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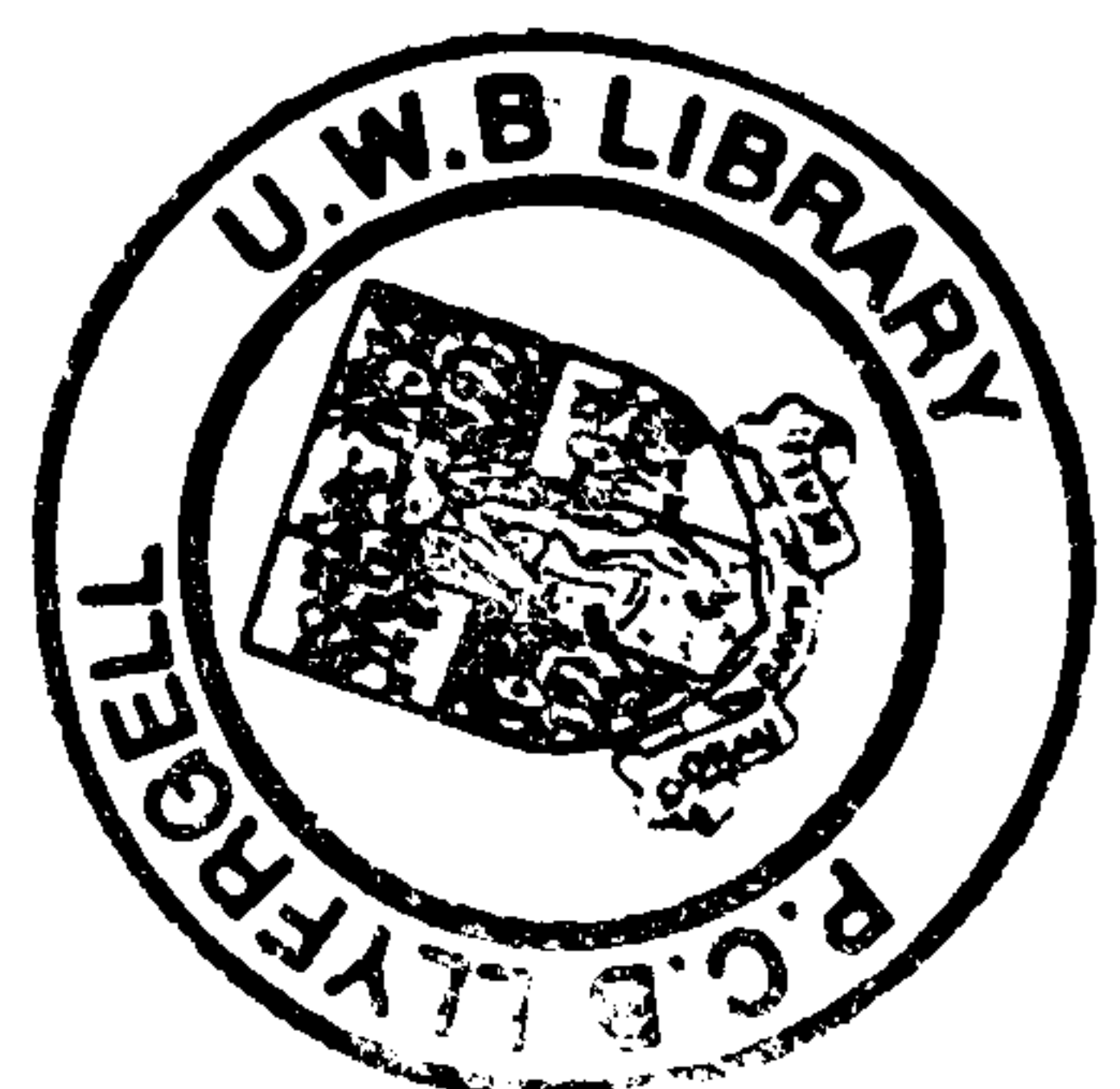
**A PRAGMATIC ANALYSIS OF FAMILY
MEDIATION**

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ABSTRACT

Family (or divorce) mediation aims to assist couples who are separating or divorcing to come to agreed arrangements regarding children, property and finances. In the UK it is a service which is offered as an alternative to litigation and is not, at this stage, compulsory. Family mediation is an interactional setting which combines elements of both formality and informality: in theory mediators control the process of the encounter, whilst clients control the outcome. Mediators are also charged with conducting themselves in a manner which is neutral as to outcome, and impartial as to process. In reality, of course, the language behaviours of both practitioners and clients are not so clearly delineated. This research is based upon audio recordings of mediation sessions in the North Wales Service and takes an interactional pragmatic approach. The primary analytic ‘tools’ are the concepts of complex illocutionary acts and discourse roles as developed by Thomas (1995, 2004, 2006 and forthcoming). A number of topics are considered, in particular the verbal enactment of mediator impartiality and neutrality, and of power and politeness by both clients and practitioners.

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PREFACE

The subject of this thesis is the interactions which take place between family mediators and their clients. There is a clear and detailed focus on the actual words used by participants.

The data were collected by recording, with client consent, mediation sessions which took place in the North Wales Family Mediation Service over an eighteen month period. Approximately thirty hours of recorded data were collected, of which eleven hours were transcribed. The transcribed data were chosen to reflect the broad range of couple types, interactional styles and issues which are brought to the mediation table. The data are in the form of digital audio recordings.

Family mediation is a profession which seeks to offer a service to divorcing or separating couples, whether married or not, in relation to the resolution of disputes regarding children and financial issues. Client participation in mediation is voluntary and, in theory, is a service used by couples who wish to avoid costly, and sometimes highly conflicted, litigation.

The North Wales Family Mediation Service, like the majority of such services in Wales and England, is affiliated to the UK College of Family Mediators. Practitioners operate within a legal and professional framework which outlines clear expectations in relation to their conduct, particularly in terms of their neutrality and impartiality. The North Wales Service covers a large geographical area, which is predominantly rural in nature. Clients can choose to attend one of four locations in Wrexham, Shotton, Bangor or Llandudno (the Head Office). At all of these locations the Service occupies rooms in buildings which are shared by other professions such as Social Services, marriage counselling services and various child care services.

The setting of family mediation is situated on a continuum of conflict resolution which ranges from the personal and informal, that is a couple agreeing arrangements without

any outside intervention, to the highly impersonal and formal, that is the imposition of arrangements by a family court. As such, it offers special insights into the nature of power and politeness in interactions. In addition, these insights move beyond the dyad. The tension between the shifting constraints of formality and informality, and the presence of three or four participants, produces some highly creative language use on the part of both mediators and their clients.

This tension is explored from the perspective of interactional pragmatics. There is, therefore, an emphasis on the motivated use of language, that is the reasons for an interactant's choice of words, and the dynamic creation of meaning, that is meaning as a joint construction of the speaker and hearer(s).

Within the general theoretical framework of interactional pragmatics, the thesis analyses the words of mediators and their clients with specific reference to discourse roles and complex illocutionary acts. I utilise these concepts as they have been elaborated by Thomas (2004, 2006 and in preparation). Thomas' ideas draw on the work of, amongst others, Austin (1962), Goffman (1979), Levinson (1981) and Levinson (1988).

I also discuss the data in relation to other fields of research. I draw heavily on the politeness phenomena outlined by Brown and Levinson (1978), and aspects of power from the perspectives of discourse analysis, sociolinguistics and pragmatics discussed by, for example Fairclough (2001), Holmes and Stubbe (2003) and Spencer-Oatey (1992). The notions of neutrality and impartiality, from the perspectives of conversation analysis, are examined with reference to the research of, for example, Clayman (1992) and Greatbatch and Dingwall (1998 and 1999).

Finally, I make reference to the literature in relation to family mediation, for example Haynes and Haynes (1989), Parkinson (1997) and Folberg, Milne and Salem (2004). I argue that there is a need for the findings of linguistic research to be recognised by, and included in, mediation literature, training, and practice.

CHAPTER ONE

BACKGROUND AND AIMS

1) Introduction

The aims of the research described and analysed in this thesis fall into two broad categories. One set of aims seeks to contribute to the development of linguistic theory, specifically pragmatics. The second set of aims seeks to apply insights from linguistics to the theory and practice of family (or divorce) mediation. Details of the research aims are outlined in later sections of this chapter.

As far as I am aware, there is no other research which is directly comparable, that is research relating to the specific pragmatic concepts used in this thesis, and the particular setting of family mediation. There is, however, a great deal of research into areas of varying degrees of relevance which will be explored in the thesis. But at this point, and in order to justify my assertion that this research has no direct comparison, I wish to draw attention to some of the differing uses of the term ‘mediation’; some of the common misconceptions about the two-fold term ‘family mediation’; and some areas of vagueness and overlap involving the connotations of both of these terms.

Firstly, as Boulle and Nestic (2006: 3) point out, “Mediation is not easy to define. It does not provide a single analytical model which can be neatly described and distinguished from other decision-making processes. The drafters of the Uniform Mediation Act in the United States made the same observation as they encountered problems in defining mediation in a way that does not also encompass other processes such as early neutral evaluation, fact-finding, facilitation, and family counselling”. Apart from the use of the term ‘mediation’ as described above, it also encompasses, and is encompassed by, a number of other terms such as ‘conflict resolution’, ‘arbitration’, ‘conciliation’, ‘interpretation’ and ‘negotiation’.

Secondly, the wide range of activities which may be described as ‘mediation’ has been approached from a number of linguistic perspectives. For example, Kila (1995) has assessed training programmes for community relations officers in Papua New Guinea from the broad perspective of communicative competence. Smith (1996) has utilised a number of

perspectives, including conversation analysis, discourse analysis and speech act theory to analyse community justice mediation in Australia. Creese (2003) has examined, from a bilingual and stylistic perspective, the mediation of allegations of racism in a school setting. Szmania (2005) has examined victim/offender reparation within the framework of discourse analysis.

Thirdly, there is research into language behaviours which are considered central to effective mediation practice, for example 'neutralism', but from un-related interactional settings. (The precise definition of neutralism is a moot point which is addressed specifically in Chapter 2.) The UK College of Family Mediators' Code of Practice (2000) stipulates that "Mediators must at all times remain neutral as to the outcome of mediation" (op cit: 2): Greatbatch (1998) and Clayman (1992) have examined this subject, but in relation to British news interviews, whilst Atkinson (1992) has examined neutrality in court proceedings.

And finally, the use of the term 'family' in association with 'mediation' can cause a great deal of confusion both for potential clients and academic researchers. The term will often generate, both via electronic research methods and in discussion with other researchers, reference to therapeutic interventions such as family counselling, family therapy, child therapy and child counselling. The term 'divorce mediation' is more descriptive of the discrete service which is offered by North Wales Family Mediation Service, and many other services affiliated to the UK College of Family Mediators in the UK. This term, however, is also misleading in that it conveys the impression that the service is only offered to married couples.

The confusion surrounding the term 'family mediation' is exacerbated in a number of ways. For example, the 'Relate' website (2007) describes itself as the "UK's largest provider of relationship counselling and sex therapy" and then goes on to include mediation in its list of services, without specifying that this is in relation to divorce only. Similarly, the website for the UK Institute of Family Therapy (2007) which describes itself as the "largest family therapy organisation in the UK" lists "issues relating to divorce and separation" as part of its services. Its practitioners, however, are described as "therapists" who are "either UKCP [UK Council for Psychotherapy] registered or in the case of Clinical Associates are in the final part of their advanced training in Family and Systemic Psychotherapy" These are qualifications which no 'mere' family mediator needs.

The point I wish to make is that the term ‘mediation’ has many interpretations, as does the two-fold term ‘family mediation’. In such a broad scenario, the focus of this research is narrow and, therefore, not easily compared. Nevertheless, I aim to demonstrate, in later chapters of this thesis, that the concepts used to analyse the interactions between family mediators and their clients have wide applicability. A more detailed description of the interactional setting of the family mediation studied in this research is provided in a later section of this chapter, and is elaborated in Chapter 3: at this stage I would simply make the broad point that family mediation refers to a setting in which married or unmarried couples, who have decided to separate, seek a forum in which to discuss issues relating to children, property and finance. The following sections of this chapter also provide a brief introduction to the linguistic concepts and research upon which I have drawn in conducting my own research.

A final point which I wish to make is that this research has also drawn on my own experience as a qualified and practising family mediator, with various services in England and Wales, over the last twelve years.

2) Theoretical Background: Discourse Roles

Many of the ideas in this thesis have been developed in discussion with Professor Jenny Thomas, School of Linguistics and English Language, University of Wales, Bangor in relation to her earlier research and publications (1986, 1990 and 1995). They are also based on her previous (2004) and current (2006) lectures on pragmatics at the University, and elsewhere, for example New Zealand, specifically in relation to discourse roles and complex illocutionary acts. There is a publication planned by Professor Thomas.

The broad aetiology of Thomas’ ideas in relation to discourse roles and complex illocutionary acts begins with some of the ideas of Goffman (1979), but specifically as these were developed by Levinson (1988).

In relation to Goffman’s ideas, Levinson (op cit: 161) makes the observation that “his contributions to linguistic thinking are perhaps much less obvious than his contributions to other social sciences”. He also points out (op cit: 161) that “another reason for the apparent lack of impact on linguistics is simply that the full force of his ideas has yet to make itself

properly felt”. Levinson (op cit: 162) moves on to state that he aims to “underline Goffman’s particular contributions to linguistics” by taking up “some suggestions that he made under the rubric of *footing*” (italics in original).

Goffman’s notion of “*footing*” (1979:137) basically encapsulates the notion that those present in an interaction occupy differing ‘discourse roles’ (as opposed to social roles), or categories of participation. Significantly, he moved beyond the dyad of speaker and hearer in his analysis and pointed out that the status of interactional participants is constantly changing. Goffman (op cit: 133) further points out that “The relation(s) among speaker, addressed recipient and unaddressed recipient(s) are complicated, significant, and not much explored”. Levinson (op cit: 163) uses the term “participant status” instead of ‘footing’ and states that this notion “might be of central interest to linguistics and other disciplines concerned with communication”. At this point I would point out that family mediation is centrally concerned with communication, yet little reference to linguistic research is made in mediation training or theory.

Goffman (1979: 144-145) identified three categories of the producer/speaker role, namely ‘animator’, ‘author’ and ‘principal’. He described the speaker role as “the talking machine, a body engaged in acoustic activity, or, if you will, an individual active in the role of utterance production”. The ‘author’ role is delineated as “someone who has selected the sentiments that are being expressed and the words in which they are encoded”, whilst the ‘principal’ role is “someone whose position is established by the words that are spoken, someone whose beliefs have been told, someone who is committed to what the words say”. Goffman distinguished these categories on the basis of the responsibility for, or ownership of, the message being conveyed, by the person who is actually uttering it. In relation to the hearer discourse role, Goffman outlined four categories. He described the “addressed recipient” role as being occupied by “the one to whom the speaker addresses his visual attention and to whom, incidentally, he expects to turn over his speaking role” (op cit: 132-133). The other three hearer roles relate to situations in which other people are in visual or audible range of the communication which is taking place. Goffman describes these people as “‘bystanders’ ... In some circumstances they can temporarily follow the talk, or catch bits and pieces of it, all without much effort or intent, becoming, thus, overhearers. In other circumstances they may surreptitiously exploit the accessibility they find they have, thus qualifying as eavesdroppers”

(op cit: 132). Central to these distinctions was Goffman's notion of the status of any hearers present in terms of their 'official' or 'ratified' participation.

A further, and highly significant point to make in relation to Goffman's ideas, is that he drew attention to the social elements which are often present in utterances, in addition to their communicative function at the level of propositional content. Levinson (1988) developed these categories of participation, utilising a matrix of elements and a plus or minus system of delineation which, as he describes it, "employ the rich classificatory potential of matrices of polythetic defining characteristics – I borrow the 'technology' unadulterated from phonology" (op cit: 171). The resultant, somewhat complex table, (op cit: 172-173) contains seven 'participant producer roles', namely author, ghostee, spokesman, relay, deviser, sponsor and ghostor, and three 'non-participant producer roles', namely ultimate source, principal and formulator. In relation to 'participant reception roles' he outlines four categories of participant roles, namely interlocutor, indirect target, intermediary and audience, and three categories of 'non-participant recipient roles', namely overhearer, targeted overhearer and ultimate destination. Thus, according to Levinson, there are a potential seventeen participant roles in an interaction.

I share the view of Thomas (personal communication) that the number of roles identified by Levinson are too numerous and overly complicated. This perhaps stems from an attempt to produce a 'definitive' list of discrete categories which seeks to "obtain the best heuristics for putting together a set of potentially universal distinctions – distinctions that may show up in the *use* of one language, but in the *structure* of another" (Levinson 1988: 165, italics in original). Thomas (2004a) has, therefore, refined these categories of participant status and uses, as does this thesis, the term 'discourse roles'. She distinguishes five categories of speaker/producer roles "on the basis of differing degrees of responsibility for the message being transmitted" (op cit: 2), namely those of speaker, spokesperson, reporter, author and mouthpiece. In relation to hearer/recipient roles she distinguishes four categories, namely those of addressee, auditor (including audience), bystander and eavesdropper/overhearer (2004b). A fuller description of these roles is provided in Chapter 4.

I would note at this stage that central to Thomas' classifications are the concepts of 'prototypes' and 'fuzziness'. In essence these terms draw on the cognitive and semantic work of, for example, Black (1949), Labov (1973) and Lakoff (1987) and draw attention to the

notion that semantic and cognitive categories of classification are not necessarily clear cut. Whilst there may be prototypical members of a category which are clearly and easily recognised and allocated, there are also ‘members’ for which this is not the case. The reason for uncertainty stems from the idea that the boundaries between categories may be blurred, and form a sort of transitional continuum in which category membership can merge and overlap.

To return to the concepts of footing, participant status, discourse roles, it is the notion of prototypical examples of category membership, in addition to the idea of blurred category boundaries, which draw me to Thomas’ (2004 and 2006) analysis of discourse roles. From the preceding discussion it will be clear that the precise number and categorisation of discourse roles in an interaction, which the broad categories of speaker/producer and hearer/recipient encompass, is a matter of theoretical and conceptual debate. I believe that this stems, in part, from attempts to delineate separate categories which, in reality, do not always exist so discretely. There is an understandable tension between avoiding an over-proliferation of categories on the one hand, and an over-simplification on the other. I believe that Thomas’ approach not only represents ‘the middle ground’ but, significantly, captures much of the fluidity of verbal interaction and its recurrent uncertainties. She does this in a way which is comprehensive without being overly prescriptive, and in a way which can be helpfully applied to ‘real’ data. Her terminology also has echoes in the words used by ‘ordinary’ participants in an interaction, be this institutional or mundane in nature.

There is no doubt that Thomas’ (2004 and 2006) ideas are innovative and far-reaching. This research has, nevertheless, identified an additional speaker/producer role to those outlined by Thomas, which is examined in detail in Chapter 5. Clearly, in view of what has been said so far, I hope to demonstrate that its identification is not a superfluous addition to Thomas’ existing framework of utterance analysis which incorporates not only discourse roles, but also multiple utterance meanings, the details of which are discussed in the next section.

3) Theoretical Background: Complex Illocutionary Acts

The development of Thomas’ (2004c) ideas on this topic, as with her ideas in relation to discourse roles, builds on the work of Levinson (1981), but this time in relation to the theory of speech acts first put forward by Austin (1962). Thomas (op cit: 1) states that “In a most

challenging article, Levinson (1981) indicated some of the shortcomings of conventional speech act theory. Since the publication of this article, astonishingly little attempt has been made to confront the problems Levinson raises”. Thomas has addressed some of the issues which Levinson raises, and demonstrates how pragmatic theory can be developed to more fully account for the subtleties of naturally occurring speech. She outlines “a more systematic and comprehensive description of the complex nature of illocutionary acts than has so far been available” (op cit: 1) with the aim of making the insights from pragmatics more accessible to other areas of linguistics and related disciplines.

This research aims to address many of the issues raised in the above quotation. Thomas (1986 and 2004c) identifies a number of complex illocutionary acts, two of which are the focus of this thesis, namely ‘bivalent’ and ‘multi-targeted multivalent’ speech acts. These concepts will be described in detail in Chapter 6, but in essence relate to the idea that an utterance can have more than one meaning, for one or more hearers in an interaction. Thomas asserts that her development of the detailed analysis of multiple meanings, that is utterances with multiple illocutionary force has “not hitherto been described even within pragmatics” (op cit: 1).

Thomas (2004c: 1) also asserts that “the problem of assigning force to utterances is more complicated even than previous work in pragmatics has suggested, probably because pragmaticists, as discourse analysts rightly point out, have tended to deal in isolated utterances and/or contrived or cleaned-up data”. My research directly addresses these issues. The data are ‘real’ and unedited. They are examined with reference to their cultural and social contexts, as well as their location in a sequence of utterance exchange.

