the EU', the first comparative project on this topic (R2, R3).

3. References to the research

- R1 Moscati, Maria Federica (2017) 'Together Forever? Are you Kidding Me. Catholicism, Same-Sex Couples, Disputes and Dispute Resolution in Italy', in Samia Bano (ed) *Gender and Justice in Family Law Disputes. Women, Mediation, and Religious Arbitration*. Waltham, MA: Brandeis University Press, pp. 292-317. <https://www.jstor.org/stable/j.ctv102bhb9> In REF2.
- R2 Moscati, Maria Federica (2015) 'The Case of England' In: Moscati, Maria (ed.) *Same-sex couples and mediation in the European Union*. Wildy, Simmonds & Hill Publishing. ISBN 9780854901661 (pp 1-13). For European Commission DG Justice project: Litigious Love: Same-Sex Couples and Mediation in the EU. https://www.academia.edu/11949039/Same_Sex_Couples_and_Mediation_a_Practical_Handbook
- R3 Moscati, Maria Federica (2015) 'Mediation and Same-Sex Couples: an Overview', In: Moscati (ed.) *Same-sex couples and mediation in the European Union* (pp. 14-34). URL as above (R2).
- R4 Moscati, Maria Federica (2020) 'We have the method but still there is so much to do: mediation for gender and sexually diverse relationships'. In M. Roberts and M. Moscati (eds) *Family Mediation: Contemporary Issues*. London: Bloomsbury Publishing. <https://www.bloomsburyprofessional.com/uk/family-mediation-contemporary-issues-9781526505439/> Available on request.
- R5 Moscati, Maria Federica 'Dispute resolution, domestic violence and abuse between lesbian partners' and Dispute Resolution' (2020). In C. Ashford and A. Maine (eds) *Research Handbook on Gender, Sexuality and the Law*. Elgar Publishing. <https://www.elgar.com/shop/gbp/research-handbook-on-gender-sexuality-and-the-law-9781788111140.html> Available on request.

4. Details of the impact

Moscatti's research has been used to: 1) diversify mediation policy and practice at an organisational level; 2) secure changes in mediation training leading to improved mediation practice; and 3) help to put these issues on the agenda at national and local levels. Her work – which is ongoing – has helped to make mediation guidance and resources more inclusive. Moreover, it has been adapted to specific national contexts: in Italy, many of those receiving training based on her work were encountering same-sex mediation issues for the first time. However, in the UK, her work contributed to an existing understanding of same-sex relationship breakdowns by promoting greater support across the LGBTIQ+ spectrum, to include the needs of trans and non-binary couples and families.

Moscatti has also used her research in creative ways, including writing a book to support children from diverse family structures when relationships break down – '[Rainbow After the Storm](#)' – which is available in five languages and free to download (to date more than 500 downloads). This has been of benefit at a local level; for example, the joint Headteachers of one London primary school – where Moscati talked to Year 6 students – described how this enabled students 'to speak openly about themselves without masking their emotions' (S9).

4.1 Diversifying mediation policy and practice

Moscatti's work with the UK College of Mediators (CoM) – an independent standards-setting organisation that approves mediation training providers and membership body for mediation with more than 350 practicing members – has informed CoM policy and, through that, mediation practice in the UK. After delivering a workshop at the CoM 2018 AGM, she was invited to join the College's Diversity and Inclusion Working Group. She is also Co-editor of the CoM journal 'Mediation Theory and Practice' (S1.1, S1.2).

As a member of the Working Group, in November 2020, Moscati contributed to drafting a new diversity policy for the CoM. Together with contributing to the drafting of the whole policy, Moscati drafted the principle of the policy which links diversity in mediation to intersectionality. Once approved by the CoM Board in 2021, the policy will be provided to all CoM members to use in their client practice, as well as being incorporated into the training, networking days, monthly digests and conferences of the College that benefit its 350 members (S1.3). According to the Chair of CoM's Professional Standards Committee, Moscati's research 'has made a very valuable contribution in helping mediators to broaden their understanding of the nature of intra-family disputes between same sex partners, and in equipping them with the tools to support parties to mediation more effectively' (S1.1).