4) Theoretical Background: Politeness

The analysis of the data draws primarily on the ideas outlined by Brown and Levinson (1978). In this comprehensive and erudite publication, they sought to describe, analyse and categorise the myriad manifestations of politeness as it is verbally conveyed in interactions. They analysed interactions in many cultural settings, seeking universals in the politeness behaviours of interactants. This thesis has no comment to make on that point, although I would note that there is research potential in the comparison of the findings from this research in relation to family mediation, where it exists, in other countries and cultures. I do, however, draw heavily on a number of their ideas. The metaphorical use of the noun ‘face’ is widely understood in

many cultures: as Brown and Levinson (1987 [1978]): 13) point out “notions of face naturally link up to some of the most fundamental cultural ideas about the nature of the social persona, honour and virtue, shame and redemption and thus to religious concepts”. In conjunction with their notion of ‘face’ Brown and Levinson (op cit: 13) outline two forms of “face wants”: “the desire to be unimpeded in one’s actions (negative face), and the desire (in some respects) to be approved of (positive face)”.

Brown and Levinson also outline a number of language behaviours, and their levels of directness, which are aimed at challenging, maintaining or reinforcing the face of either the speaker or hearer in an interaction (op cit: 102, 131 and 214). I find the ‘super’ and ‘sub’ strategies described to be immensely helpful and, therefore, make regular reference to them.

The thesis also builds on the revised edition of their work (Brown and Levinson, 1987) in which a new introduction takes note of the potential influence of third party presence to an interaction and acknowledges it as one of a number of factors “which we now know to have much more profound effects on verbal interaction than we had thought” (op cit: 12). This idea will be developed further in the thesis, especially in view of the fact that mediation always entails the presence of a third party.

5) Theoretical Background: Power

This is a more disparate area of linguistic study in that there is no single, coherent theoretical framework which explicates the phenomenon as it is enacted in verbal interactions. It is a huge subject area primarily because power “is present to a degree in all relationships, at least some of the time” (Thomas, 1995:126). There is, therefore, a great deal of research, from a number of linguistic and non-linguistic disciplines, into various facets of power. Indeed, the subject in relation to mediation could easily constitute a thesis in itself, and from any one of a number of perspectives such as psychology, sociology, social psychology or sociolinguistics.

This research, however, confines itself to a study of the pragmatics of family mediation and draws on research in this area of linguistics as well as, somewhat selectively, related linguistic research and publications, for example Fairclough (2001), Holmes and Stubbe (2003) and Spencer-Oatey (1992). In relation to the latter author, and also with reference to Thomas

(1995), I make use of the specific concepts of ‘legitimate’, ‘referent’, ‘expert’, ‘reward’ and ‘coercive’ power.

The notion of power is of particular interest in the setting of family mediation. Unlike some other formal interactional settings such as, for example, news interviews, employer/employee or doctor/patient settings, or interactions which take place in police interviews or the courts, the balance of power in mediation is much more attenuated and negotiable. In family mediation the power is, in theory, shared. A ‘classic’ text on family mediation defines this power sharing thus: “*The outcome is the responsibility of the parties*” and “*The mediator is responsible for the process*” (Haynes and Haynes, 1989: 3, italics in original). As will be shown in the analyses of the data this notion appears to be far too simplistic, although it is a central tenet of family mediation. The exercise of mediator ‘power’ is further complicated by the need, as outlined in ‘The Code of practice for family mediators’ for practitioners to “at all times remain neutral as to the outcome of mediation” and to “at all times remain impartial as between the participants” (UK College of Family Mediators, 2000: 2). In addition, mediators are required to “conduct the process in such a way as to redress, as far as possible, any imbalance in power between the participants” (op cit: 3). This does, of course, raise the issue of how a practitioner is to recognise and assess ‘power imbalances’, before they even go on to try and ‘redress’ them.

6) Theoretical Background: Related

Whilst this thesis examines the specific interactional setting of family mediation through a particular pragmatic lens, it nevertheless draws on linguistic research from a variety of perspectives and into a variety of interactional settings. The potential uses of language are incredibly complex and far from fully understood or described: thus it is evident that there are insights to be gained from, and thoughts provoked by, a consideration of others’ efforts to unravel some of the factors involved in interaction.

Related research includes a variety of settings, from the ‘institutional’ to the personal; a range of language motivations, from the exercise of power, through neutralism, to the sharing or relinquishment of power; it also includes a variety of linguistic perspectives, such as conversation analysis, sociolinguistics and discourse analysis.

On an 'institutional' interactional level, and from the theoretical perspective of conversation analysis, the work of, for example, Heritage and Greatbatch (1991), Clayman (1992), and Greatbatch (1992), in relation to the setting of news interviews, offers insights into the way news interviewers 'manage' the language behaviours of other interactants. As Clayman (op cit: 163) points out "In the course of talking interactants encounter a variety of assessable matters, matters about which they may express a viewpoint, interpretation, or perspective ... There is one setting in which expressive caution is practiced [sic] with extraordinary consistency: the television news interview". Such 'expressive caution' of viewpoints and perspectives is an essential component of the mediator's task.

There is also relevant research into interactional settings which are more formally hierarchical in nature. For example, Coulthard (1994) has examined the 'legalese' of court-room settings from the perspective of forensic linguistics; Shuy (1998) has adopted an empirical approach to his study of the language of criminal confessions and police interrogations; and from the perspectives of ethnomethodology and conversation analysis, Greatbatch and Dingwall (1999) have researched the discourse which takes place in medical and management settings. Such settings are of interest because they stand in contrast to the less clearly defined elements of power which take place in mediation.

On a more personal level of interaction, and adopting a sociolinguistic analysis, the work of, for example, Goodwin and Goodwin (1990) and Vuchinich (1990) in relation to conversations between children and conflict talk in family conversations respectively, provide points for comparison and contrast. Parties who attend mediation are, by virtue of the fact that they wish to have a third party present to 'guide' their discussions, often in high levels of conflict: this conflict usually manifests itself in an extremely personal and intimate manner, as opposed to, say, the constrained language manifestations of conflict in more formal settings, and will often draw on conflicts taking place in the immediate and wider family. Furthermore, Goodwin and Goodwin (op cit: 86) make a number of points which touch on some of the main themes of this thesis, for example the way in which a participant can "build a single utterance that simultaneously constructs two different types of action to two different recipients" and the "interactive constitution of hierarchy".

There is also specific research into interactional settings which entail some form of third party intervention. For example, Maley (1995), from the perspectives of pragmatics and

conversation analysis, has addressed the issue of third party discourse in conflict resolution, whilst Aakhus (2003) has posited a pragma-dialectical theory of argumentation, specifically in relation to dispute mediators and impasse. And finally, Greatbatch and Dingwall (1998 and 1999), have adopted a conversation analytic approach to their study of identity and professional neutralism in family mediation. Greatbatch and Dingwall (1999: 271) raise important questions in relation to the latter topic: “To what extent are mediators’ actions shaped by social values which favour some outcomes rather than others? Are potential sources of bias built into the mediation process itself? Do these factors fatally undermine the principles of mediation, or can mediators adjust their intervention to take account of them?”. These are issues which will be examined in some detail in this thesis.

7) Theoretical Background: Family Mediation

The first point to be made is that, as far as I am aware, there is no single theory of family mediation, either in the UK or elsewhere in the world. As mentioned earlier, a classic text for UK mediators is that of Haynes and Haynes (1989), an American work. At the time of their publication, Haynes and Haynes pointed out that “there are theories about conflict and negotiations, but there is still no coherent theory about the management of other people’s negotiations. At this stage, mediation is still an art” (op cit: 25). Towards the end of the following decade, Parkinson (1997: 94), a UK author, posed the question “Family mediation – science or art?” and concluded that “Family mediation is both a science and an art” (op cit: 96). In a more recent American publication by Folberg, Milne and Salem (2004: ix) the authors claim that “The chapters prepared for this new book are collectively the state of the art in family mediation”. They nevertheless go on to make the point that “As the divorce mediation field has evolved, so too have various models or styles of practice ... These different approaches – including facilitative, transformative, evaluative, therapeutic, narrative, and other hybrids – are all referred to as *mediation*” (op cit: 13, italics in original).

I would describe the model used in North Wales Family Mediation as primarily facilitative in its aims although other elements tend to ‘creep in’. This is largely because of the power-sharing, collaborative nature of the process and the professional background of many mediators. For example, a mediator may consciously decide to facilitate a little ‘therapy time’ if there appears to be a need for it and there is the potential for productive dialogue as a consequence. Such ‘considered digressions’ on the part of a mediator highlight the distinction

between Hymes' (1962) notion of a 'speech event' with that of Levinson's (1979) 'activity type'. As Thomas (1995: 189) states, "Put very simply, Hymes sees context as constraining the way the individual speaks; Levinson sees the individual's use of language as shaping the 'event'". Theoretical considerations aside, simply by virtue of breaking free from a cycle of allegation and counter-allegation, a couple's relationship may be transformed from one of opponents locked in a battle of wills, to collaborators in a problem-solving task.

What is of interest for this thesis is that in such significant texts on family mediation theory and practice, little emphasis is given to the findings from linguistic research. So, for example, from a social and behavioural science perspective, Haynes and Haynes (1989: xii-xiii), state that they "draw on a variety of disciplines to explain what the mediator does ... Social psychology has made a major contribution to our understanding of mediation practice ... We also draw from political science and sociology, particularly from the ideas found in the general theory of symbolic interaction. Of course the basic systems theory of family therapy is evident ... Part of the actual negotiation strategies comes from Haynes's experience as a labor-management negotiator". Parkinson (1997: xvii) situates her publication as one "in a series of practical guides for lawyers [although] it is intended for anyone interested in family mediation" and acknowledges that "Although mediation is developing as a discipline in its own right, much of the theory on which it depends comes from other disciplines" (op cit: 88). In a section of her book (op cit: 88-94), entitled "Theoretical frameworks applicable in family mediation", Parkinson refers to the relevance of attachment and loss theory, systems theory, chaos theory and ideas about the management of change. And whilst she devotes a whole, and very helpful, chapter to "Language and Communication Skills" (op cit: 97-124) very little mention is made of specific linguistic research.

Similarly, Folberg, Milne and Salem (2004) make reference to many areas of theoretical discipline, for example the social and behavioural sciences, psychology, mental health, social work and the law, but again little prominence is given to the field of linguistics. I believe it is significant that in a list of thirty one contributors to their work (op cit: vii-viii) there is not one linguist. All of their contributors, eminent though they are, are based in specialist family mediation centres or university departments and institutes of higher learning associated with law, psychology, social work, family health, psychiatry and sociology. The editors themselves (op cit: v-vi) have backgrounds in law, the courts and mediation.

8) Aims of the Research

As has been mentioned earlier in this chapter, the aims of this research fall into the two main areas of the development of linguistic theory, and the application of linguistic theory to the practice of family mediation.

In relation to linguistic theory, the thesis will analyse and assess the relevance of concepts about, and research into, power and politeness, and their usefulness in describing what is happening in mediation sessions on the part of both mediators and their clients. I believe that power and politeness, as they are manifested by mediators and clients in the setting of family mediation, are of particular interest in terms of their complexity and interrelation. This is because family mediation is not a *clearly* hierarchical interactional setting, in contrast to, say, doctor and patient interactions or courtroom exchanges. As such, mediation provides a particularly challenging, and therefore illuminating, arena for the study of the language choices which are made by the participants.

Whilst mediation is an inherently polite enterprise on the part of the mediator, in the sense that she/he pays particular attention to the face needs of the clients, this will often not be the case between the clients themselves. In addition, the existence and expression of power between the clients can be overt or more subtle: it may be a shifting product of the upheaval of separation, or a more entrenched factor in the historical relationship of the couple. And then there are the multi-faceted challenges presented by the power-sharing ethos of mediation which can range from a couple's joint avoidance of any decision making to a situation in which one party seeks to dominate the process and impose their wishes without regard for the other party, or indeed the children involved. The complex dynamics of power and politeness are language behaviours which are shared by other activity types, yet are also distinctive: this will be explored in detail in the thesis.

The ideas and analyses put forward in this thesis build specifically on the concepts which Thomas first outlined in 1986, and subsequently developed (2004 and 2006), in relation to complex illocutionary acts and discourse roles, which in turn build on other research in the field of pragmatics and related areas of study, especially that of Goffman (1981) and Levinson (1981 and 1988). I aim, therefore, to contribute to the development of pragmatics on a conceptual and theoretical level.

In general to the above point, because the research is based wholly on an extensive body of 'real life' and current data, it will be a useful addition to the growing literature on the description and analysis of language as it is actually used, for example the work-place data which has been collected for over a decade at the University of Wellington, New Zealand (www.vuw.ac.nz/lals/lwp, 2007). Chapter 11 specifically considers the ideas outlined in this thesis in relation to the linguistic research undertaken in related areas.

The second main aim of the research is to demonstrate the applicability of linguistic theory to the practice of family mediation. This is, perhaps, an obvious concomitant of a pragmaticist's interest in language as it is actually used. The author firmly believes that insights from linguistics are of immense use in helping to understand what mediators do when they are talking to clients, and how and why they do it. Such insights also offer an understanding of what it is that clients are doing when they choose to express themselves in one way, rather than another.

It is hoped that this, in turn, will prompt the inclusion and consideration of linguistic ideas in future textbooks on the theory and practice of family mediation. It has already been noted that family mediation is a developing profession which draws on frameworks and research from many disciplines, but very little, or no mention, is made of linguistic findings. And yet this is a profession which is entirely about communication, or as Roberts (1997: 6) puts it, "In very simple terms ... mediation is about getting the parties to talk to one another again". As a practising mediator, and a linguist, I believe that this is a regrettable omission and that it is now time for mediation, as a profession, to move on from its theoretically rather vague and woolly ideas about the language of mediation to a more robust and specific conceptualisation of the significance of word choice by both mediators and their clients.

A final, and related aim on the level of application, is that the findings of this research will provide the basis for training for family mediators in relation to their use of language. I intend to devise a training programme for the mediators of the North Wales Service based on my findings. I aim to enable mediators to develop a deeper understanding of how the language they use enacts mediation techniques and helps them to meet the professional ethics outlined in their code of practice.

9) Summary

There is no doubt that the practice of family mediation encompasses a number of phenomena which have been discussed in the linguistic literature, and in a variety of interactional settings, for example neutralism, the nature, expression and management of conflict, the nature and use of discourse roles, the nature and use of illocution, and the nature and expression of power and politeness. Mediation thus shares elements with many other areas of language activity.

On the other hand, family mediators in the UK adhere to a particular code of practice and specific professional techniques which, in theory, guide their use of language. Many of the techniques implicitly acknowledge the potential language behaviours of clients.

Mediators are charged with using their language, often simultaneously, to accomplish multiple tasks: this is indicated in a central tenet of mediation, namely that 'mediators manage the process and clients manage the outcome'. There is considerable tension in managing these multiple and complex demands and this is evident in the language behaviours of mediators.

The research aims to analyse these multi-layered phenomena as fully as possible. It is acknowledged, however, that any analysis cannot completely capture the linguistic phenomena which unfold during interactions which are so complex. Chapter 2 provides a brief overview of the main findings of the research, and an outline of the chapters which follow.

CHAPTER TWO
SUMMARY OF FINDINGS AND THESIS OUTLINE

1) Introduction

A fundamental tenet of this research is that the language studied is of interest because it reveals both *choice* and *motivation*. The two, of course, go hand in hand. Motivation cannot occur without choice: it is *because* choice exists in the words which are verbalised, that it is possible to infer motivation. Leech (1983: 36) captures the joint nature of this phenomenon when he describes it as one of “PROBLEM-SOLVING both from s’s and from h’s point of view” with the speaker planning to bring about a desired result whilst, for the hearer “the problem is an interpretative one: ‘Given that *s* has said *U*, what is the most likely reason for s’s saying *U*?’” (capitals and italics in original). A second fundamental tenet is that words, in and of themselves, do not always encapsulate the full *meaning* of an utterance: this can only occur in *context*. As Thomas (1995: 208) observes, “in producing an utterance a speaker takes account of the social, psychological and cognitive limitations of the hearer; while the hearer, in interpreting an utterance, necessarily takes account of the social constraints leading a speaker to formulate the utterance in a particular way. The process of making meaning is a joint accomplishment between speaker and hearer”.

There can be no doubt that attempts to classify, explain and theorise about complex language behaviours, which are *intuitively* used by interactants, are an enormous challenge. I am not convinced that a comprehensive deconstruction is ultimately possible, in any meaningful sense. As Goffman (1981) pointed out, there is something “circuitous”, “fleeting” and “swirling” about language in use. This is so very evident in the language behaviours of mediators and their clients, where there are often many, and conflicting, motivations present, and where the most blatant and most subtle uses of language are verbalised. Nevertheless, I believe that the magic, the rich tapestry of intuitive language use can be conceptualised and analysed to an extent which is insightful and practically useful, whilst making no claim to capture the full mystery of the power of words.

Before moving on to an outline of the main findings of this research, I wish to draw attention to some difficulties with the use of the terms ‘neutral’ and ‘impartial’. That these are qualities

which go to the heart of mediation is evidenced in the UK College of Family Mediators' (date unspecified: 1) 'Policy on Conflicts of Interest and Similar Conflicts': "Impartiality, even-handedness and the mediator's neutrality to the outcome of the mediation are essential components of mediation". Whilst the terms themselves have distinct meanings, it is my experience that they are often used in tandem, as though the enactment of one automatically entails the enactment of the other. This is clearly not the case: it is perfectly possible to be impartial without being neutral, and vice versa. For example, if a mediator decides to allow a little 'therapeutic air time' to a client who appears to need it, they may be compromising their impartiality yet still remain unbiased as to the ultimate outcome of the session. On the other hand, as will be seen in a transcript from a session with Derek and Catherine in Chapter 5, a mediator may steer the discussions towards an outcome which they prefer, in this particular case avoiding emotional harm to the children, whilst maintaining a balanced approach to both clients. And yet little emphasis is given to this in the mediation literature to which I have already referred.

At this point I would acknowledge that the two terms *are* closely related. Thus the Concise Oxford English Dictionary (2002) defines the adjective 'impartial' as "treating all rivals or disputants equally" (op cit: 711) whilst the adjective 'neutral' is defined as "impartial ... unbiased ...having no strongly marked characteristics" (op cit: 959). For the purposes of clarity I refer to mediator behaviours which relate to the *treatment* of clients as impartial, and those which relate to the *expression* of views as neutral. The UK College of Family Mediators draws a similar distinction between a mediator's impartiality with regards to the process of mediation, and their neutrality in relation to the outcome of that process.

The situation is further confused by the apparently inter-changeable use of the two terms adopted by some authors and researchers. For example, McCrory (1981: 56) cited in Roberts (1997:7) states that "The process of mediation has four fundamental and universal characteristics", which comprise impartiality, voluntariness, confidentiality and procedural flexibility. What is missing in this list is neutrality. As this is also a fundamental characteristic of mediation I can only assume that McCrory, and Roberts, are conflating this notion with that of impartiality. Similarly, Greatbatch and Dingwall (1999) seem to use the terms as interchangeable equivalents, exemplified in their statement (op cit: 273) that "Both mediators and disputants display an orientation to the notion of mediator impartiality during discussions of issues about which the disputants disagree. The mediators do this by (1) refraining from the

direct expression of opinions on their own or their employers' behalf, and (2) refraining from overt affiliation with, or disaffiliation from, those expressed by disputants". The linguistic behaviours described in points one and two of this extract have more to do with neutralism, than impartiality.

2) Summary of Findings

- a) Mediators make strategic use of discourse roles in relation to maintaining neutrality, and impartiality, in their work with clients. Whilst this use is routine, as will be seen in the data, it is not a phenomenon which is explicitly recognised, in practice or theory, as a strategic *linguistic* tool for *verbally enacting* two of the fundamental components of professional mediation.
- b) There is also strategic use of discourse roles by clients to achieve a number of ends. These typically relate, for example, to what Haynes and Charlesworth (1996: 9) describe as clients "who have thought a great deal about how to convince [the mediator] that they are right and the others are wrong" and who often have "quite different versions of the nature and history of the dispute".
- c) Building on previous ideas discussed in the literature, for example Austin (1975) and Levinson (1997), Thomas has proposed a framework for utterance analysis in relation to levels of meaning. This comprises five levels, namely utterance meaning, pragmatic force, interpersonal meaning, perlocutionary intent and discursal intent. It is my view that this framework is a powerful analytic tool for separating out the main elements in many of the particularly complex interactions which occur within the data.
- d) I would also point out that, from my experience in the fields of probation and social work, that such 'woolliness' about the specifics of language use is by no means uncommon. For example, there are expectations in both of the latter professional fields that practitioners will 'respect' and 'challenge' the individuals with whom they work, but little idea as how to linguistically enact such ideals.
- e) In relation to the number of meaning levels mentioned above, and again developing ideas put forward by previous researchers and theorists (for example Austin (1975),

Goffman (1981) and Levinson (1981), Thomas posits a system of classifying utterances according to their complexity. This research does not address her categories of ‘preparatory’ and ‘conditional’ illocutionary acts. It does explore her categories of bivalent and multi-targeted multivalent illocutionary acts. The research demonstrates that the latter two conceptual categories are applicable to, and descriptive of, many of the language behaviours of mediators and their clients. They also have explanatory power with regard to the classification of, and motivation for, the choice of words made by all participants in mediation sessions.

- f) On the basis of this research, and Thomas’ ideas, I have developed a schematic model of dynamic, multi-layered interaction which will be discussed in Chapter 7.
- g) Thomas’ CIAs are useful in revealing a phenomenon which she terms “cumulative pragmatic force” (Thomas 2006). This concept highlights the importance of context in ascribing meaning to individual utterances and also captures some of the dynamics between clients, and between clients and mediators.
- h) As mentioned earlier, the application of the CIAs of bivalence and multi-targeted multivalence (MTMVs) to these data has resulted in the identification of a new and distinct producer discourse role, that of ‘Reflector’.
- i) Many mediation techniques can be categorised in terms of Brown and Levinson’s (1987) positive and negative politeness strategies. The specific utterances which enact these techniques may not necessarily be ‘polite’, that is indirect, but their motivations are. The thesis aims to make clear how this happens.
- j) In relation to the above point, however, there are frequent instances of language behaviours on the part of mediators which may be more accurately described as politeness on behalf of clients, rather than directly between speaker/producer and hearer/recipient. I have termed these behaviours as ‘politeness by proxy’ and would argue that they are an example of the effect of third parties which, again as mentioned previously, Brown and Levinson themselves acknowledged as an oversight in their original work.

3) Outline of Remaining Chapters

Chapter 3 begins with an overview of family mediation in the United Kingdom. Salient points from the UK College of Family Mediators' Code of Practice (2000) will be discussed in relation to the constraints which this places on the language behaviours of mediators in their efforts to practise in a professional manner. There is a brief discussion of the ways in which mediator behaviours, and their aims, differ from the alternative forms of dispute resolution which are available to separating and divorcing couples in the UK. The following section of the chapter introduces the main techniques of mediation, as outlined by the portfolio requirements of the UK College of Family Mediators (2005): there are approximately twenty-two in total. There will be frequent reference to these techniques throughout the thesis and they are, therefore, listed in full.

Section four discusses the legal framework within which family mediation in the United Kingdom takes place, and draws attention to specific details from two of the most important pieces of legislation, the Family Law Act (1996) and the Children Act (1989). This is followed by a section which describes the process by which potential clients arrive at North Wales Family Mediation Service and the methods of assessment for suitability which are employed. I also provide information on the varied nature of the relationships between parties who attend mediation and a discussion of the typical issues which they bring for resolution. Section six of Chapter 3 provides details about my professional qualifications and experience, and similar details about the other mediators who took part in the recording of the data. There is a description of the location and physical setting of the sessions and an explanation of the method of obtaining client consent for recording. The section then moves on to outline various details of the data such as the number of clients/cases involved, hours recorded and whether sessions were sole or co-worked. Technical information regarding the methods of recording, editing and transcribing of the data are also provided.

The detailed analysis of mediator language begins in **Chapter 4**. The specific topic addressed in this chapter is that of discourse roles. In the first section, the theoretical background to this concept is outlined. In sections two and three Thomas' (2004 and 2006) proposals regarding producer/speaker and recipient/hearer roles are described in full.

Sections four to seven of Chapter 4 each examine a specific producer discourse role, in addition to the various hearer/recipient roles, utilising transcripts from the data. I also provide a brief background to each particular transcript and an explanation of any anonymising abbreviations used. In section eight I briefly examine some of the issues raised in relation to power and politeness, in preparation for the later chapter which is dedicated solely to a discussion of these topics. The final section comprises a brief summary in which mention is made of the apparent need for an additional producer discourse role.

Chapter 5 focuses on this proposed additional role, which has been termed the ‘Reflector’ role. The reason for the spelling is explained and there is a detailed description of the characteristics of the role in section two. In section three I examine transcripts from the data in relation to the role and complex illocutionary acts, whilst section four focuses on a consideration of examples in relation to mediation techniques and the reflector discourse role.

Chapter 6 addresses the relationship between the concept of complex illocutionary acts and what happens linguistically in mediation sessions. It begins with a consideration of the nature of multiple meanings before moving on, in section two, to outlining the specific complex illocutionary acts which are examined in this thesis.

Sections three, four and five discuss examples from the data in relation to increasing levels of meaning complexity, starting with ambiguity, indirectness and ambivalence, moving on to bivalence, and culminating in multi-targeted multivalence. Section six of the chapter continues the theme of a specific consideration of power and politeness, this time in relation to complex illocutionary acts, whilst section seven concludes the chapter and notes that questions have been raised regarding some of Thomas’ (2004 and 2006) terminology.

In **Chapter 7** I introduce a schematic model of utterance analysis suggested by the nature of the individual levels of multiple meanings outlined by Thomas (2004, 2006 and in preparation). Sections two and three outline the origins of the model, its basic format and highlight salient theoretical ideas which have influenced its development.

In sections four, five and six of the chapter I introduce three ways in which the model can be elaborated to symbolise complications in illocutionary meaning, namely misunderstanding, uncertainties and additional meanings for more than one hearer. Examples from the media and

personal experience are used to demonstrate these ideas, before moving on, in sections seven and eight, to a consideration of data from mediation sessions. In these sections I utilise the model to analyse transcripts in relation to bivalence and multi-targeted multivalence respectively. The concluding section summarises my reasons for devising the model and its potential strengths and weaknesses.

In **Chapter 8** I move on to specifically discuss the language of mediator techniques. Section two of the chapter presents and discusses the techniques which family mediators need to evidence if they are to be accredited by the UK College of Family Mediators.

The main part of the chapter comprises sections three and four. In the former I analyse the applicability of discourse roles in understanding mediator strategies, with examples from the data. In the latter section I do the same, but in relation to complex illocutionary acts. Section five summarises the main points made, particularly in terms of mediator neutrality and impartiality: it also notes the potential links between the findings of this research into family mediation and other work-place settings in which language is the ‘primary tool of the trade’.

Chapter 9 is dedicated to a discussion of power and politeness in family mediation. Whilst these themes are regularly considered throughout the thesis, in my opinion they merit particular analysis in their own right. Indeed, I make the point elsewhere that these themes could constitute a thesis in themselves.

Section two of the chapter discusses the nature of power and politeness in family mediation before moving on, in section three, to consider some of the ethical questions and dilemmas which face mediators. As in the previous chapter, there then follows two lengthy sections, each of which focuses on a particular dimension of mediation interaction. In section four I analyse the talk of clients in relation to power and politeness, and in section five I concentrate on these themes in relation to mediator talk.

Section six of the chapter highlights the intricacies of power and politeness in mediation, particularly with regard to the interplay of client/client perceptions and verbal enactments of these elements, and those of client/mediator interactions. I reiterate the point that, in my opinion, mediation offers particular insights into language behaviour because it is neither entirely formal, nor informal.

Chapter 10 moves away from the presentation and analysis of transcripts in relation to single concepts, to a comprehensive analysis of one example. The first two sections introduce the aims of the chapter, and present a lengthy extract of dialogue and background/contextual information.

In section three and four I present an analysis of the transcript in relation to discourse roles and complex illocutionary acts respectively. In sections five and six I separately examine the extract in relation to the themes of politeness and power respectively. In section seven of the chapter I present examples of my proposed model of interaction in relation to certain 'key' phrases from the overall excerpt. In the final section I argue that there is a need for a more integrated analytical approach to the phenomena of verbal interaction.

Chapter 11 is the penultimate chapter of the thesis and is dedicated to a selective review of related linguistic literature with the aim of drawing out comparisons and contrasts. After the introduction, I discuss the topic of neutrality in other settings, for example news interviews, and in section three I examine studies into the nature of conflict talk, for example disciplinary meetings in hierarchical encounters. In section four I move on to a consideration of research into the specific area of family mediation. The concluding section of this chapter aims to draw together the observations made in the preceding sections and make explicit the way in which I believe this research differs from, and contributes to, the existing literature.

In **Chapter 12** I provide an overall summary and discuss possible ways forward in terms of the findings of this research. In section two I review the main aims of my work and consider its findings in relation to pragmatic theory; the following section follows the same format but in relation to family mediation. Sections four and five discuss future directions in relation to each topic. In section six I briefly reiterate the reasons for my interest in language in use and the motivation underlying my decision to embark upon this research.

CHAPTER THREE

FAMILY MEDIATION IN THE UK, THE NORTH WALES SERVICE AND DETAILS OF THE DATA

1) Introduction

The aim of this chapter is to provide a local and national context for the data which will be analysed in subsequent chapters. The conduct of family mediators is influenced by legal and professional requirements which, together, form a backdrop to the language behaviours of individual practitioners. As in most modern professions, there is a considerable amount of bureaucracy and form-filling which takes place from the very first contact with, or by, a potential client. Against this formal, and somewhat rigid backdrop, there is the requirement for mediators, and mediation services, to adopt a flexible and sensitive approach to the needs of clients. Most mediators are motivated by a genuine wish to help couples find a way through the problems presented by separation and divorce, in a manner which causes the least possible pain and uncertainty, for themselves and their children.

Section two of this chapter provides an overview of mediation in the UK, whilst section three looks at the specific mediation techniques which practitioners seek to employ in their professional interactions with clients. In section four there is a consideration of the legal framework within which UK mediation takes place, and in section five I move on to provide details about the procedures for assessing client and issue suitability for mediation in the North Wales Family Mediation Service. In section six there is a description of the data which have been collected and which form the basis of this thesis.

2) Overview of Family Mediation in the UK

Roberts (1997: xiii) states that “Since 1988 ... there has been a transformation in the growth and status of family mediation in the UK. Then innovatory and on the margin of significance in relation to family dispute resolution, family mediation is now the officially recommended mainstream approach, embodied in statute, endorsed for public funding for the first time, and enthusiastically embraced by large numbers of potential practitioners, including many

solicitors”. The profession continues to evolve on a number of levels, including those of practice, theory, training and delivery of services.

Part of this evolution was the establishment, in 1996, of the UK College of Family Mediators, described by Boule and Nesic (2006: 267) as “an umbrella organisation for family mediation services in the UK”. There continue to be separate training organisations such as National Family Mediation, the British Association of Lawyer Mediators and Family Mediation Scotland, many of whom are affiliated to the UK College. In addition to these national levels of organisation, there are myriad variations at local levels in the composition and aims of individual services. Some mediation services comprise a small number of full or part-time mediators, whilst others draw on a larger pool of sessional mediators. The professional background of mediators also varies, although within a somewhat predictable and limited range, particularly social work, law, teaching and counselling (Roberts, 1997, Folberg, Milne and Salem, 2004). Some services offer mediation on children’s issues only, whilst others offer help with both children’s issues and the financial aspects of divorce and separation. Some services offer direct consultation with children whilst others do not. The funding of services is also somewhat heterogeneous and, often, uncertain: each service tends to negotiate its own ‘deal’ with potential funders, for example children’s charities such as Barnardo’s or National Children’s Homes, other localised charitable organisations and contracts with the Legal Services Commission. Many services are ‘not-for-profit’, whilst others are more commercial enterprises.

Mediation is but one means of dispute resolution available to couples and is most likely to work with couples who have some willingness to negotiate and compromise. In fact, Roberts (1997: 7) goes so far as to state that “Without a modicum of willingness to co-operate, however reluctant, a mediated solution will not be possible”. Where these motivations are not present, couples have recourse to lawyers or, ultimately, the family court. Couples come to mediation through a number of channels: they may contact a service themselves, or be referred by solicitors or, occasionally, be ordered to attend by the courts. The latter situation obviously somewhat compromises the ‘voluntariness’ of mediation. In addition, some couples are motivated to attend mediation solely on the basis of cost, as it is a considerably cheaper alternative to litigation.

Parkinson (1997: 21) displays, in tabular form, the main differences between the approaches of legal advisers and those of family mediators. She points out that the duty of lawyers is to their own clients. A lawyer will see her/his client alone and offer advice and legal information which are in their client's interests. They will take action on their client's behalf, for example by writing letters and submitting documents to court. Mediators, on the other hand, see both parties together and "have a responsibility to help both participants, equally and impartially". Mediators seek to promote self-management and control of the process of decision making by the parties themselves. Mediators do not give advice or take action on behalf of their clients. Parkinson (op cit: 19) also makes clear that whilst "Mediation is often seen as a way of avoiding using lawyers ... Negotiations through lawyers are more appropriate than mediation in some circumstances and for some clients ... The *outcome* of mediation and lawyer-led negotiations may be similar, but the *process* by which this outcome is reached differs considerably, even where lawyers take a conciliatory approach" (italics in original). The circumstances in which mediation may not be appropriate are highlighted by Roberts (1997: 8) as the lack of "competence" and/or "equality of bargaining power". Typically this may relate to, for example, mental health problems on the part of one or both clients, domestic abuse, acute emotional distress or the sole control of financial assets by one party.

The 'professionalism' of mediators is based on any one of a number of training routes and providers, often related to the practitioner's prior professional background and, if there is to be accreditation to the UK College of Family Mediators, the compilation of a substantial portfolio of practical work which must be validated before accreditation and recognition is possible (Parkinson 1997). Many clients seeking mediation are publicly funded by the Legal Services Commission. It is a stipulation of that agency, under the terms of its 'General Family Mediation Contract (Not for Profit)' (2004: 16) that only a practitioner who is a "recognised mediator" or "mediator" for the purposes of the Funding Code ... may work with such clients. The Legal Services Commission outlines the criteria for its recognition of family mediators in its 'Quality Mark Standard for Mediation' (2002: 70) as individuals who have "Full membership of the UK College of Family Mediators following successful completion of its competence assessment process" or who have "Practitioner membership of the Law Society Family Mediation Panel". In addition, mediators affiliated to the UK College subscribe to a professional code of ethics, and a number of policy and practice guidelines, (UKFM, 2000 et al) which guide their work with couples.

The code of practice (UK College of Family Mediators, 2000) is attached as **Appendix I**. In this document (op cit: 1) family mediation is defined as “a process in which an impartial third person assists those involved in family breakdown ... to communicate better with one another and reach their own agreed and informed decisions ...”. A number of aims and objectives are outlined and these delineate the ethos of mediation, particularly the emphasis on improving communication between parents, reducing conflict and promoting shared responsibility between the parents for problem definition and the generation of solutions. The central tenets of mediator behaviour, namely the need for impartiality and neutralism, are also elaborated. In order to maintain neutrality, a mediator “must not seek to move the participants towards an outcome which the mediator prefers”; in relation to impartiality, a mediator “must conduct the process in a fair and even-handed way” (op cit: 2). Mediators are not only required to manage their own behaviours in relation to these two points, but also those of their clients. Thus they must “seek to prevent manipulative, threatening or intimidating behaviour by any participant” and “redress, as far as possible, any imbalance in power between the participants” (op cit: 3). In order to meet these demands, mediators need to carefully monitor their own use of language, as well as being alert, and responsive, to the language of their clients. They have a number of techniques upon which to draw and these are discussed in the following section.

3) Mediation Process and Techniques

Before naming and discussing the techniques available to family mediators, it is important to note that most mediation sessions follow a fairly generic framework of stages: this framework constitutes the ‘process’ of mediation. It is this framework, plus the specific techniques, which are at the heart of the mediator’s control of the interaction. Haynes and Charlesworth (1996) outline a number of stages in the process, five of which are relevant to the data which are to be discussed in this thesis, and, importantly, they talk of “cycles” of discussion: “These five stages are: gathering the data ... defining the problem ... developing options to solve the problem ... redefining positions from self-interest to mutual interests ... bargaining over the options to reach a mutual agreement ... The cycle is repeated over and over again within the larger mediation process to deal with each issue” (op cit: 8).

In order to manage the mediation process, practitioners can draw on over twenty techniques, as identified throughout the UK College of Family Mediators’ ‘Competence assessment for

family mediators: portfolio guidelines, specifications and templates' (2005). A list of these techniques is itemised below:-

- a. Clarifying
- b. Open and focussed questions
- c. Summarising
- d. Checking assumptions
- e. Constructive challenge
- f. Active listening
- g. Rephrasing
- h. Acknowledging feelings and needs
- i. Responding to body language
- j. Redefining issues in a mutual rather than exclusive way
- k. Respecting the roles of individuals
- l. Separating people from problems
- m. Challenging destructive comments
- n. Establishing interests rather than positions
- o. Accurately redefining/reframing to the satisfaction of both parties
- p. Not speaking for the other person or interrupting
- q. Acknowledging power imbalances
- r. Neutralising or reducing power imbalances
- s. Reducing/diffusing tensions
- t. Limiting the effect of strongly expressed negative feelings and emotions
- u. Normalising
- v. Identifying key words and phrases

Clearly, these techniques aim to guide mediators in their use of language: they are, I believe, largely self-explanatory. What is of note, however, is that this apparent simplicity masks an extremely complex set of ideas and assumptions. For example, just what kind of utterance “respects” the “roles” of individuals? What, precisely, is a “destructive” comment and how does one “challenge” it? What words should/could an interactant use to “acknowledge” a “power imbalance”? How does one decide that a “power imbalance” exists in the first place? And how does a mediator arrive at the conclusion that certain words or phrases are “key”? Indeed what, exactly, is meant by the concept “key”?

As mentioned earlier, family mediation in the UK is a recently established profession. It is not, however, alone in employing concepts which, whilst apparently straightforward on the surface, are nevertheless poorly explicated and understood at the level of the language which actually realises them. For example, from my own previous professional experience, spanning some fifteen years, as a Probation Officer, Youth Justice Worker and Social Worker, practitioners routinely claim to “challenge offending behaviour”, “address antisocial attitudes” or “support and advise” clients, without specifying just how, linguistically, they do this. Furthermore, it is my view that mediation is not alone in its tendency to take for granted some of the culture-specific assumptions which underlie many of its professional practices and ethics. That is not to say that such issues go unrecognised, as is evidenced by the observation of Roberts (1997: 27) that “Mediation is practised in a political, legal, ethical and economic environment. This inevitably gives rise to a number of tensions which the mediator must constantly bear in mind”. It is rather that such recognition does not seem to give rise to much professional self-analysis. I will discuss this topic at various points in the thesis but believe that it is a subject which would merit research in its own right.

4) Legal Framework for Family Mediation in the UK

Roberts (1997: ix) lists eighteen statutes which are relevant to the practice of family mediation in the UK. For the purpose of this thesis, however, it is sufficient to draw attention primarily to the Family Law Act (1996) and the Children Act (1989). The latter is currently under review and, in Scotland, there is a separate act, the Children (Scotland) Act (1995).

The relevance of the Family Law Act (1996) to this discussion is that it enshrines family mediation as an ‘official’ method of dispute resolution for separating and divorcing couples. As Parkinson (1997: 27) points out, this Act stipulates that, where a marriage has irretrievably broken down and is being brought to an end, it should be done so with “minimum distress to the parties and the children affected ... with questions dealt with in a manner designed to promote as good a continuing relationship between the parties and any children affected as is possible in the circumstances ... [and] without costs being unreasonably incurred in connection with the procedure to be followed in bringing the marriage to an end ... (Family Law Act 1996, Pt 1, s. 1)”. This act also sanctions the use of public funds for mediation when couples cannot afford to pay for it themselves, as outlined in the introduction to Chapter 27 of

the Act which states that it is “An act to make provision with respect to divorce and separation; [and] legal aid in connection with mediation in disputes relating to family matters”. Significantly, public funds for mediation are not repayable, whereas public funds for litigation are: thus there is the presence in mediation of clients who are motivated less by the spirit of co-operation and amicability and more by the need to save money. Such clients present particular challenges for mediators, especially when, as is often the case, they are not honest about their motivations for taking part in mediation.

The ‘Code of practice for family mediators’ (UK College of Family Mediators, 2000: 4) states that “Mediators have a special concern for the welfare of all children of the family. They must encourage participants to focus upon the needs of the children as well as upon their own and must explore the situation from the child’s point of view”. The Children Act (1989) is “a very large piece of legislation” with “over 100 sections and 15 schedules” (Brayne and Martin (1997: 62). As these authors point out, however, “It is only when a court is dealing with a case that affects a child directly that the child’s welfare is paramount” (op cit: 64). Such cases typically refer to those situations in which a court has to decide whether or not to make an order which specifically relates to, or includes, a child.