Moscatti's research has influenced the work and communications approach and materials of Resolution, a UK-based organisation with a membership of 6,500 family lawyers and other professionals working on the resolution of family disputes and providing public information. Resolution's Director of Operations wrote:

'We first encountered Maria's booklet, 'Rainbow after the storm - Mylo and his Dads go to the mediator', which presents in an engaging and clear way the many different family dynamics that a child may experience. The resource highlighted that our current materials only spoke of divorce and separation within heterosexual relationships. As a result, we [are] now reviewing and updating our materials.' (S2.1).

Two years later, she stated that 'those conversations and the use of Maria's publication came early on in our work around diversity so their impact was profound and felt across the organisation' and 'Maria's publication was part of a really important change in focus and approach for the organisation, one we're still working on' (S2.2).

In 2017, the UK charity [text removed for publication] (S3.1). [text removed for publication] (S3.2, S3.3)

The GeA (Genitori Ancora) is the first established school of mediators in Italy and has similarly adapted its approaches and materials in response to Moscati's work. In addition to the training module it has introduced (see below), GeA has improved its mediation forms to include gender-neutral language, previously based on the binary male/female distinction (S4.2).

4.2 Changes in mediation training and practice

In Italy, Moscati's research has been the inspiration for GeA's development of a compulsory module on same-sex couples and mediation as part of its annual professional training for mediators, a module which Moscati has delivered since 2017 (S4.2, S4.6, S4.7). As their training coordinator, Paolo Scotti, explained in 2017: 'Moscati's initiatives have allowed us to tackle a theme that is still in its infancy in Italy and is suffering from a difficulty linked to the absence of trained and serious trainers' (S4.1). In November 2020, GeA's subsequent training coordinator, Ilaria Viganò, testified to the impact that had been realised:

'This is the fourth edition of Dr. Moscati's training (2015, 2017, 2019 and 2020) and in all about seventy professionals, mediators and others, participated. Over the years, the attitudes of the participants have definitely changed: every year there is a more active participation, a greater ability to become aware of their own prejudices and the desire to further explore the various issues that have emerged. Both during the seminar and in the questionnaires completed afterwards, to which I refer for specific comments, the majority of the participants pointed out that the training provided them with a much broader knowledge of LGBT families, often confused with homosexual families only, and made them take awareness of the impact that gender identity and the acceptance of one's sexual orientation can have in the parents' experience, and in the mediation room, topics that are still too little talked about in Italy.' (S4.4)

For mediation students and their trainers, Moscati's training provided a new formative space for participants to, as one family mediation course tutor stated, 'reflect on their stereotypes and prejudices, on the roles of biological and social parent and in particular on how to deal with the different dynamics that arise from the situations of conflicting separation' (S4.5). A participant in Moscati's training in October 2020 stated 'I think it [the training] will change my way of thinking and feeling and therefore of listening and understanding parents more free from prejudice' while another said 'I feel I have gained more tools to carry out work with non-heterosexual couples' (S4.10).

GeA was the first Italian mediation school to introduce this module; however, other mediation providers in Italy have since used Moscati's training (S7).

The research has contributed to the development of a Masters course for future mediators at the University of Verona. [text removed for publication] (S5).

In the UK, the research has underpinned the development of a training programme accredited by the College of Mediators, delivered by prominent family mediator Stuart Hanson, whose own mediation company website 'attracts in excess of 40,000 visitors a year' (S6.2). As a result of the training, mediation practitioners have made changes, such as 'amending their websites and literature to include the LGBT flag and including gender neutral language' (S6.1). Hanson has also used Moscati's work to improve his own firm's training and services, stating that: 'As a firm, we have made a commitment to being inclusive and on the basis of Dr. Moscati's work, we have done the following:

- Rewritten our policies and procedures to be gender neutral
- Created interactive forms that when asking about gender include non-binary
- Challenged the Legal Aid Agency and the Family Mediation Council on their position of recording gender as just male or female
- Given our staff training on not assuming a heterosexual normative when speaking with clients
- Emailed out to LGBT+ charities, including Stonewall, to try and engage with the community
- Future plans include doing targeting SEO on the LGBT+ community via our blog' (S6.2).