It is worth outlining some salient details from the legislation, as mediators, working within this overall legal framework, routinely inform clients that any arrangements they may agree must meet the needs of their child/children and that, if they cannot do so, it is a major criterion of any court intervention. The Children Act 1989 (c.41) states in Part I, Section 1(1) that “the child’s welfare shall be the court’s paramount consideration” and goes on in that Section to itemise the factors which comprise a child’s welfare, such as her or his wishes and feelings (according to age and understanding), their age, sex and background, their physical, emotional and educational needs, the effect of any change in circumstances, actual or potential harm, the ability of each parent to meet the child’s needs and any other characteristics of the child which the court considers to be relevant. In addition, the Family Law Act 1996, Part II, Section 11 (4c) states that courts should adhere to “the general principle that, in the absence of evidence to the contrary, the welfare of the child will be best served by- (i) his having regular contact with those who have parental responsibility for him and with other members of his family; and (ii) the maintenance of as good a continuing relationship with his parents as possible”. A final point in this regard is that mediators also routinely inform clients of the principle of ‘minimum intervention’ by the courts, as outlined

in Part I, Section 1(5) of the Children Act 1989 (c.41), namely that a court “shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all”.

The final two sections of this chapter will describe, respectively, the particular practice of North Wales Family Mediation Service and the nature of the data upon which this thesis is based.

5) Assessment of Suitability for Mediation, Nature of Couple Relationships and Typical Issues

In NWFMS, the first point of contact with potential clients, be this by letter or telephone, is carried out by the Service’s administrative staff. At this stage clients are informed that, before mediation itself begins, they need to attend an assessment meeting with a mediator, often known in Family Mediation as an ‘Intake Session’. Clients have the choice of attending this session together, as a couple, or separately: most clients choose to attend separately.

The Intake Session is a two-way process of information exchange and gathering and is carried out in accordance with the UKCFM’s ‘Code of practice for family mediators’ (2000). Practitioners explain the nature and ethos of mediation in terms of its voluntary participation by all parties and at all stages; the neutral and impartial role of the mediator, the extent of confidentiality and the concepts of legal privilege; and the advantages/disadvantages of mediation in relation to the services of other agencies such as lawyers, the courts and relationship counsellors. It also provides the opportunity for potential clients to ask any questions they may have. The aim is to provide the information which individuals need in order to decide whether mediation is an option which they wish to pursue. Practitioners also gather specified information in order to assess whether the client, and the issues, are ‘suitable’ for mediation. “Cases are screened for domestic violence [although NWFMS uses the term ‘abuse’, for reasons explained below] and child abuse”, Boulle and Nesic (2006: 108), as well as for the presence of any special needs for which the Service needs to cater. As mentioned earlier, there are certain circumstances in which the decision to proceed with mediation needs careful consideration, for example allegations of domestic abuse, or evidence of mental health impairment. Such issues can be ‘tricky’ in the extreme. A client, female or male, may recount incidents of serious domestic *abuse* (a term which NWFMS uses to encapsulate emotional,

mental and financial abuse, in addition to the physical abuse which is suggested by the use of the term *violence*), such as threats to kill, stalking and actual assault, but insist that they nevertheless wish to proceed with mediation, or even deny, or not recognise, that any form of abuse has taken place. I will never forget an Intake Session with an individual who, when asked if there were any issues regarding domestic abuse, replied in the negative. As the meeting progressed, however, they ‘happened to mention’ that they had no access to family finances, not even to meet the children’s needs, and that their partner would refuse to provide them with money if they did not ‘consent’ to sex.

Similarly, clients may exhibit symptoms of mental impairment, such as a severely ‘depressed’ or ‘manic’ demeanour, an absolute denial of the fact of separation or divorce, or an obsessive and exclusive focus on the ‘blameworthy failings’ which they attribute to the other party. In such situations mediators have a number of options. They may decide that mediation is not appropriate and, wherever possible, provide information regarding agencies which may be able to offer more appropriate help and advice. They may decide to proceed, cautiously, with a co-worker or with the presence of a third party in the role of advocate, for example a mental health social worker or support worker from Domestic Abuse agencies. The presence of such a third person can, however, only take place with the permission of the other party. Finally, where clear allegations of child abuse are made, the practitioner will terminate the Service’s involvement and refer the matter to the local Social Services Department. Mediation can only recommence when, and if, that Department finds that there is no substance to the allegations.

In terms of the relationship between the clients who attend mediation, Folberg, Milne and Salem (2004: x) observe that, “The emergence of family and divorce mediation has been accompanied by significant changes in society and in the families who must make decisions about the dissolution of their existing relationship. Our clients are no longer limited to married biological fathers and mothers. The families with whom we work have changed, and the practice of mediation reflects the expanded relationships for which mediation holds great promise”. So it is that mediation clients may be heterosexual married couples, heterosexual couples who have never been married or even co-habited, same-sex couples and couples whose relationship derives from various step and extended family combinations. Occasionally two couples may take part, for example a child’s parents and their maternal, or paternal, grandparents. Such is the complexity of family relationships in modern society that I have

also taken part in a mediation with four ‘main players’, who comprised the child’s biological father, her adoptive father, her step-father and her mother.

The issues to be discussed usually include any, or all, of the following:

- a) What will happen to the family home?
- b) How are future, separate, accommodation arrangements to be financed?
- c) With whom will the children live?
- d) How often and for how long will they spend time with the parent with whom they are not living?
- e) How are pensions to be taken into account?
- f) What other assets and liabilities/debts are there and how are these to be divided?
- g) What arrangements for the children need to be made for particular occasions, such as Christmas and birthdays, and holidays?
- h) Are there any special needs/wishes or expectations to be taken into account, on the part of the parents or the children, for example in relation to health, education or religion?
- i) How are the parents to communicate effectively in the future?
- j) How is extended family to be included in the children’s lives?

The relevant legal terms are those of ‘residence’ and ‘contact’: respectively these relate to the parent with whom the child/children will live, and the time they will spend with their other parent. These concepts are often termed ‘custody’ and ‘access’ by clients. In addition, clients will often describe their arguments in terms of their ‘rights’. Mediators will often point out that, in terms of the legal framework, it is the child/children who has/have ‘rights’, whereas parents have ‘responsibilities’. So, for example, a parent may talk in terms of their ‘right’ to see a child, whereas a mediator will talk in terms of the child’s ‘right’ to see and know both of their parents, and of parental ‘responsibility’ to make sure that this happens.

6) Details of the Data Collected

North Wales Family Mediation Service is a not-for-profit organisation. It currently employs two part-time mediators and four sessional mediators. The geographical area covered is large

and mainly rural in nature. The service is delivered from four locations: Wrexham, Shotton, Bangor and the Head Office in Llandudno. It was not possible to record sessions at all four venues as only two recording devices were available. I chose the Wrexham office and the Llandudno office as these are the busiest locations.

The sessions recorded were held in buildings which are multi-agency in nature, the other agencies typically falling into the categories of various counselling, social and child centred services. The rooms used by NWFMS are 'informal' in nature, that is to say decorated and carpeted in pastel colours, and consisting of three or four comfortable chairs arranged around a small 'coffee' table. A flipchart is usually available in the corner of the room for use if necessary.

No recordings took place without the prior written consent of both parties: this was typically obtained at each client's individual 'Intake' session, prior to mediation proper commencing. A copy of the consent form used is attached as **Appendix II**. The recording of sessions took place over a period of eighteen months, between the summer of 2005 and the beginning of 2007. Over thirty hours of recorded data were obtained during this period. Within these hours, over twenty couples were involved, some attending for one mediation session only, and others for two or three. Four mediators were involved, two of whom were in training, and two of whom, including the author, were fully accredited. The accredited mediators had a combined experience of over twenty years. One mediator was male and one was a fluent Welsh speaker. Approximately one third of the sessions were co-worked and the remainder were sole-worked by the two accredited mediators. Co-worked sessions, in NWFMS, take place when one of the mediators is in training for recognition with the UKFM, or when a couple presents particular difficulties for mediation, for example unusually high levels of conflict or allegations of domestic abuse.

The recordings were made using an iRiver H120 MP3 player. These digital recordings were transferred to computer and stored and edited using Goldwave software. The software also allowed recordings to be rendered anonymous by the deletion of any identifying information such as names or addresses. This was, is, and will be of particular use when using recorded excerpts for presentation or training purposes. Eleven hours of the total recorded hours were fully transcribed, using a broad orthographic method, and form the basis for the examples which I use. Throughout the examples presented in this thesis, fictitious male and female

names will be used for clients and their children, or the nouns 'mum', 'dad' or 'child': this is for ease of reading and reference. Where only one mediator is present, a simple "M" will be used to denote dialogue from the mediator; where two mediators are present this will be indicated by the use of "M1" and "M2".

In the next chapter I will begin an examination of specific examples from the data which have been collected. These examples will be discussed in relation to the concept of discourse roles.

7) Summary

Family mediation in the UK occurs within legal and professional frameworks, and in relation to other forms of dispute resolution. Clients who attend mediation should, in theory, do so on a voluntary basis and with knowledge of the other options available to them. The voluntary nature of mediation pertains to all participants and at all stages of the process: at any point, the mediator(s), or one or both of the clients, can choose to terminate their involvement.

The above factors mean that mediation is a process which is, for all those present, both clearly defined and flexible, constrained and creative. It is for these reasons that it presents a rich, and challenging, arena for the study of language.

In the next chapter I begin an examination of the data in relation to the concept of discourse roles.

CHAPTER FOUR

DISCOURSE ROLES

1) Introduction

This chapter examines the nature of discourse roles, that is the sub-categories of the two main participant statuses of speaker and hearer, or producer and recipient, which are present in any interaction between two or more people. The analysis draws primarily on the work of Thomas (1986, 2004 and 2006), which in turn draws on the work of, for example, Goffman (1979) and Levinson (1988). The overall aim of this chapter is to present examples of discourse roles, from both mediators and clients, which are as clear-cut as possible and which convey the essence of each category. It is important to point out, however, that these categories are considered to be ‘fuzzy’ in nature. That is to say that, whilst there may be ‘prototypical’ examples of each role (Labov, 1973, Lakoff, 1987), because “The boundaries of cognitive categories are fuzzy, ie neighbouring categories are not separated by rigid boundaries, but merge into each other” (Ungerer and Schmid, 1996: 19), there are also examples which are less easily classified.

The examples in this chapter will also demonstrate some of the *motivations* underlying an individual’s choice of a particular producer discourse role and their concomitant assignment of the others present in the interaction to specific recipient discourse roles. There are a number of factors underpinning these choices. Firstly, there is the ‘institutional’ nature of the interactional setting, the characteristics of which are outlined by Drew and Heritage (1992: 3) as interactions which are “basically task related and [which] involve at least one participant who represents a formal organization of some kind. The tasks of these interactions ... are primarily accomplished through the exchange of talk between professional and lay persons ... talk-in-interaction is the principal means through which lay persons pursue various practical goals and the central medium through which the daily working activities of many professionals and organizational representatives are conducted. We will use the term “institutional interaction” to refer to talk of this kind”.

Secondly, there is the ‘goal oriented’ nature of the setting which is often conflicted in family mediation: at its most conflicted, the goals of the mediator to bring about a constructive discussion may be totally at odds with the goals of the clients to ‘win’ their case at all costs.

This sort of tension takes place within the wider context of tension between cultural and social constraints, and, for the mediators, additional professional constraints, and individual action. As Mey (1994: 264) points out “All pragmatic acts are heavily marked by their context: they are both context-derived, and context-restrained. That means, they are determined by the broader social context in which they happen, and they realize their goals in the conditions placed upon human action by that context”.

The choice of discourse role is a ‘pragmatic act’ which is designed both in relation to the flow of the interaction taking place, and to influences from the wider social context. Many utterances are designed to maintain, or challenge, the ‘pragmatic parameters’ of both contexts, that is the dynamics in relation to the relative power between the speaker and hearer; the social distance between them; the size of any imposition which is conveyed by the utterance; and the relative rights and obligations between the speaker and hearer (Thomas, 1995: 124). There are advantages to using a discourse role other than that of speaker, which will be illustrated in the examples which follow.

The following two sections outline the broad definitions of each of the sub-categories of the speaker and hearer, or producer and recipient discourse roles, before moving on, in sections four to seven, to an examination of examples from the data. Section eight briefly considers the topics of power and politeness in relation to discourse roles.

2) Definitions of Speaker/Producer Discourse Roles

Thomas (2004 and 2006) outlines five speaker/producer roles which are distinguished “on the basis of differing degrees of responsibility for the message being transmitted” (Thomas, 2004a: 2). The five categories are speaker, spokesperson, reporter, author and mouthpiece and these are described in fuller detail below. As mentioned in Chapter 1, these categories draw on the ideas of Goffman (1979) and Levinson (1988). The former delineated three producer roles, whilst the latter outlined ten, with additional superordinate categories. It is clear, therefore, that the number of producer categories is a matter of debate which centres, primarily, on notions of the origin of a ‘message’ and the manner in which it is delivered. As has also been mentioned earlier, I am particularly interested in Thomas’ ideas because I believe that they develop the concepts of discourse roles and their interrelationship with multiple meanings in a way which meaningfully and realistically captures many of the

complexities of authentic language use. Her ideas emphasise the motivations underlying language choice and the creative, as well as constrained, nature of interactional language use.

Thomas (2004a: 2) defines a speaker as “The default term for the person who is currently speaking, and who, unless indications are given to the contrary, is assumed to be speaking on her/his own behalf and on her/his own authority”. This is the most straightforward speaker/producer role in that the locution, illocution and authority for an utterance lie with one person only.

In order to understand the following three speaker/producer roles, it is necessary to first introduce the category of author. “The term author is used to distinguish the originator or authority behind a speech act from the person who actually delivers it” (op cit: 3). This role is not, in fact, a physically speaking role, but encompasses the idea of an individual’s message being relayed, by choice or not, through another.

A spokesperson prototypically speaks on behalf of one or more people. They may not relay a message word-for-word but will endeavour to relay any illocutionary intent of the person/people they are representing, that is to capture and express the ‘spirit’ of the message. From the hearer’s perspective, a spokesperson is usually deemed to have some personal investment in, or involvement with, the original authors of the message. Typical examples would be union leaders at the negotiation table with employers, or media interviews with ‘talking heads’ who are invited to speak on behalf of an organisation such as the Conservative Party, or the Chamber of Commerce or Compassion in World Farming.

A prototypical mouthpiece will typically relay the message of another/others in a more impersonal manner. There is often the use of reported direct speech, that is those utterances in which an interactant, “quotes the words used [by another] verbatim” (Leech and Short, 1981: 318). It is usually assumed that a mouthpiece has some form of connection with the author and a mandate to speak on her/his behalf in the exercise of authority, either of the mouthpiece or the author. A typical example would include a middle manager passing on instructions from higher management to employees, but without any personal involvement in the decision-making underlying the instruction. Or, on a more domestic level, the words of an adult being used by children as in “Aunty Chris says the rule is that whoever gets to sit on the bouncy chair, the other one has the puppy” (the latter example stemming from a hasty improvisation on

a Christmas Day when the younger children present were arguing over two gifts which were proving to be especially exciting). It will be seen, in a later section of this chapter, that the notions of direct speech and mandate can give rise to utterances which seem to fit neither criterion.

The typical reporter discourse role “differs from other ‘relayers of illocutionary acts’ in that s/he has no mandate of any kind from the author and does not represent the author, but instead has self-selected to report an act” (op cit: 2). So, in effect, a person speaking in the reporter discourse role is not necessarily held to be closely connected to the author of any message relayed, or to represent their views in any accountable way: by virtue of having selected themselves, it is usually recognised that interactants in the reporter role have also been selective about the information or message they have chosen to convey. The most obvious example is those individuals in the media whose employment title actually includes the word ‘reporter’.

3) Definitions of Hearer/Recipient Discourse Roles

Thomas (2004b and 2006) distinguishes four hearer/recipient discourse roles. A key concept in these distinctions is that of Goffman’s (1979) concept of “ratification” in an interaction. A hearer/recipient is a ‘ratified’ member of the interaction if they are: a) known to be present; and b) addressed, either directly or indirectly. They are participants who, “Throughout the course of the encounter ... will be obliged to sustain involvement in what is being said” (Goffman, 1981: 130).

The addressee is the default term for the “principal receiver” (Thomas, 2004b: 1), that is the person to whom an utterance is directly addressed. The role of addressee is characterised by both the ‘right’ to, and expectation of, a response in an interaction. Conversation Analysis, with its interest in questions such as “How do people take turns in conversation?” and “How is it that conversation generally progresses satisfactorily from one utterance to the next?” (McCarthy, Matthiessen and Slade, 2002: 61) provides illumination on how interactants understand who, precisely, is the individual hearer whom a speaker is treating as the direct addressee and, therefore, who is expected to take the next turn. Jaworski and Coupland (2001: 20), referencing Sacks, Schegloff and Jefferson (1974) draw attention to behaviours which are particularly relevant to the multi-party nature of mediation interaction, that is the way in

which “Speakers themselves may signal their willingness to give up the floor in favour of another speaker ... by directing their gaze towards the next speaker and employing characteristic gesturing patterns synchronising with the final words”.

An auditor, “with audience as subdivision” (Thomas, 2004b: 1) is a person or persons whom a speaker knows to be present. As Bell (1993: 91) points out, such people are “parties in the group who are known and ratified but not addressed”. Nevertheless, the presence of auditors may result in a speaker designing an utterance which indirectly involves them: this is almost always the case in Complex Illocutionary Acts, an assertion which will be examined later in this thesis. Whilst auditors are ratified participants in an interaction, their ‘right to reply’ is attenuated in comparison to an addressee. The degree of attenuation is usually related to the number of auditors present: at one extreme, one auditor may simply ‘butt in’ to an exchange between a speaker and addressee; at the other extreme, in an audience of many, there may be strict protocols in relation to the right to reply.

A bystander is a person who is known to be present but is not ratified in terms of participation. An eavesdropper/overhearer is a “receiver of talk, whose presence is not known by the speaker” (op cit: 1). Clearly, therefore, the presence of such people does not impact on what the speaker chooses to say.

In terms of the data which are being studied, the categories of bystander and eavesdropper/overhearer do not occur, simply because of the nature of the setting.

4) Examples and Analysis of the Speaker Discourse Role from the Data

As mentioned in the previous chapter, throughout the examples presented in this thesis, fictitious male and female names will be used for clients and their children, or the nouns ‘mum’, ‘dad’ or ‘child’: this is for ease of reading and reference. Where only one mediator is present, a simple “M” will be used to denote dialogue from the mediator; where two mediators are present this will be indicated by the use of “M1” and “M2”. All transcriptions are presented using a broad orthographic method.

1) M *Have a seat, erm, just to remind you of the sort of ground rules ...*
(*chDCLC(1): "1":1*)

2) M ... so the note from today's meeting, I'll send a copy to each of you two
(chDCLC(1): "2":35)

The above two examples are straightforward speaker roles, bearing in mind that, by default, the speaker role also encompasses the author role. Here the mediator is speaking on behalf of herself and no other person, and with her own authority. In both cases there is only one hearer role, that of addressee: both clients are being simultaneously addressed directly.

In terms of the hearer roles, the mediator on line 1) is directly speaking to both clients in the role of addressee: they have just both entered the room. On line two, which occurs towards the end of the session, she is informing both parties of what she, the mediator, intends to do after the meeting.

On lines three and four below, the mediator's utterances designate one party, Laura, as the addressee, with David as the auditor. In addition to eye gaze, this is indicated by addressee terms such as the use of the second person singular pronoun, and the syntactical use of the other party's first name in the position of indirect object.

3) M *Erm, so I've just been having a brief chat there with David, same as I did*

4) *with you ...*

(chDCLC(1): "3": 1)

So, whilst the mediator's role remains that of speaker, that is she is speaking on her own behalf, the hearer roles are not the same for both parties. We see the beginnings of the strategic use of multiple meanings here, albeit in a very simple form: much more complex examples will be examined in the following chapter. The mediator's utterances are straightforward statements and so is the underlying meaning or illocutionary intent. These statements occur within the first minute or two of the mediation session and whilst, on the surface, they are simply conveying what the mediator has been doing, they are also designed to reassure both parties that the process is transparent and that nothing 'underhand' is going on. In other words, the mediator intends to convey, without expressly saying so, that she has not entered into any secretive private dialogue with either party, and that they are both being treated equally. It is actually quite important that mediators perform such reassurances as

clients can become very suspicious of any one-to-one encounters between the practitioner and the other party. In a sense mediators are seeking to avoid inadvertently achieving the effect noted in Greatbatch and Dingwall (1998: 121-122), and with reference to Goodwin (1987), in which a speaker can deliberately contrive an utterance which places one hearer in the discorsal identity of “‘knowing recipient’ and the other participants as ‘unknowing recipients’”.

In the next section I will examine the discourse role of reporter, but before doing that, I will present below an example from a client which illustrates the salience of these speaker distinctions for ‘ordinary’ interactants. It also flags up the fuzzy nature of such roles.

The couple in question are attending their first session and the mediator is trying to determine the agenda for the meeting, and the priority which should be given to the topics presented by the couple. She has asked the female client, Catherine, a question.

- 5) M *So which is the most pressing problem for you, the children or the finances ...*
6) C *I think the finances are more pressing for him, well, I can't speak for him*
(vochCEDE(1): "1": 2)

The client has been asked a direct question which invites her to respond on her own behalf, that is to answer in the role of speaker. She chooses, however, to begin with a statement which casts her in the role of reporter, with the mediator as addressee and Derek, her husband, as auditor. I would classify her initial response as that of reporter, rather than that of spokesperson or mouthpiece, as Catherine has, self-selected to speak on her husband's behalf: certainly he has not given her a mandate to do so. In addition, the mediator has invited Catherine to express her own views and not those of her husband. This kind of language behaviour is fairly common in mediation sessions but is not something which a mediator will leave unchallenged. In the event, the mediator does not have to intervene as Catherine quickly realises that she is not answering the question in speaker role, as evidenced by the second half of her statement where she directly acknowledges that she *"cannot speak for him"*.

5) Examples and Analysis of the Reporter Discourse Role from the Data

In the following example, the discussion has been focussed on the arrangement for the former family home. David and Laura have decided that David will remain in the house and take over full responsibility for paying the mortgage. Laura will get an agreed share from the future value of the property when it is eventually sold. This is a fairly common arrangement which is legally binding: the timing of the future sale of the property is usually dependent upon certain 'trigger' events, such as when the youngest child reaches eighteen or completes full-time education, or if the party remaining in the property remarries. The discussion so far has indicated that both parties are satisfied with this arrangement, which has its benefits and drawbacks for each person. The mediator has just checked out that this is the case and David replies:

- 7) D *No, that's not the issue because Laura, because Laura wants to wait ... it's not*
8) *that I particularly want her to wait*
(chDCLC(1): "4": 4)

David begins his response in the role of reporter: he self-selects to make an assertion about Laura's wishes and feelings. He completes his contribution with a statement in speaker role, that is an assertion about his own wishes. The juxtaposition of the two roles serves to highlight David's aim to present himself as fair and reasonable. In both producer roles, the mediator is in the recipient role of addressee and Laura in the role of auditor.

Interestingly, his subsequent contribution to the discussion is again in the role of reporter of Laura's views, but with a switching of recipient roles between the mediator and Laura halfway through.

- 9) D *You want to wait, because you want, because she wants to wait - she*
10) *wants the value, she wants the value of her money to go up*
(chDCLC(1): "5": 4)

The use of personal pronouns identifies the switch in recipient discourse roles. David begins by putting Laura in the role of addressee, with the mediator as auditor, before reversing the roles between them. There is no particular strategic significance to this language behaviour,

although the phenomenon can be used to pointed effect, as will be discussed elsewhere in this thesis. In this case it appears that David is simply doing what clients often do, that is oscillating between the formalities of the setting, the more familiar interactional routines that exist between the parties, and the less familiar routines which have to be negotiated when people are exiting a relationship. In Clark's terms (1997: 4-5) there is a switch between the "free exchange of turns" which characterise interactions in "*personal settings*", and those which are more characteristic of "*institutional settings*" in which "the participants engage in speech exchanges that resemble ordinary conversation, but are limited by institutional rules" (italics in original). Clark's distinction captures the mixed nature of mediation, mentioned elsewhere in this thesis. On the one hand mediators are present as authoritative and controlling third parties, whilst on the other hand, unlike the highly structured exchanges which are 'permissible' in a courtroom, they welcome and encourage direct dialogue between the parties, provided this is 'constructive'. David's utterances are a good example of the fluid nature of these interactional formalities and informalities, which are present for mediators, as well as their clients.

The following are a further two examples of the same sorts of role adoption. In this case the parties, Tamsin and Nat are discussing contact arrangements between him and their five year old daughter, Melanie. There has been an arrangement for one overnight staying contact per week, at the weekends, but Nat now wishes to increase this to include an overnight contact in the week as well. Tamsin has reservations about his proposals. The examples occur during the initial stages of the session, where each party is asked, in turn, to outline their views and issues. Tamsin makes a lengthy contribution during which she states:-

- 11) T ... *he didn't want that for Melanie, he didn't want to have her overnight in the*
- 12) *week, he just wanted sch... He, he accepted the school holidays/weekend*
- 13) *arrangement or whatever ...*

(dhNATA(1): "1": 4)

Again, I categorise this producer discourse role as that of reporter as Tamsin self selects to describe Nat's wishes. The specific characteristics of other producer discourse roles, as distinct from that of reporter will, hopefully, become clear in later sections of this chapter.

In the second example from this couple, there is the recipient role switching as mentioned above in relation to David and Laura.

- 14) L *When you first left, he said he would not want to disrupt her week when she is*
15) *in school ...*
(dhNATA(1): "2": 4)

Tamsin begins by directly addressing Nat, as indicated by the second person singular pronoun "you", thus assigning the mediator to the role of auditor. She quickly switches these recipient discourse roles, whilst remaining in the producer role of reporter, by referring to Nat in the third person singular pronoun "he". The mediator has now become the addressee and Nat has become the auditor. Again, I see no particular strategic significance in this example: in my view it simply illustrates how the parties' use of discourse roles reveals their orientation to what they are saying, from a less formal exchange directly between themselves, to a more formal interaction in which the mediator is the addressee.

When children are the subject of discussion, everyone present will seek to speak on behalf of the children involved. The producer discourse roles adopted cover most of the range available and it is not always easy to distinguish which role is being utilised at any one time. Nor are the motivations always clear. Clients are made aware from the outset that any arrangements made must be "in the best interests of the children concerned" (UK College of Family Mediators, 2002). This is, of course, a marvellously woolly phrase which is wide open to any number of interpretations. This vagueness is often the cornerstone of disputes between mothers and fathers, or occasionally parents and grandparents, with each party asserting that it is they, and they alone, who know what is 'best' for the children involved. It is a subject which reveals the tension between an individual and her or his society. Holmes (2001: 340) defines culture as "whatever one needs to know or believe in order to function in a particular society. Culture is the basic 'know-how' we draw on in everyday life". Whilst in the UK there is a broad cultural acceptance that meeting children's needs is socially important and desirable, and that certain extreme behaviours fall outside of this remit, for example sexual abuse, there is huge variation as to what sort of other behaviours are to be categorised as beneficial or detrimental to a child's well-being.

There is also a tension between the generally accessible ‘everyday’ knowledge base of the society or culture in question, and the knowledge base of various experts within that society. Of course, further complications can arise within the foregoing distinction: sometimes, certain elements of ‘expert’ knowledge can become widely accepted by the general public, whereas professionals of whatever calling may be aware of, or privy to, a more complete knowledge of which such elements are merely a part.

This lack of a coherent ‘cultural know-how’ means that a client's belief in their knowledge about what is ‘best’ for their child may be genuine and benign, genuine but misguided, or, sadly, not genuine and based more on personal need and convenience, or a wish to hurt the other party. In the latter scenarios children become, to use the cliché, pawns in a game, a game which is often based on power, an issue which I will discuss in further detail in later parts of the thesis. In the absence of specific cultural or societal expectations, (or indeed legal or professional clarity), and with varying motivations for clients’ claims to be acting in the best interests of their children, mediators need to take particular care: they too operate “within a value context” (Haynes, 1981: 131-132) which, on this particular issue, is just as likely to be personal as professional.

But, for the purposes of concluding this section on reporter roles, I present two examples below, again taken from the session with Nat and Tamsin. Both are seeking to argue their case and justify their opposing points of view by reference to their daughter.

16) N *...when I take her back on a Wednesday she quite often doesn't want to go*
(*dhNATA(1): "3": 2*)

17) T *I just think she's getting too mixed up*
(*dhNATA(1): "4": 4*)

Both parents are expressing different views about the wishes and feelings of their child. It is, of course, possible that they are both right.

In summary, then, the reporter discourse role is characterised by four main elements:-

- a) The views/opinions/feelings which the individual expresses are, or are claimed to be, those of another person, and not their own;
- b) The individual expressing another's views has self-selected to do so, that is the other person has not made an explicit request, or given a specific mandate, for this representation;
- c) The individual expressing the views does not claim to be conveying the actual words used by another person;
- d) The individual expressing the views does not necessarily lay claim to sharing them.

The other person whose views are being represented may or may not be present during the interaction, and they may or may not be the addressee. When the represented party is present there is potential for the reporter role to blur into that of the reflecter role, a concept which is discussed in full in the next chapter.

6) Examples and Analysis of the Spokesperson Producer Role from the Data

Quite often, examples of this role in mediation occur when one person speaks on behalf of both parties. In the following example, the couple, Maria and Judy, have been asked to identify what each of them feels are the main issues to be discussed at the session. Mediators often ask clients to respond to questions separately, whilst expecting that this will not necessarily ensue. In this instance, Judy's response includes the following:-

- 18) J *Erm. we've just got, er, a joint property that we need to sort out at the*
 - 19) *moment, and belongings and stuff in the house. Apart from that I don't*
 - 20) *know what else needs sorting out, but we obviously won't agree on it*
- (dhchMJJW(1): "1": 1)*

Judy's adoption of the spokesperson discourse role is indicated by her use of the first person plural pronoun "we". By the use of this pronoun she includes Maria, and not just herself, in the opinion which she is expressing. This obviously raises questions about power, which will be addressed later in this chapter, and elsewhere in the thesis. Judy switches to speaker role halfway through, indicated by the use of the first person singular pronoun "I", before reverting to "we" at the end of her contribution. Note the contentious nature of her final utterance in which, purporting to speak for both parties, she predicts that no agreement will be reached. This is a multi-layered utterance, in other words a complex illocutionary act, and is an

example of the kinds of utterances which will be discussed in later chapters. In terms of recipient discourse roles, the mediator remains as the addressee, and Maria as the auditor, throughout.

Judy's contribution contains two separate elements which are encoded in her use of the plural pronoun "we". Spencer-Oatey and Zegarac (2002: 75) point out that "Modern approaches to pragmatics recognize that human communication largely exploits a code ... but they also try to do justice to the fact ... that human communicative behaviour relies heavily on people's capacity to engage in reasoning about each other's intentions, exploiting not only the evidence presented by the signals in the language code but also evidence from other sources, including perception and general world knowledge". To a certain extent, Judy's first sentence is to be expected: she is talking about a topic which would sound unusual if she did not use the pronoun "we". This sentence also draws on cultural understandings that a property which is 'jointly owned' carries with it certain legal complications, and institutional understandings that this is an appropriate matter for mediation. Her use of 'we' in the second sentence, however, falls firmly into the category of personal perception, couched in terms of a shared perception with Maria. The use of the spokesperson producer role in such instances constitutes something of a 'throwing down of the gauntlet' to the other party, who is left with two choices: to directly or indirectly challenge the assertion, thus rejecting the representation which has been made on their behalf; or to let it go, thus tacitly accepting the version of events which has been put forward.

These are critical moments in any mediation session: such utterances may provoke reactions from either the mediators or the other party; or the hearers may choose to 'wait and see where the utterance is going', somewhat along the lines of Cicourel's (2001: 92 [1973]) "*Retrospective-prospective sense of occurrence*", that is the notion that "Routine conversation depends upon speakers and hearers waiting for later utterances to decide what was intended before". Particularly in mediation, this form of language behaviour also has an element of 'testing the water', in addition to any challenge. Very often, clients are not quite sure about the issues, or details of issues, which the other party is going to bring up. In addition, if one party is considering some form of concession, they may not want to state this openly until they have a sense of how it will be received. Thus there is an undercurrent of each participant assessing the reaction of the others, before deciding how to proceed. In turn,

each participant is assessing whether or not they should react and, if so, the precise form that reaction should take.

The next two examples come from a session with one of the couples mentioned earlier, Catherine and Derek. As parents, they are concerned about how to break the news of their proposed separation to their teenaged children, Tim and Meg. Catherine, in particular, wants to be clear about how this will be done.

- 21) C *We'd already agreed what we were going to say to them but ... but I*
22) *think we need to be clear between us how we answer questions*

And Derek responds:-

- 23) D *Yeah well, we had intended to ... tell them that ... round about mid*
24) *June after Tim's exams, but we haven't done that. We discussed, I*
25) *think, it a few weeks ago and decided to say, to say nothing really*
(vochCEDE(1): "2": 2)

Both Catherine and Derek adopt the role of spokesperson in these examples, with the mediator as the addressee and the other party as auditor. It is important to note that these examples, and that of Judy mentioned above, reveal a characteristic of a specific kind of spokesperson role. Unlike, say, the 'official' representation which a lawyer may make on behalf of a client, this form of spokesperson includes the speaker as well as another party in the views being expressed. It is this self inclusion which distinguishes the role from that of reporter: it carries more 'authority', or at least aims to do so, than the role of reporter. The authority conveyed is, perhaps, of a more subjective nature than that of an appointed representative, but it is nevertheless there. As mentioned above, when the other party is present, and depending upon the power dynamic between the parties, this authority may be challenged by the 'represented' client, and will certainly be addressed by the mediator. In fact the tackling of this kind of 'couple speak' is an important way in which practitioners seek to minimize power imbalances between clients with utterances such as "is that what you also think?", or "is that your view/understanding of the situation?".

Mediators also use the second person plural pronoun "we", typically to refer to a variety of collective groupings, as the examples below demonstrate. Schegloff (1992), with reference to the ideas of Sacks (1972) discusses the notion of collective groupings and raises a point which has particular salience for the motivational use of discourse roles. Whilst his emphasis is on the ways in which a speaker may describe groups of other people, and he does not make specific reference to the use of personal pronouns, he does observe "Some principle of relevance must underlie use of a reference form, and has to be adduced in order to provide for one rather than another of those ways of characterizing or categorizing some member" (Schegloff 1992: 112). If this idea is developed to include self-reference, we come close to the concept of speaker discourse roles and their strategic application. In identifying particular discourse roles, and seeking to infer the motivations underlying their use, we can, in turn, go some way to addressing "the problem of *showing from the details of the talk or other conduct in the materials* that we are analyzing that those aspects of the scene are what the parties are oriented to. For *that is to show how the parties are embodying for one another the relevancies of the interaction and are thereby producing the social structure*" (op cit: 113, italics in original). These ideas will be elaborated in relation to the examples which follow.

26) M1 *Right, so we might as well get started, there's no need to wait*
(vochCEDE(4): "1": 4)

27) M2 *... we've been looking at the file in the meantime and we notice that*
 28) *there isn't an agreement to mediation ... we don't seem to have one*
(vochCEDE(4): "2": 2)

29) M *We'll send you out a little note from today*
chDCLC(1): "6": 39)

In the first example, mediator one is using "we" in the role of spokesperson for all present, that is two mediators and two clients. This assigns the same recipient role of addressee to the co-mediator and both parties. The utterance occurs after some preliminary paper shuffling and at a point when mediator one has decided that it is time to commence mediating. As with many of the examples presented, there are observations to be made regarding the exercise and expression of power and politeness, that is the motivation for the specifics of language choice, but these will be discussed in the relevant section of this chapter. In the second example, from

the same session, mediator two uses "we" to speak on behalf of herself and her co-mediator. The third example is taken from a session with a different couple in which there was only one mediator. Nevertheless, the mediator uses the plural "we" in explaining what will be done after the session. The spokesperson role here is used to encompass the fact that the production and sending of notes from the session is a collaborative effort, involving not just the mediator but other members of the mediation service as well.

All three of these examples are oriented to the enactment of the institutional roles of mediator and client, but each highlights a different element of relevance in the ongoing interaction. The first use of "we" emphasises the collaborative nature of mediation, that is the idea that practitioners and couples are working together to solve a problem. The second use distances the mediators from the couple, and reinforces the controlling aspect of mediation. The final use is more neutral, in that it simply seeks to convey the practical fact that it is not the mediator herself who will be typing and posting the notes from the session.

A further variation on the spokesperson role is found, in mediation, in the views and opinions expressed by all participants on what is in the best interests of children. This is distinct from the "we" form of spokesperson mentioned above in that the people whose views and feelings are being represented, that is the children involved, are not present. The opinions expressed routinely draw on a small number of 'expertise' variations, but, as mentioned earlier, interpreted in any number of individual ways, and relate to children along a continuum ranging from highly personalised to highly abstract. There are many, many elements which are brought together in the discussion of children, from a large number of linguistic and non-linguistic perspectives, and which are intricately enmeshed. The following examples will serve to illustrate some of these points, particularly in relation to what Llamas and Stockwell (2002: 150), as part of their definition of sociolinguistics, describe as "the linguistic indicators of culture and power", and Schegloff (1992: 110) describes as the "lively sense of the occasions on which who the parties are relative to one another seems to matter, and matter to *them*" (italics in original).

30) Mum *It's Meg that I'm particularly bothered about. Meg ... being at home,*

31) *Meg not unreasonably expects a family meal*

(*vochCEDE(4): "1": 37*)

32) Mum *I just don't feel that it's in a child's best interests to have different*
33) *places to stay in the week, school nights*

(dhNATA(1): "1": 3)

34) Dad *Well I've only done that because she wants my – I've got a new*
35) *mobile phone – kids like mobile phones*

(dhNATA(1): "1": 11)

36) Dad *This is all about hurting me and the only person you're hurting is*
37) *Jasmin, and it's wrong*

(voJMCL(1): "1": 7)

38) Mum *... you don't chase children ... up and down car parks*

(voJMCL(1): "1": 8)

39) Mum *My daughter doesn't want to move out [of] where she is. She wants to stay*
40) *in the sort of area, if we can afford to, because she's got friends there*
41) *and she's got school, erm ...*

(dhchMJJW(1): "1": 19)

42) M *... the fact that you do speak and that Melanie sees that – you, you're*
43) *absolutely right – that's really good and that's really positive for your*
44) *child*

(dhNATA(1): "3": 4)

45) M *Well, I think it's fair to say that you, you constantly have to, erm,*
46) *re-look at ... contact arrangements. Whatever's right for a 5 year old*
47) *is not gonna necessarily be right for a 7 year old ... a 10 year old,*
48) *when she gets to her teenage years. It all changes, you have to just*
49) *keep revisiting it*

(dhNATA(1): "1": 6)

I have provided quite a few examples of the spokesperson role in relation to children in order to reflect the various guises in which it is usually presented, by both clients and mediators. As

can be seen, these range from reference to the particular child in question by her/his personal name, as in lines 31, 38 and 43, through labels such as “*my daughter*” and “*your child*” on lines 40 and 44, to the rather more abstract and generalised terms which relate to children in general such as “*a child*”, “*kids*” and “*a 5 year old*” on lines 33, 36 and 46.

I find it difficult to unscramble all of the nuances which are conveyed by these differing terms but believe that there are a number of observations which can be made and which touch on some further points made by Schegloff (1992 110). In his elaboration of how interactants relate to each other he draws attention to how speakers and hearers orient to “senses of ‘who they are’ that connect directly to what is ordinarily meant by ‘social structure’ – their relative status, the power they differentially can command, the group affiliations they display or can readily have attributed to them such as their racial or ethnic memberships, their gender and age-grade status, their occupational status and its general standing and immediate interactional significance, and the other categories of membership in the society which can matter to the participants and which fall under the traditional sociological rubric ‘social structure’”. I would wish to include the social structures of ‘coupledom’ and ‘parenthood’ to Schegloff’s list on the basis that they carry cultural and legal expectations and notions in relation to status, knowledge and behaviour. The use of the spokesperson role often carries with it implicit claims which relate to various combinations of the elements outlined above.

For example, the use of nouns such as ‘daughter’ and ‘child’, coupled with a possessive determiner, serves to highlight the **relationship** between the parties and the child in question, and carry with them claims to specialist parental knowledge and authority. The use of terms which refer to children in general seem to reflect some sort of claim to culturally unassailable knowledge about **all** children. The use of the child’s personal name seems to be a powerful way of ‘bringing the child into the room’: it conveys a focus on this **particular** child, as a person in his or her own right and emphasises the speaker’s claim to be focussed solely on the child’s needs. To speak on behalf of any person implies a degree of knowledge and authority: the particular expression which is used to verbalise the spokesperson role conveys the authority which the speaker is assuming and the elements of their social persona which they consider to be relevant to this authority.

The choice of expression is usually strategic and made for many reasons. The spokesperson producer discourse role, perhaps more than any other producer role, serves to signal what

Fairclough (1992) termed “interpretative repertoires”, Cicourel (2001: [1973]) termed “interpretative procedures” and Gumperz (2001 [1977]) termed “interpretative frames”, that is, broadly speaking, the shared sociocultural knowledge which a speaker is seeking to bring to the interaction at any given point in time. For example, when a mediator refers to a child by name, this can be used to re-focus a discussion in which the parties have become preoccupied with their own interests and conflicts, rather than the needs of the child involved: this is done on the shared understanding that ‘good’ parents give priority to the needs of their children and that mediation and the law seek to promote their welfare. When a client talks about ‘my child/daughter/son’ there is an emphasis on their expertise as a parent: quite often there is another level of meaning, directed at the other parent, which could be paraphrased as something like ‘I know my child better than you do’. Of course, the whole use of ‘my child’ or ‘your child’, rather than ‘our child’ carries many subtle meanings.