A member of the CoM Professional Standards Committee, herself a practicing mediator, stated that: 'Maria's booklet for children of same sex parents who are separating is highly accessible and gives messages of importance to children, parents and mediators alike. I train mediators to meet with children directly in mediation and I refer to the booklet regularly on the training and provide details on the booklist' (S1.2).

4.3 Developing understanding among European countries

Moscatti's work has informed 'DoingRight(s)', an Erasmus project to develop a trans-national and cross-sectoral curriculum on family diversity and raise awareness of family diversity in European countries, thus ensuring that mediation was included in the project's remit. The project concluded in February 2020 with outputs including 'Key training challenges for professionals working with LGBT parents and their children' (S8.3). Moscatti's work was used to underpin the section on LGBT families. According to the Principal Investigator, this meant that 'mediators have been targeted as pivotal figures in the "law" section, while previously they were not foreseen' (S8.1). She adds: '[Moscatti's] insights supported the development of the outputs in relation to topics such as how the rules of law affect family perception and daily life; power imbalance within the couple, shaping the relationship; variety of children conception and raised; strategies to make explicit family structure and configuration' (S8.2). In addition, she confirms: 'These outputs have been disseminated in Italy, Spain and Poland through 8 public events, national and international. Total participants were 690. They were mostly lawyers, psychologists, social workers' (S8.2). In this way, Moscatti's work has put sexual and gender diversity in family mediation and dispute resolution on the agenda in numerous new contexts.

5. Sources to corroborate the impact

S1 College of Mediators (UK) materials: S1.1 Letter from Lesley Allport, (then) Chair of the Professional Standards Committee, College of Mediators, 1 August 2017; S1.2 Letter from Lesley Allport, Advisor to the Professional Standards Committee, College of Mediators, 9 November 2020; S1.3 College of Mediators Draft Diversity Policy

S2 Resolution (UK) testimonials: S2.1 & S2.2 Letter and email from Claire Easterman, Director of Operations, Resolution, 5 June 2018 and 9 November 2020

S3 [text removed for publication]

S4 GeA (Italy) materials: S4.1 & S4.2 Letters from Paolo Scotti, Training Coordinator, GeA, 18 & 28 July 2017 [Italian]; S4.3 & S4.4 Letters from Ilaria Viganò, Training Coordinator, GeA, 17 June 2019 & 3 November 2020 [Italian]; S4.5 Letter from Federica Grazioli, family mediation course tutor, 15 July 2019 [Italian]; S4.6 & S4.7 GeA Course programmes: 'Family mediation', 2019 & 2021 [Italian]; S4.8 GeA leaflet: 'Family mediation with same-sex couples', 8 June 2019 [Italian]; S4.9 & S4.10 GeA training evaluation forms June 2019 & October 2020 [Italian]

S5 [text removed for publication]

S6 Direct Mediation Services (UK) testimonials: S6.1 & S6.2 Letters from Stuart Hanson, Director, Direct Mediation Services, 18 June 2018 & 27 October 2020

S7 University of Brescia leaflet: 'Mediation with LGBTI families', 21 June 2019 [Italian]

S8 DoingRight(s): S8.1 & S8.2 Letters from Federica de Cordova, University of Verona, 4 September 2018 & 1 December 2020; S8.3 DoingRight(s) Innovative tools for professionals working with LGBT families <https://sites.hss.univr.it/doingrights/>

S9 Letter from Ben Mearhart & Ines Saltalamacchia, Headteachers, SIAL, 21 September 2018