The use of spokesperson in the more abstract form is often, I believe, used for different reasons by mediators and by parents. The mediator’s use will often carry, usually implicitly, some unspecified claim to ‘expert’ knowledge about children. Sometimes the use is more explicit as in ‘the literature shows time and again that it’s not the separation or divorce itself which causes lasting damage, but exposure to prolonged conflict’. This is a statement which I regularly make, although no example occurred in the transcribed data. Note, however, that whilst I make some claim to the nature of the authority underlying my utterance, it is still fairly vague. When parents adopt an abstract version of the spokesperson role this is usually based on some generalised ‘common sense’ knowledge of children: strategically, it is almost always used as a defence of, or justification for, the ‘rightness’ of their opinion as opposed to the opinion of the other parent. The above is but a cursory glance at the variations of the spokesperson discourse role. I believe that this role alone has scope for much more detailed research than is possible in this thesis.

One final point which I would like to make in relation to this role, and not specifically in relation to children, is that it appears to be crucial to mediators’ efforts to maintain a semblance of impartiality towards the parties and neutrality towards the outcome of the process, whilst, in fact, “seeking to guide disputants toward an outcome that *they*, the mediators, regard as acceptable” (Greatbatch and Dingwall, 1989: 613, italics in original). There is absolutely no doubt that mediators do ‘take sides’: what they aim to do, however, is avoid expressing this in any overt or personalised manner. This is routinely expressed by

adopting the role of spokesperson for any number of outside agencies, for example lawyers, various government agencies such as the Benefits Agency or Child Support Agency, the Courts, the Law, Social Services, child psychologists and more, including knowledge and experience gained as a professional mediator. This point will be examined in more detail in the chapter dedicated to mediation techniques.

7) The Discourse Role of Mouthpiece and the Use of Reported Direct Speech

Thomas (2004a: 2) describes the mouthpiece role as one in which “The person ... relays – usually verbatim – the author’s message”, and in which “there is no direct channel link between the author and the receiver” (op cit: 3). It is a producer discourse role which is often “signalled by the use of modality alone” or serves to invoke “social or institutional norms or existential truths” (op cit: 3) as the authors of the message being conveyed. I would point out that, as with all of the discourse roles which she proposes, the characteristics mentioned above apply to **prototypical** examples.

Thomas (2004a) appears to have in mind utterances which are somehow mandated by the author (when there **is** a specific author) for delivery by another: she gives as examples, (op cit: 3) “But I tell you, you’re to come down, Miss, this minute: your mother says so” (The Mill on the Floss, Chapter VII); “The regulations clearly state that all course work has to be submitted by the Senate deadline”; and “You can’t go around insulting people” or “I must ask you to be quiet” when relaying a message from some ‘higher authority’, rather than speaking on behalf of oneself. There is no doubt that, as Thomas points out, the use of the mouthpiece producer role “has the effect of distancing the utterer from what is being said”, the speaker being “merely the passive transmitter of something with which s/he may or may not agree” (op cit: 3).

Thomas’ (2004 and 2006) initial description of the mouthpiece role focussed particularly on the notion of a clearly authoritative author as the originator of the message being conveyed. She discussed the use of reported direct speech utterances specifically in relation to this role, but did not exclude their use in other roles (personal communication). In analysing the data, however, I came across utterances which, whilst not strictly conforming to the notion of hierarchically derived quotations, nevertheless appeared to be distinct from other producer roles simply by virtue of their use of direct speech reporting of another’s utterances. This was

a subject of some discussion, primarily centring on whether or not the use of true, or ostensibly true, direct speech reporting by a speaker on behalf of another signals something more than that of the reporter or spokesperson roles. The ‘something more’ has to do with an increased sense of authenticity and immediacy. I believe that these are some of the main reasons for a speaker choosing to deliver an utterance in this way, rather than in the role of author/speaker, reporter or spokesperson. They not only serve as distancing devices between the speaker and the originator of the message, but also seek to increase the power of the author’s voice. As such, the examples carry an implicit emotional investment in what is being quoted, unlike Thomas’ archetypical examples of strategic distance. I will elaborate these ideas in relation to the transcripts which follow.

- 50) Mum *I’m very worried because, as we expected, things have started to slip*
51) *out, and I had to answer questions from Meg like “are you and dad*
52) *really not getting on?”*

(vochCEDE(1a): “3”: 2)

- 53) Dad *I mean, without any prompting from me it was “I miss you daddy”*

(voJMCL(1): “1”: 36)

- 54) Mum *I mean she was talking to her friends last night in the back garden and*
55) *their parents are, are divorced ... and she said “How, how come*
56) *they’re friends? How come mummy lets him in the house?”*

(dhNATA(1): “5”: 4)

- 57) Mum *And then, and then – she sort of got a bit confused – but at one point*
58) *during things she was like “I want to be with daddy and I want to be*
59) *with you and I can’t decide” and she just burst into tears*

(dhNATA(1): “1”: 9)

- 60) Mum *... coz in the school holidays she was like, well, “Where am I staying*
61) *tonight mummy?”*

(dhNATA(1): “2”: 9)

- 62) Dad *There are some things I’m not happy about you discussing with*

63) *Melanie, er, I mean the comments that Melanie's made in terms of, erm*
64) *"Mummy's gonna get some money to, to pay you, to buy you out the*
65) *house". Melanie's five, she doesn't need to know, and doesn't*
66) *comprehend mortgages, who owns what, and that's not a discussion*
67) *that a five year old should have*

(dhNATA(1): "1": 12)

68) Dad *... and I said to Melanie, "Well you'll have to talk to mummy about*
69) *that" and, erm, she said "Well I've spoken to mummy and she*
70) *said, erm, it was your decision to leave"*

(dhNATA(1): "2": 12)

71) Mum *...and she was sat on the toilet ... for some reason "Wonder what*
72) *daddy's doing now". [I said] "Daddy's fine, daddy's grown up".*
73) *[She said] "No, daddy cries when I'm not there" and after talking to*
74) *her for ages she was sat on my knee on the side of the bath and she*
75) *was inconsolable*

(dhNATA(1): "1": 13)

Clearly, the above examples are all very personal in nature, that is they are utterances made by parents in relation to their children, and as such, they do not fall neatly into Thomas' (2004a) ideas about the discourse role of mouthpiece. On the other hand, they are all examples of putatively direct speech reporting from the original authors, namely the children involved. It is the allegedly direct speech reporting nature of the utterances which causes me to consider classifying them as being delivered in the discourse role of mouthpiece, rather than those of reporter or spokesperson. There is something in such utterances of what Brown and Levinson (1987: 106) describe as the "vivid present".

Interestingly, and in contrast to Thomas' (2004 and 2006) notion of this discourse role as being something of a distancing and rather formal method of delivering messages, Brown and Levinson (op cit: 107) categorise "The use of directly quoted speech rather than indirect reported speech" as a feature of the positive politeness strategy of "intensifying interest to H". I believe that the examples provided above demonstrate how such intensification can be expressed in reality, and also shed light on some of the motivations for employing this form

of expression. I find many of the examples haunting and highly evocative of a child in deep distress at what is happening to her/his parents and of their struggles to come to terms with it. Some of the latter examples are from a lengthy stretch of interaction, which is too detailed to analyse here, which painfully reveals the difficulties for parents of trying to explain to a child what is happening without inadvertently (or deliberately) causing additional hurt and worry. It also reveals the huge potential for misunderstanding between parents when a child passes on what has been said without context, or repeats their misunderstood version of what they have been told.

The latter point also helps to explain why interactants sometimes choose to quote themselves, as illustrated on lines 68 and 72. In my view, when a speaker quotes him/herself, it often achieves the effect of reinforcing a sense of truth about what is being conveyed, or at least an attempt to create such an effect on the listener. There can also be an element of self-quotation being used to license a speaker's departure from one of Leech's (1983) proposed "maxims of politeness", namely the maxim of modesty, which exhorts a speaker to "minimize praise of self" and "maximize dispraise of self" (op cit: 136). In mediation, for example, a parent's direct speech reporting of something they have said to their child often carries with it the implication of responsible parenting, and an invitation to be viewed as a 'good' father or mother.

In my opinion, there is an argument for utterances which present, in the form of direct speech reporting, the words of another, to be categorised separately from utterances which indirectly convey those words. This is because I believe that there are different speaker motivations underlying the choice of expression of what someone else has said, and these are related to the different effects on the hearer. The direct speech report form of the author's views carries with it greater immediacy and authenticity, whether this is for reasons of increasing or decreasing the distance between the speaker and the hearer. Whatever the speaker's intention, the effect on the hearer of using the vivid present is that "it pulls H right into the middle of the events being discussed" (Brown and Levinson (1987: 106). I would argue that direct quotations achieve this effect more powerfully than indirect reports and agree with Thomas' view (personal communication) that the mouthpiece discourse role is more appropriate than any other producer role in terms of accommodating the varying motivations for, and linguistic realisations of, a speaker choosing to quote the words of another.

8) Power and Politeness

Power and its enactment is such a recurrent theme in mediation, as in many interactional settings, as evidenced by the research of, for example, Dingwall (1988), Hutchby (1996) and Holmes and Stubbe (2003), that I have devoted a chapter to its analysis, in conjunction with the analysis of politeness. At this point, however, I would like to make some general points which are generated by the examples used above and my reasoning for considering the topics of power and politeness together.

In very many instances where the use of some form of politeness can be identified, so too can an underlying element of power. By their nature, any discourse role other than that of speaker involves some degree of distancing between what is being conveyed and the speaker her or himself. From the data I have been analysing it appears that, whilst the effect can be more or less face threatening to the addressee, the use of a discourse role often serves to somewhat deflect the sense of **immediate** threat, or perhaps I should say the **interactional** threat. So, for example, when a parent uses a report of direct speech to convey what a child has said they seek to let the child, as it were, make the point, rather than presenting an opinion in a more directly challenging way such as ‘Why the hell have you told little Jimmy that, you thoughtless, selfish, cruel so and so. You’re a bad parent’. In other words, the parent is drawing on the authority of the child, instead of, or in addition to, their own authority. Whilst this is a more powerful way of conveying the proposition in question, it is less likely to provoke a **direct confrontation** between the interactants themselves.

When a mediator makes use of the inclusive pronoun ‘we’ they are often attempting to mitigate their use of power. So for example, ‘let’s start with’ or ‘let’s move on to’ is a softer way of saying ‘I have decided that you now need to discuss this issue’. In a different way, when a mediator makes an utterance along the lines of ‘what would little Suzie want to happen’ she or he is seeking to change the topic of discussion but in a way which is more polite than, say, ‘you two are concentrating on what you want. Where is your child in all of this?’

The effect of any party’s use of outside or abstract agencies often encompasses an attempt to both increase authority and simultaneously deflect personal threat. The nature of the dialogue in this study shares elements of Thomas’ (1986) research into confrontational encounters, in

that it analyses “stretches of naturally-occurring interaction which, far from being “cooperative” in the everyday sense of that word is “confrontational” (i.e. involves a fundamental conflict of interests between the interactants) or “gladiatorial” (a confrontational interaction conducted in public and intended not only to defeat one’s opponent, but also to persuade an audience of the rightness of one’s cause)” (op cit: ii). On the other hand, the findings of this research point to a greater complexity of meaning manipulation than that outlined by Thomas. There is little doubt that the main reason for this is that Thomas’ data consisted of interactions which took place “within social institutions where the role-relationships between members of that institution are clearly defined and where the power differential and social distance between the interactants are great” (1986: 15). It is precisely because mediation is a much more attenuated institution, in terms of power, that it provides such a rich illustration of not only the more overt enactment of power, but also its much more subtle and creative verbalisation. In mediation, the issue of who has the power and what they are doing with it, is constantly being negotiated.

Thus, when a parent says something along the lines of ‘what children need’ or ‘what kids want’, they are seeking to boost the power of what they are saying whilst minimizing the more personally confrontational version of, say, ‘It’s obvious to anyone, but you don’t seem to know what is good for our (or even more confrontationally ‘my’) child’. A mediator’s reference to the abstract child is also an attempt to express power politely. When such an utterance is made by a mediator, however, there is usually implicit claim to some form of authority which is distinct from parental knowledge or common sense, an authority based on professional expertise. I would argue that it is less personally threatening to say ‘children don’t need to hear ...’ than to say ‘I think you two are harming/failing your child’.

The above points are cursory and do not begin to capture the richness and subtlety of the expression of power and politeness by mediators and their clients. As mentioned earlier, these topics will be discussed in much more detail in a separate chapter. They could, however, form a thesis in themselves.

9) Summary

The aim of this chapter has been to explicate, through examples from the data, the characteristics of the typical producer discourse roles of author, speaker, reporter,

spokesperson and mouthpiece, and the characteristics of the typical recipient discourse roles of addressee and auditor.

The chapter has also introduced some of the primary motivations and effects of a participant's use of such discourse roles, that is their **strategic advantages**, particularly in relation to the expression and enactment of politeness and power.

A final point to make is that my research has identified an additional producer discourse role to those identified by Thomas (2004a). This role has been termed the 'reflector' role. The spelling is deliberate and will be explained in the next chapter, along with a discussion and analysis of its characteristics and uses.

CHAPTER FIVE

THE 'REFLECTER' ROLE

1) Introduction

The overall aim of this research has been to test the concepts of discourse roles and multiple meanings within utterances, as outlined by Thomas (2004, 2006 and in preparation), by applying them to the analysis of original data which are situated within the complete interactional events of mediation sessions. The dynamics of the discussions which take place within family mediation sessions are of particular interest for a number of reasons. One of these relates to the mixed nature of the setting. It is formal to the extent that clients have come to a neutral place with the express intention of discussing their problems with a third party, and because, as Roberts (1997: 40) points out, negotiations in mediation “take place within the ‘shadow of the law’ (Mnookin and Kornhauser, 1979)”. And yet it is also informal in the sense that the clients are not there to be judged or told what to do, but to talk about their experiences, hopes, fears, feelings and views in their own words. Nevertheless, the formality is emphasised throughout whenever the mediator speaks: the couple are then reminded that the third party is there for a reason, namely to control the process of what is happening.

Control by the mediator is essential: without it, the couple might as well be on their own. It is accepted by all those present that talking together alone does not work or the couple would not be in mediation in the first place. And yet, whilst controlling the process, mediators have to ensure that it is the clients who control the outcome. I have mentioned before that this is by no means straightforward but my study of the data revealed a recurring kind of intervention which, in my view, embodies the essence of trying to combine these two aims. Further analysis revealed that these sorts of mediator utterances did not easily fall into any of the existing categories of producer discourse role. It became necessary, therefore, to create a new discourse role, that of ‘reflector’. The characteristics of this role, and the reason for its spelling, are discussed in the next section. Sections three and four will, for the purposes of clarity, separately examine extracts from the data in relation to the reflecter role and complex

illocutionary acts, and the reflecter role and mediation techniques. Section five will provide a summary of the main points made in the chapter.

2) Characteristics of the Reflector Producer Discourse Role

The key distinction between the utterances of this role and that of the other producer roles relates to the presence, or not, of the originator or author of the message being conveyed. Thomas' (2004a) producer roles of spokesperson, reporter and mouthpiece convey messages and information, often new but not necessarily so, from a party or parties who are not present at the interaction. I would point out that this is not explicitly stated by Thomas, although it is implied in her discussions and examples. Levinson (1988: 164), in discussing his proposals for various categories of producer and recipient roles, reviews traditional schemes as distinguishing between “speakers who speak for themselves *versus* those that speak for absent others” (italics in original). He explicitly draws attention to this assumed absence of the originator/author and the difficulties in assigning recipient status when they **are** present in the interaction.

Levinson (1988: 167) argues for the need of “some term for third parties who are neither audience nor absent”. He goes on to itemise, in table form, a number of categories of the speaker and hearer discourse roles, which, amongst other variables, take into account the effect of a present, rather than absent, author/originator of a message who is not the current speaker. Unfortunately, a tabular representation of this kind can lead to a proliferation of concepts and variables in contravention of the principle of ‘Occam’s Razor’; it can also give the impression that the entities contained in the table are discrete.

The reflecter role which I am proposing is specifically related to situations in which the original authors of what is being said by the current speaker are present in the interaction. As such, it is a discourse role which conveys information from the recipients themselves. In other words, whilst the other producer roles **pass on** information, the reflecter role **passes back** information. Unlike Levinson (1988), however, I specifically acknowledge and describe the ways in which the reflecter role can, and often does, encompass other discourse roles.

When a producer chooses to use the role of reflector, they can pass back information which they have received from the other party or parties present in one of three main ways, or a combination of them. In terms of manner of delivery, the reflector may pass back information using more or less the same words which the recipient has previously used; they may retain the full meanings of the words, that is “the propositional content” Thomas (1995: 123) but choose other words to express these meanings; or they may ‘filter’ the meanings of the recipient’s utterances (that is the original present author) and pass back only selected elements. There are a number of reasons underlying the choice of such language behaviours, which are discussed next.

One advantage of choosing to pass back the actual words used by another participant, is that they may constitute a particularly eloquent or shocking expression of an idea. For any of us, the verbatim reiteration of something significant which we have said, usually has an impact. We are allowed an insight into the feelings which may be engendered in those on the receiving end of our utterances. It is, therefore, a powerful linguistic and psychological tool. I will, of course, be looking at specific data later in the chapter but, for the purposes of general illumination now, I will include generic examples of what I am discussing. So, for example, in mediation a practitioner may choose to reiterate utterances by saying ‘so you’re afraid that you won’t see your child again’, or ‘without child support you will lose your home’ or ‘if you don’t get money you will stop all contact’. When a mediator decides to use this discourse role it is usually with a clear understanding of its provocative nature. The mediator will hope that either the author of the original message will rethink their position, or that what appears to be being ignored by one party will now be taken into consideration.

The advantages of re-phrasing or re-lexicalisation are fairly obvious, given the emotional and conflicted nature of discussions in mediation. It is often the case that what clients have to say is “associated with powerful, usually negative, feelings about each other, such as anger, resentment, betrayal, and so on” (Roberts, 1997: 77). So, for example, ‘that bastard she’s shacking up with’ could be rephrased as ‘Jane’s new partner’ or ‘I want **my** maintenance’ could be passed back as ‘you need the child support for little Ben’. What the mediator is doing is keeping the essential meaning of the message (essential for the purposes of the discussion) but choosing to pass it back

in words which are less inflammatory, that is in words which lose the interpersonal level of criticism. They are, as Thomas (1995: 78) describes it, “replacing one word or phrase with another closely related one, but lacking the supposedly unpleasant connotation”. Practitioners may, however, decide to ‘lose’ much more of the original message when feeding back what has been said.

This will occur, for example, when a client has issued a lengthy diatribe, or embarked upon a detailed itemisation of past incidents, or conflated a host of grievances into one generalised attack against the other client. This use of the reflector role tends to filter out a great deal more of what has been said, or perhaps implied. It thus implicitly rejects many issues which a party may have raised, whilst retaining the essence of the more significant matters at the heart of their disagreements. It is an intervention which requires considerable skill, if it is to be successful. The deployment of this role, in the manner which I have just described, is also a clear example of the differences between the discourse of mediators and lawyers. I am drawing on Fairclough’s (1992: 208) definition of discourse as “a practice signifying a domain of knowledge or experience from a particular perspective”. Whilst mediators will approach the experience of divorce and separation from the perspective of rapprochement and self-determination by the parties, this is in contrast to “an adversarial system [which] may exacerbate interpersonal conflict between the parties” and the actions of lawyers who may well “transform all issues and the objectives of their clients into established categories of legal conflicts of interest, simplifying them in the process, the better to gain control (Mather and Yngvesson, 1981)” (Roberts, 1997: 77).

It will be apparent that many mediation techniques are enacted by the adoption of this discourse role, including those of clarifying, summarising and reducing/diffusing tensions.

Finally, the unusual spelling has been chosen to capture the two distinctive motivations for adopting the role. Firstly, just as a mirror reflects an image, the role provides the clients with a reflection of what they have said. Secondly, when a considerable amount of filtering has taken place, the role gives rise to utterances which have required a great deal of ‘reflection’ or thought, on the part of the

producer. These utterances have to be acceptable to the recipients as an accurate and fair distillation of what they have said.

3) The Reflector Discourse Role and Complex Illocutionary Acts

In terms of complex illocutionary acts, I acknowledge that the following discussion is in anticipation of a fuller exploration of these phenomena which form the basis of the next chapter. Nevertheless, I believe that the discussions presented in this section may be appreciated without the deeper analyses which follow later in the thesis.

The first example is taken from the session with Maria and Judy. The two main issues which they wished to discuss were the former family home, and the division of house and personal belongings. The session had been going on for some time, with little progress. Both parties were displaying a lot of anger and recrimination towards each other, and neither seemed willing to let the mediators move the discussion on to possible solutions to their problems.

- 1) M1 *The contents of the house, or the stuff that belongs to Judy - what's*
- 2) *happening with that? What's stopping you two making a time that's ...*
- 3) M2 *Did you not say earlier on that you were happy for possessions to be*
- 4) *collected at a time convenient ... to you ... So, ... shall we try and*
- 5) *decide a convenient time?*
- 6) Ma *Erm, but I'd like to know what she actually wants*
- 7) M1 *Well that's my next question*

(dhchMJJW(1): "1": 4)

The first point I want to make about the reflecter role is that it often encompasses other discourse roles. So, on line 2, mediator one asks a question in the role of reporter: what she says carries the assumption, or report, gleaned from the previous discussions, that the parties cannot agree on a time. Her use of a 'WH' question constitutes a "presupposition-trigger" (Levinson1983: 181) in that the "what" of the mediator's question presupposes a 'something'. Such presuppositions "are *not* invariant to negation" (op cit: 184) and this is strategically important: in reflecting the preceding discussion in this way the practitioner (mediator) is, amongst other aims,

seeking to create an opportunity for the clients to respond with ‘Nothing’. On lines 3 and 4 mediator two adopts the reporter role, or perhaps the spokesperson role, toward Maria, repeating almost verbatim the words which Maria has already used.

The reason that I class these utterances by both mediators as being in the role of reflecter, rather than straightforward reporter or spokesperson roles, is that **no new information** is being conveyed to any of the participants. All have been present throughout the preceding discussions and are aware of what has been said so far: the clients, therefore, are hearing from the mediators what they themselves have already contributed to the discussion. I believe that the reflecter role develops and refines some of the ideas of Levinson (1988) in relation to interactions of three or more people, and in which, at any point in time, an utterance may involve the author of a message also being its recipient, either in the addressee or audience roles.

The manner in which the two mediators deploy the reflecter role is slightly different. Mediator one chooses a lexical item, ‘stopping’ which gets to the propositional core of what has been happening, without reference to the arguments and accusations which have predominated (Thomas, 1995: 123). Mediator two chooses to virtually reiterate what Maria has said because, on the surface, it suggests a willingness to negotiate. But, as the exchanges on lines 6 and 7 reveal, the mediator was aware that Maria’s willingness to negotiate was apparent rather than real. In other words, the mediators have used the reflecter discourse role to force this particular issue into the open, to try to get to the ‘hidden agenda’ as it were.

The mediators have also used the reflecter role to achieve a number of complex illocutionary acts. The question of mediator one on line 2, ‘what’s stopping you ...’ appears deceptively simple, and deliberately so. Whilst on the surface her utterance is a straightforward question, and carries the presupposition mentioned earlier, it has the pragmatic force of a challenge. She has sat through the couple’s bickering and, with this utterance, implies that nothing she has heard counts as a reason for their failure to agree a time: the challenge, therefore, is for both parties to agree that there is nothing preventing their agreeing a time or to provide another, more compelling reason. In a sense, the mediator is deliberately, but indirectly, countering the parties’ reliance on what Attardo (1996: 753) refers to as “The perlocutionary cooperative principle”, that

is a level of inferential cooperative behaviour which takes place not only on the linguistic level, but also “outside of the linguistic exchange (maximizing the participants’ effectiveness in the world)”. Both Judy and Maria are seeking interactional effectiveness, that is to convince the mediator that they are presenting persuasive arguments: the mediator’s question implicitly rejects this invitation to ‘cooperate’ with either version of events, that is to take sides. In fact, this sort of dynamic is particularly common in mediation.

On the interpersonal level there is an element of criticism, whilst on the discoursal level there is the suggestion that now would be a good time to move on. In terms of any hidden agendas, her utterance is an invitation to either acknowledge that there is nothing preventing an agreement, or, if there is, to state it openly. There are echoes here of Thomas’ (1990) notion of ‘interactional controllers’, (a concept which occurs in the work to which I referred earlier with regard to relexicalisation), that is utterances which “Instead of silencing a subordinate ... are used by the dominant participant in order to secure a particular ‘on-record’ response” (1990: 149)

The utterance of mediator two is similarly disingenuous and also has the pragmatic force of a challenge. I have mentioned before that clients will often state that they are doing or not doing one thing, whilst repeatedly demonstrating the opposite. The reflecter role can be used particularly effectively in such situations, as it is here. Both mediators are aware that there is more to this issue than a disagreement about time, but neither party has been prepared to acknowledge this. The interpersonal meaning of the utterance of mediator two is, effectively, to back Maria into a corner: either she shows that she means what she has said, or she will be forced to reveal that she does not. And again, as with the discoursal intent conveyed by mediator one, there is the implication that now would be a good time to get to the heart of the matter. In terms of an observation by Haynes and Haynes (1989: 34), the mediator is relying on the notion that “Movement usually results when the mediator uses questions that direct clients from the global to the *specific*” (italics in original).

These interventions by both mediators, working in tandem as it were, are successful. Maria finally admits that it is not the ‘when’ which is bothering her, but the ‘what’.

The following examples of the reflecter discourse role occur in the session with Derek and Catherine. The couple have agreed an agenda, namely what to tell their children (both in their late teens) and finances. They disagree, however, on which item to discuss first. Catherine has expressed concern that Derek has started to “*let slip*” items of information about the impending separation and possible divorce.

- 8) M1 ... *And I'm hearing that, you know, that things have been said and*
9) *Catherine, well, that you didn't know that it was being said. So maybe*
10) *this, today, is an opportunity for you to consider ways in which you are*
11) *going to say things, and what you're going to say - so that there isn't*
12) *one saying one thing, and the other maybe having to pick up the pieces*
13) *and stick a plaster over it. You need to be together on this, because*
14) *they're your children*
15) M2 *And in terms of minimising any emotional harm, the least conflict*
16) *they're presented with, the better. And they don't need to be hearing*
17) *different things. So in that sense, you both need to be giving the same*
18) *messages to them*

(vochCEDE(1): "1": 7)

The starting point for each mediator's intervention is information which Catherine has relayed regarding the situation with the children and what is being said to them. In this sense, there is bias towards Catherine although Derek has acknowledged her concerns as valid and as an area for discussion. Both mediators' contributions are examples of what Greatbatch and Dingwall (1989) describe as “selective facilitation”, that is the way in which practitioners steer discussions “through the positive power of encouraging discussion in specific directions” (op cit: 617).

The initial utterance of mediator one on line 8 is a fairly conventional politeness device in which a speaker “gives gifts” to a hearer, not only in the literal sense of proffering physical objects but also in the sense of fulfilling “human-relations wants such as ... the wants to be liked, admired, cared about, understood, listened to, and so on” (Brown and Levinson, 1987: 129). Whilst the phrase is routine in nature, it is pragmatically and discursively quite complex. It is a self-referential statement but is not strictly typical of either metalinguistic utterances such as “So what I'm saying is

such and such”, or metapragmatic utterances such as “That’s an order”. The speaker is commenting on her own behaviour, but not as a speaker: she is commenting on her behaviour as a listener. Perhaps the phrase could be classed as a ‘metapoliteness’ device. This sort of statement also seems to perform a discursively deictic function, although again not in the usual form of utterances such as “*the former, the latter*” (Thomas 1995: 10, italics in original), or “however, moreover, besides, anyway, well, still, furthermore, although, oh, so” (Levinson 1983: 128). I am using Levinson’s (op cit: 85) description of discourse deixis which includes “a number of other ways in which an utterance signals its relation to surrounding text ... (Such signals are deictic because they have the distinctive relativity of reference, being anchored to the discourse location of the current utterance.)”. The phrase carries more interpersonal meaning than a simple reference to ‘the former’ or ‘the latter’, and yet is more direct than the use of ‘however’ or ‘so’. It is also a phrase which can be used to preface a disagreement, as in “I hear what you’re saying, but ...”: in the latter case it would still function as a politeness device but not in the same way as illustrated in this example. As an indicator of an “oppositional move” which entails a “predisagreement” (Corsaro and Rizzo 1990: 53), it could be classed, in terms of preference organization, as a “*dispreferred*” response: such responses are typically “indirect, structurally elaborated, and delayed (Pomerantz 1975, 1978, 1984...)” (Brown and Levinson 1987: 38).

The rest of mediator one’s utterances on lines 8 and 9 are an implicit direction of the discussions. In the mediator’s selection of information to feed back, is the suggestion that, in her opinion, the topic in question is important enough to warrant further discussion. At the level of discursive intent, the message is the same for all present, something along the lines of “I think we should discuss this now”. At the level of interpersonal meaning there is support for Catherine and a challenge to Derek in terms of topic prioritisation. This raises the question of an utterance encoding two opposite aims, a notion which will be discussed in detail in later chapters. At this stage I will simply draw attention to the politeness dilemma with which mediators are routinely faced, which is encapsulated by Leech’s ‘agreement maxim’, namely “Minimize disagreement between *self* and *other*” and “Maximize agreement between *self* and *other*” (op cit: 132, italics in original). The tension for the mediator, who is working with **two** hearers, is that in adhering to the maxim in relation to one hearer, they are

unavoidably contravening it in relation to the other. Nor do the politeness strategies of Brown and Levinson (1987) help in this regard: whilst such discursual manoeuvres on the part of the practitioner attend to the needs and wishes of one party, they inevitably (where there is conflict), impinge upon the needs and wishes of the other.

These complexities are reinforced on lines 12 to 14 when mediator one paraphrases the concerns which Catherine has previously expressed. In order to reduce the bias implicit in what she has been saying, she skilfully reiterates words which both parties have previously used, that is the *“need to be together on this”*. With this last utterance the interpersonal meaning switches to one of support for both parties. Parkinson (1997: 72) points out that “Mediation is stressful work which demands a high level of concentration. There is a great deal of information to absorb and multiple tasks to carry out”. It is part of the skill of a mediator to register and retain utterances, and the nuances of any multiple meanings, by each party, allocate them to opposing and consensual categories, and bring them back into the session, very often a considerable time later and after many topic changes, in order to direct the discussions.

The utterances of mediator two convey similar meanings to those of mediator one and therefore serve to reinforce them for the couple. From a co-working perspective what she says carries an additional interpersonal meaning for her colleague, one of “I agree with you”. The utterances of mediator two are, however, a little more complex than this. Whilst there is a lot of ‘reflecting’ going on, both of what mediator one has just said and of what the parties have said, the utterances are presented in the guise of spokesperson for the children. Mediator two also uses this role to present information which is new when she says on lines 15 and 16 *“and in terms of minimizing any emotional harm the least conflict they’re presented with, the better”*. There is nothing ‘reflective’ about the notion of *“emotional harm”* as there has been no direct, or indirect, mention of this in the session so far. I include it in this section because mediator two chooses to introduce this powerful and emotive phrase in the middle of a series of utterances which **are** reflective. I would argue that this choice is strategic and particularly manipulative: the practitioner is drawing on her ‘expert’ knowledge of the damaging effects of conflict on the children of separated or divorced parents (Kalter, Kloner, Schreiser and Okla, 1989, Johnston 1994 and Kelly 2003).

In amongst the generally reflective nature of what is being said, which is geared towards a consensual change of topic, mediator two introduces an idea which, for most parents, could only be viewed as threatening and highly critical: most parents would be horrified to think that they were emotionally damaging their child, and mediator two knows this. So, sandwiching this idea between already accepted views enhances its chances of, covertly, becoming part of the general consensus about what the children need from their parents. There is also an element here of fusing ‘common sense reality’ with ‘expert’ knowledge. I believe that the manipulative nature of the utterance stems from the notion that, in the search for a “fully robust realism” we need to explore those instances “when the fictive point that serves as the locus of the objective gaze encodes not what we all have in common but the interests of privilege that have come spuriously to be accepted as universal” (Sluga and Stern 1999: 387). I am not, of course, arguing that there is anything ‘spurious’ about the claims of mediator two: nevertheless, she is making a statement which presupposes certain ‘facts’ from the subjective perspective of a family mediator and member of a society in which ‘emotional harm’ to a child is considered to be a ‘bad thing’ and to be an inevitable consequence of conflicted parents.

The final example in this section is taken from the session with Tamsin and Nat. They are in disagreement about Nat’s proposed changes to his contact arrangements with their five year old daughter Melanie.

- 19) M *... you feel very much that it would disrupt it [their daughter’s routine]*
20) *and it wouldn’t be good for her ...*

(dhNATA(1): "1": 24)

There is only one mediator present in this session so there are no multiple meanings in relation to a co-working dynamic. The reflecter discourse role is being used here to pick up on the concerns which Tamsin has expressed regarding Nat’s proposals. Tamsin has talked at some length about her anxieties and, at this point, the mediator chooses to reflect certain of Tamsin’s ideas. In effect, the mediator is using the reporter role to feed back information which Tamsin has conveyed in the role of reporter for the child concerned. The underlying meanings to the mediator’s utterances are commonly found in the reflecter role and have been mentioned in the

previous examples, as well as in earlier discussions regarding the reporter discourse role. By the simple act of deciding to reflect certain ideas and not others, the mediator is conveying an opinion. But she does this without directly voicing that opinion. At the level of discursal intent, the meaning is expressed that the mediator considers this particular topic to be worthy of further consideration.

At the interpersonal level, however, something slightly different is happening from the interpersonal meanings in the previous example with Derek and Catherine. In that example, the interpersonal meaning had a stronger element of ‘siding’ with one party rather than another in terms of **what** should be discussed. In this example, this is not the case. Both parties want to discuss the topic of a change to contact arrangements, and that is the priority for each of them. They differ, however, in their perceptions of what is salient about the subject matter. Tamsin wants to focus on the potential disruption of the proposed change, that is the negative effects on their daughter, and Nat wants to focus on the potential benefits of the proposed change, that is the positive effects for the child concerned. In other words, it is not so much a question of **what** to discuss, but **how** to discuss it.

This, in turn, brings me onto one of the main motivations underlying the reflecter role. It can be used, as is the case in this example, to encourage one party to ‘hear’ information which they seem to be disregarding. On the psychological level, clients may have become accustomed to ‘tuning out’ certain views and feelings which the other party wants to express. They may, however, be more prepared to ‘hear’ these views and feelings when they are conveyed by a third party. Of course, what the mediator seeks to achieve is not just a ‘hearing’ but, at the interpersonal level, an acknowledgement of validity: the practitioner is seeking to help clients to “genuinely listen to and understand each other” (Mayer 2004: 35). At its most effective, the reflecter role can thus be used to change the nature of the dialogue between the parties, to bring about a **shared** perspective on salience. When this happens, each party feels more valued, more open to a genuine exchange of ideas and information and, ultimately, more able to work constructively towards solutions which are helpful to all.

There is a final point to be made in relation to this example in terms of the uses to which the ‘voice of the child’ is put in mediation but, as this relates more directly to the focus of the next section, mediation techniques, I will reserve discussion until then.

4) The Reflector Discourse Role and Mediation Techniques

The first extract in this section is taken from the session with Laura and David. This a classic example of a point made in the previous section, of one party not ‘hearing’ what the other party is actually saying. The subject is child support payments.

- 21) M *Right, so it seems - I don't know how it seems to you Laura - but the*
22) *message to me, pretty clearly, is, it's not a question of David saying*
23) *"I'm not paying for my kids" - because we do get that here - erm,*
24) *that's not it [at] all, erm, and David is not even particularly going to*
25) *quibble over the amount, but he wants to feel that it's not leaving him*
26) *shorter of cash than it is you*

(chDCLC(1): "2": 9)

As is often the case, the reflecter role here comprises other discourse roles but, as mentioned before, it is distinct from such roles in that no new information is being conveyed. The mediator has decided, however, that the information which David is trying to convey is being misinterpreted by Laura: she takes his unhappiness about the amount he is paying as a reluctance to pay anything at all. Such misunderstandings are a common feature of mediation and, indeed, an important reason for couples deciding to attend mediation in the first place. Both parties appear to be floundering in the kind of impasse which occurs “when there has been either an inadequate assessment or insufficient clarification of the underlying interests and needs” (Benjamin 2004: 263). This is understandable: when such important emotional issues are at stake it is not surprising that effective communication becomes a casualty.

Again, as mentioned earlier, the resolution of such misunderstandings is a common motivation for a mediator's use of the reflecter discourse role. In terms of mediation techniques, the practitioner is seeking to clarify the issues. The couple has been

‘going round in circles’ for some time, each talking about their own perceptions without taking cognisance of the other person’s perceptions. This results in two separate monologues, rather than a dialogue. It is precisely this sort of futile exchange which requires the presence of a third party and which gives some of the authority for mediator intervention.

The mediator’s utterances also summarise her perception of what David has been saying. She is, in effect, bringing matters to a head for both parties: her interpretation of what has been said so far is open to challenge by either party. If there is no challenge then the point of clarification has, hopefully, been made and the discussion can move on to the salient issues, in this case not the principle of child support payments but the detail. This, of course, is part of the mediator’s overall task of ‘managing the process’ of mediation. This particular extract is taken from the early stages of the meeting when the mediator is focussed on establishing and exploring the issues with the parties, before moving on to discussing possible solutions.

It is the nature of mediation techniques that they are ‘fuzzy’: this is not surprising as language use itself is difficult to ‘pin down’ in any absolute sense. On line 21 the mediator inserts an open question to Laura within the overall flow of her reflection of, and upon, the points David has been making. This is an implicit invitation to Laura to challenge the mediator’s summary and appears to be an effort to exercise impartiality: the mediator is aware that, at this point, she is concentrating on David’s contributions and Laura’s apparent misunderstanding of them, and does not wish to appear to be siding with David against her. There is, therefore, an element here of the practitioner seeking to neutralise the possible power imbalance of a perceived ‘two against one’ scenario.

On the other hand, the mediator is also trying to bring into the open what she perceives as David’s unhelpful vagueness, and therefore neutralise the power imbalance such tactics afford the interactant who is avoiding decision-making, whilst appearing to be co-operative. In the session, Laura is clear and open about the amount of child support which she feels is fair, but David refuses to commit to a ‘yes’ or ‘no’ answer. As Benjamin (2004: 263) observes, “Negotiation involves choices and requires taking responsibility for decisions; these elements necessarily entail taking

the risk of being “played for a fool” and losing (Pagels 1995)”. This is a perennial minefield in mediation, and one through which mediators need to pick their way with considerable care, creativity and ingenuity.

The next example is taken from the session with Tamsin and Nat. Nat is asking if his contact arrangements with their daughter can be modified and Tamsin is unhappy about this.

- 27) M *... no, I think perhaps what you were suggesting is that Wednesday*
28) *night you could pick her up, but you could have her overnight on a*
29) *different night, that's what you were saying*

(dhNATA(1): "1": 16)

This extract is taken from a part of the session which has moved on from the stage of establishing and exploring the issues for each party, to discussing possible options. The reflecter discourse role is crucial in a mediator's task of managing the process of mediation and in guiding the discussions from one stage to another, in enabling the transition to take place as smoothly and productively as possible. Apart from helping the management of negotiations, the reflecter role is also crucial in unearthing hidden agendas. In presenting his or her feedback on the salient points of the discussions so far, the practitioner is also inviting challenge from either or both parties. As mentioned earlier, this can be done deliberately to provoke information which the mediator feels is being withheld, or it may be used 'genuinely' and result in unexpected issues emerging. Either way, the result is desirable in mediation terms. It is a professional tenet that agreements built on partial information are very unlikely to endure. It is for this reason that mediators are happy to move back and forth between the stages of the process until, as far as it is possible to ascertain, **all** issues and concerns have been brought into the open.

In this particular extract the mediator is presented with the familiar problem of one party not 'hearing' what the other party is saying. Her intervention seeks to enact a number of techniques, including summarising, clarifying and checking assumptions and embodies the idea, mentioned earlier, that “By stripping away the emotional aspects of a message and focusing on the content, the mediator helps each spouse hear

what the other has said. Each party listens to the mediator more carefully, and often hears more clearly” (Haynes and Haynes 1989: 223). The disagreement at this point has been focussed on **which** night would be acceptable for an overnight stay but the mediator’s reflection of this results in the new information from Tamsin that, for her, **no** night is acceptable. As Haynes and Haynes (1989: 225) point out, “One clear indication of an unidentified underlying issue occurs when the mediator successfully helps the couple resolve a practical issue, only to find that movement on the total agreement is blocked”. Such occurrences, in effect, take the session back a stage, to that of clarifying issues rather than exploring solutions.

The final extract in this section is taken from the session with Catherine and Derek and occurs towards the end of the meeting. The couple has, apparently, reached agreement about what they are going to say to their teenaged children.

- 30) M *So, do we have agreement that you will say to them that, if it doesn't*
31) *work, we're not sure what's going to happen, but we will sit down and*
32) *talk about it with you. But we can't make any promise to follow what*
33) *you want*

(vochCEDE(1): “1”: 4)

The discussions have moved on to the final stage of building and securing agreements. At this point it is usual for this particular mediator to start writing any agreements on a flipchart, on the understanding that these details will then be typewritten and a copy sent to each client. There is usually particular emphasis on the actual words which are written on the flipchart as these should fully represent the detail of what has been agreed. Again, the reflector discourse role is crucial here: what is to be recorded has to be created by all present, rather than a post hoc rendition of the mediator’s recollections.

Within the overall stage of the mediation process, that of building and securing agreements, the mediator’s use of the reflector discourse role encompasses a number of specific techniques. Her utterances seek to clarify, summarise, check assumptions and identify key words and phrases. There is a need for absolute precision at this stage if the arrangements which have been agreed are to work in practice. In a sense, the

mediator's words at this point are a culmination of her or his use of the reflecter role throughout discussions which will have lasted an hour or more. It is the reflecter discourse role which most clearly embodies the mediation aim of mediators controlling the **process** of negotiations, whilst clients control the **content** of those negotiations.

5) Summary

In this chapter I have argued for the delineation of an additional producer discourse role to those proposed by Thomas (2004, 2006 and in preparation). This additional role has been termed the 'reflector' role to capture the two characteristics which, I believe, separate the role from other producer roles. Firstly, the information which is conveyed in the reflecter role is not new to the participants in the interaction and, indeed, has been contributed by them: in this sense, the speaker in this role is 'reflecting', or feeding back information which is already known. Secondly, the speaker is feeding back information upon which she or he has 'reflected': what is said in this role is usually, therefore, a distillation of many items of information at both the explicit and implicit levels. The latter point is also the reason for the spelling of the term as 'reflector' rather than 'reflector'.

The reflecter discourse role usually encompasses other producer discourse roles. This is inherent in the nature of the role: it would be difficult to feed back information which has been provided by the participants present in an interaction without employing the reporter or spokesperson roles.

The identification of the reflecter category has come directly from a study of the data recorded in family mediation sessions. From the pragmatic perspective, we assume that there are reasons for an individual's use of particular words, and that these reasons are underpinned by the context in which the dialogue is taking place. In short, pragmatics assumes that speakers **choose** their words and that this choice is **motivated**. Power and politeness are significant motivating factors and these will be considered in a separate chapter: for the purposes of clarity, I have focussed in this chapter on motivations primarily in relation to enacting mediation principles and techniques.

I have sought to demonstrate that the reflector discourse role is a vital component of a number of mediation techniques such as summarising, clarifying, acknowledging feelings and needs and identifying key words and phrases. I have also argued that the role is crucial to a practitioner's management of the process of mediation and to controlling the transition from one stage of negotiations to another, be this forward to the next stage or backward to a previous stage.

Within these overall mediation aims, I have aimed to demonstrate the varied nature of the motivations underlying a mediator's use of the reflector role. For example, it may be deployed to enable one party's voice to be 'heard'; it may be used to force the surfacing of a hidden agenda; it may be used to test the prospects of an agreement to work and last in the 'real world'; or it may be used to 'filter out' expressions of a personal, insulting or inflammatory nature so as to focus on the propositional content of a party's contributions to the discussions.

I have acknowledged that there is a considerable degree of 'fuzziness' regarding this, and other, discourse roles. There is also 'fuzziness' and overlap in relation to mediation techniques. And there is certainly 'fuzziness' and overlap in specifying the nature of any multiple meanings which may be present in an utterance. A number of questions arise from these observations. Is there an inherent weakness in the conceptual framework? Is it possible to 'pin down' the complexity of our innate ability to use language in such subtle and varied ways? Baker and Hacker (1980: 664) capture the enormity of such an aim in their outline of the concept of meaning as "complicated and many-faceted ... the meaning of a word is intimately related to its denotation, the idea expressed by it, grounds for its application, justification and criticism of its use, definitions or explanations of it, and what is understood or communicated by its use. Similarly, the meaning of a sentence is connected with the notions of truth and falsity, proof and evidence, certainty and probability, necessity and possibility, belief and other 'propositional attitudes', assertion and other 'speech-acts', explanation, communication, understanding, and meaning something. Finally, these internal connections are multiplied many-fold in virtue of the relations between the meaning of a sentence and the meanings of the expressions of which it is

composed". To these interlocking complexities can be added those of multiplicity of interactants and the situational context.

I believe that the reflecter discourse role is particularly illustrative of a speaker's efforts to respond to, and manipulate, the incredible intricacies of language use so accurately described by Baker and Hacker (1980). As such it offers a rich seam of data for further analysis. Certainly, from my perspective as a professionally qualified and experienced family mediator, the ideas which are being discussed in relation to this thesis, of which the proposed reflecter role is but one example, have offered profound and unexpected insights into the language use of both mediators and their clients.

CHAPTER SIX

COMPLEX ILLOCUTIONARY ACTS

1) Introduction

Thomas (2004) has coined the term “complex illocutionary acts” to refer to utterances which have more than one level of meaning. All utterances have a surface level of meaning, that is the semantics of the words themselves. Many utterances, however, have other, implicit levels of significance. The characteristics of each level will be outlined in the next section, as will the further two concepts of “bivalent” and “multi-targeted multivalent” utterances. My interest in Thomas’ ideas flows from three perspectives: that of a human being; that of a linguist; and that of a professional whose employment skills rest almost entirely on the use of language. I believe that, so far, Thomas comes closest to capturing what Goffman (1981) described as the “freewheeling” and “circuitous” nature of verbal interaction between people. I find that much of what she has to say ‘rings true’ for the language I encounter in the ‘real world’, in both my professional and personal lives.

Utterances which have more than the surface level of meaning, that is utterances which are “complex” at the levels of “illocution” are often strategic or motivated in nature. A producer of talk can choose from any number of possible combinations of lexical items to express what they wish to convey. The question to be answered is: why have they designed their utterance in the particular way chosen? I am using words such as ‘motivated’, ‘strategic’ and ‘design’ to convey the notion that producers of talk usually deliver utterances which are complex at the levels of illocution **deliberately**: this is particularly true in mediation where practitioners need to choose their words with great care. Of course, misunderstandings can occur and there are one or two examples of this later in the chapter. What Thomas (2004, 2006 and in preparation) seeks to elaborate is the nature of multiple meanings: put simply, what is going on for the producer and the recipient(s) when a particular utterance is made? What does the producer hope to achieve, and why? A further question is why do producers choose to be so convoluted in the first place? Why don’t they just ‘say what they mean’? It will be argued, and hopefully demonstrated from the data, that

some aspect of power and/or politeness is almost always present. This is not a new idea but, for me, the prevalence of these two factors in my data came as something of a surprise.

A final point to make, and one which will be discussed at various points, is the tension between the **intention** of the producer of talk in phrasing an utterance in a particular way, and the **effect** on the recipient(s). This is an illocutionary level of interactional phenomena which Thomas has only recently formally incorporated into her multi-layered model of meaning (personal communication: 2006). This aspect of verbal (and indeed any other form of) interaction between people seems to stray into the realms of philosophy and metaphysics. What is the ‘reality’: the meaning which the speaker intended to convey, or the meaning which was, in fact, inferred by the hearer?

One example of the application of such questions is the forensic research of Storey (1995: 74) into the “language of threats”. Obviously, if the producer intended a threat and one was perceived by the recipient(s) then one may safely conclude that a threat was made. But does a threat exist if one was intended by the producer but not perceived by the recipient? Or when no threat was intended but one was perceived? These are serious and current issues. Shuy (1996) describes his part, as one of two ‘expert’ witnesses, in a court case which centred on the interpretation of one utterance, “How’s David?”. ‘David’ was the son of a man, ‘Hyde’, who believed that he was being threatened by his former employer, ‘Tyner’. Hyde took this enquiry to be a threat against his son’s welfare, whereas Tyner maintained that it was a straightforward social enquiry about a youngster whom he knew well. The two experts reached different conclusions, with one deciding that it represented “a serious and real threat on David’s life”, whilst the other pronounced that it was nothing “other than what it says, a request about the well-being of Hyde’s son (Shuy, 1996: 109 and 111). There is also current linguistic research being undertaken at the University of Wales, Bangor by Ristimaki (2007) into the relationship between language and the creation/perception of reality.

Finally, on this point, there is salience for the practice of mediation and many other professions. Occasionally a client in mediation will complain that the mediator was biased toward the other party. Such complaints are always taken seriously and

addressed by the manager of the service, or where appropriate, the committee and ultimately the board of trustees. Very often, the basis of such complaints rests more on the offended client's perception of reality than what actually happened. This, of course, is a highly debatable point. But I believe it is significant that such complaints in mediation, as indeed in other agencies in which I have experience such as Social Services and Family Court Proceedings, are always made by the 'losing' party, that is the party for whom the outcome was unsatisfactory. And it is usually a party who is not prepared to compromise and, indeed, will countenance no other outcome than the specific outcome which they desire. I would point out that such complaints are rare and, for the purposes of assessing objectivity, I have experienced only one complaint in more than ten years of practice. Nevertheless, I believe that this is yet another area which would be worthy of further study: professional complacency is an ever present threat in any field. Indeed, one of my research questions has been the professed neutrality and impartiality of mediators, the findings to which will be addressed in more detail in the chapter on mediation techniques.

But, for the purposes of this chapter, I will now move on to discuss the nature of complex illocutionary acts and multiple layers of meanings.

2) Definitions of Complex Illocutionary Acts and Multiple Meanings

As mentioned in the introduction, the concept of complex illocutionary acts, or CIAs, rests on the assumption that some utterances have more than one level of meaning. The surface level is always present, so all utterances constitute at least one level, the locution. Where there is greater complexity, up to four **additional** meanings may be present at the level of illocution and perlocution.

Thomas (2004, 2006 and in preparation) has drawn on a number of concepts to delineate the characteristics of each of these four additional levels of meaning, such as activity types (Levinson, 1979), social roles in relation to degrees of distance/closeness (or formality/informality) (Brown and Gilman, 1960, Leech, 1983), discourse roles (Goffman, 1981, Levinson, 1988), prototype theory (Berlin and Kay, 1970, Rosch, 1973, Aitchison, 1992), and speech act theory (Austin, 1975, Searle, 1975, Levinson, 1981). In essence, Thomas has introduced further distinctions within

Austin's (1975) proposal of three levels of utterance meaning, that is the locution, illocution and perlocution. It is important to note that the itemising of the categories does not imply any sort of hierarchy of meaning.

- a) Pragmatic Force: represents the additional level of meaning which refers to an 'unspoken' significance intended by the producer but which the recipient is left to infer, or not, for example rebuke, criticism, gratitude;
- b) Interpersonal Meaning: represents the additional level of meaning which is intended to affect the relationship between the producer and recipient, be this a professional or personal relationship, for example increasing or decreasing distance. It is closely associated with the "pragmatic parameters" (Thomas 1995: 160) of "The relative power of the speaker over the hearer", "The social distance between the speaker and the hearer", "The degree to which X is rated an imposition in culture Y" and the "Relative rights and obligations between the speaker and the hearer" (op cit: 124);
- c) Discoursal Intent: represents the additional level of meaning which is intended to affect the flow of the ongoing interaction, for example encouraging further discussion, terminating a topic, changing a topic;
- d) Perlocutionary Intent: represents the additional level of meaning which is intended to produce a certain response in the recipient, for example a feeling of being criticised, supported, challenged.

In the following three sections I will examine examples from the data to elaborate the concepts described above. Many of the examples include several turns of dialogue as this helps to provide context and evidence in terms of participants' responses to what is being said.

3) Ambiguity, Indirectness and Ambivalence

The distinction between ambiguity and indirectness/ambivalence is fairly straightforward. Thomas (1995: 14) states that ambiguity is a surface-level phenomenon, usually unintentional, of "sense, reference and structure". In relation to ambivalence, Thomas (2004c: 5) points out that "A ... source of difficulty in assigning force to an utterance is 'pragmatic ambivalence', a phenomenon first

described by Leech (1977) and Brown and Levinson (1978). It was noted that the intended force of an utterance such as: *Is that the door?* May be quite deliberately indeterminate – it might be either a ‘straight’ question or a request to the hearer to answer the door”.

The distinction between indirectness and ambivalence is less clear cut. Thomas (1995: 196) makes the distinction as follows: “ambivalence ... is rather different from other forms of indirectness, in that while the speaker’s illocutionary **force** is unclear (is it an *invitation* or an *order*, a *reminder* or a *complaint*?) the illocutionary **goal** is perfectly clear”. As an example she cites Leech’s (1977: 99) example of “Would you like to come in and sit down?” which “depending on the situation could be an invitation, a request or a directive”.

On the one hand, such a distinction between indirectness and ambivalence is helpful. On the other hand it is not always readily and easily applied. For example, I would classify the first example of Thomas (2004c) above as indirect, rather than ambivalent: I am basing this on the notion that the goal of the speaker is **not**, in fact, clear. That it is indirect stems from the observation that it is a statement which **may** have the illocutionary force of a request. This is in contrast to the second example mentioned in which the goal is clear, but the force is not, and also that, whatever the force, its assessment is based on its location on a kindred continuum.

Thomas (personal communication) clarifies the issue by drawing attention to the fact that indirectness and ambivalence are not mutually exclusive. The two, whilst distinctive, can occur together in the same utterance. She also points out that the two concepts **are** often discussed in the literature as if they were the same. I present below three examples from the data which, I believe, highlight some of the complexities which have just been described.

The first example is taken from the first minute of a meeting with Catherine and Derek. The original date for the meeting had had to be cancelled and rearranged.

- 1) C ... *I presume this is the meeting which was postponed*
- 2) M *Yes*

(vochCEDE(1):1)

Catherine's utterance is, on the surface, a statement although the verb 'presume' often indicates an uncertainty on the part of the speaker which requires some form of affirmation or negation on the part of the hearer. It is not, of course, a direct interrogative, that is 'Is this the meeting which was postponed?'. Nevertheless, the mediator's response indicates that she has treated it as a question. In terms of indirectness then, there is a statement which implies a question. The matter then arises as to whether Catherine's statement could or should be classed as ambivalent. As the mediator in question, I took the utterance as an indirect complaint or criticism: the couple had made it clear at their first contact with the mediation service that they were desperate for a meeting. I chose, however, to ignore the possibility of complaint and respond only to the indirect question: this is evidenced by the fact that I do not offer any form of apology for, or explanation of, the delayed nature of the meeting.

In terms of clarity of goal, I would argue that the force of Catherine's statement is **not** absolutely clear and, therefore, not ambivalent. On the other hand, there is the potential force underlying her utterance which ranges from a mild complaint, to criticism, to outright grievance.

The next example is taken from the first minutes of the co-worked session with Judy and Maria. Both clients had arrived and were waiting in separate rooms. Mediator one had gone to collect Judy, whilst mediator two had gone to collect Maria. Mediator two and Maria were the first to arrive in the mediation room. Four chairs were available, one of which was next to the recording device and a collection of mediator paperwork for the session. The following dialogue between Maria and mediator two then took place:-

- 3) M2 *Have a seat* [indicating the two seats opposite the recorder]
- 4) Ma *Have I got to sit there then?*
- 5) M2 *Or you can sit there, but definitely not over there*
- 6) Ma *Why, does that one explode?*

7) M2 *No*
(*dhchMJJW(1): 1*)

The above is, perhaps, a clearer example of ambivalence in that Maria's utterance on line 4 has the goal of indirectly registering some form of resistance at the rather imperative nature of mediator two's utterances on lines 1 and 3. On one level, Maria's contribution could be taken as either humour or sarcasm. On other, not exclusive levels, her utterance could be interpreted as having the force of irritation, challenge or complaint. Whatever the possible interpretations, mediator two chooses to respond to the utterance as if it were a straightforward question.

The final example in this section is taken from the session with Laura and David. The main concerns for this couple were financial in nature and they had been discussing the implications of their agreement that David should remain in the family home and take over the mortgage repayments, with Laura retaining a financial interest in the house. This is a legally based arrangement but does present complications for both parties in terms of what can and cannot, or should and should not, be done with and to the house during the period of attenuated ownership.

8) L *Right, so you're going to put an extension on now are you?*
9) D *Ah, not necessarily, but I may*
10) M *No, just thinking ahead*
11) D *I'm not planning doing it tomorrow, but I have to know where I stand,*
12) *don't I?*

(*chDCLC(1): "1": 3*)

Laura's utterances on line 8 are initiated with a discourse control marker, "*Right*", followed by a statement and concluding with a tag question. On the surface, the overall effect is one of a person clarifying their understanding of what has been said by the other interactant. On the other hand, this type of utterance can be used to indirectly challenge what the speaker has heard. The question is, therefore, whether Laura's goal is clear. I would argue that this is not the case, not in the sense of something like 'Have a seat' and, as such, is not easily classified as ambivalent. Yet what Laura has said seems 'loaded', and there is a strong feeling that a 'yes' answer

would not be well received: thus, her goal is, in some sense, perceived by the hearers present. This is evidenced by David's circumlocution which avoids the direct affirmative and presents it in terms of possibility rather than certainty. The mediator also responds to the **possible** pragmatic force of Laura's utterances, intervening to reinforce the hypothetical nature, at this stage at least, of David's ideas.

4) Complex Illocutionary Acts: Bivalence

In mediation, where there are always at least three interactants present and, therefore, a minimum of two participants in the recipient role, it is important to distinguish an utterance which has multiple meanings for ONE of the hearers only: multiple meanings for both hearers would constitute a different category of complex illocutionary act, which is discussed in the next section.

Thomas (2004c: 7) describes a bivalent complex illocutionary act as a phenomenon in which "the speaker encodes in a single utterance and for a single addressee two or more different (sometimes diametrically opposed) forces, such as promising and threatening". She provides a very clear and prototypical example in the utterance "You look good in those jeans now you've lost all that weight" (op cit: 7). There are two opposing forces in what the speaker says, namely a compliment and an insult.

As mentioned in the quotation above, the two or more forces involved do not, necessarily, have to be opposed. Many of the examples which occur in the mediation data contain forces which are different, rather than antithetical. The evidence for the existence of multiple pragmatic forces is usually found "by examining addressee responses" (Thomas, 2004c: 8). The following example is taken from the session with Laura and David. At this point in the session the discussion has moved on to the issue of child support payments, and the mediator seeks to ascertain whether statutory intervention in the form of the government's child support agency (CSA), which has the power to deduct income at source, has taken place:-

- 13) M *So tell me where you're up to with child support. No CSA at this*
14) *stage?*
15) L *No, I, not at this stage*

16) D *That's just the threat I get when we row about it*
(*chDCLC(1): "1": 7/8*)

Here there are three meanings for David but only two for the mediator. So for the mediator the two meanings are the utterance meaning, which is an answer to her question, plus the implication that there **may** be CSA involvement in the future, either inside or outside of mediation. This implication is engendered by Laura's addition of the utterance "at this stage": she could simply have answered "no". For David there are these two meanings but also a meaning at the interpersonal level, which he expressly verbalises as a threat on line 16. In a sense, it is the possibility that Laura's utterance **might** indicate her intention to involve the CSA, within mediation, or outside of it, which constitutes the differences in implied meanings for the mediator and for David.

In terms of the situational context, Laura's use of "*at this stage*" could be simply a conversational marker, a way of 'reserving the right' to raise the topic of the CSA at a later point in the discussions, if she feels the need to. There is an element here of what Bunt and Rosenberg (1980: 95) term "dialogue control acts [which] have the function of creating conditions for the main dialogue to take place without communicative problems". Had Laura replied to the mediator's question with an unequivocal "no", she may well have encountered difficulties later in the discussion, in the form of a challenge from David, if she tried to introduce the topic of CSA involvement. On the other hand, any involvement of the CSA by Laura outside of the session has significance for David only and is a possibility which he finds personally threatening.

The above extract demonstrates that, when three or more interactants are present, an utterance can simultaneously belong to more than one category of meaning complexity. In addition, it demonstrates the flexibility with which utterances can be designed in terms of the recipients present, as the hearer for whom the bivalence exists is not the addressee, but the auditor.

The following example from David and Laura also highlights the fluidity of discourse roles and the way in which "A change in footing implies a change in the alignment we

take up to ourselves and the others present as expressed in the way we manage the production or reception of an utterance” (Goffman, 1981: 128).

- 17) D *So our costs there are similar, well, actually, Laura’s are quite a bit*
18) *cheaper than mine because her rent is cheaper than the mortgage*
19) L *Yes, but whose fault is that David? Let me have the house*
20) D *Lau, Lau, Laura, I’m not moaning about that, do you know what I mean*

(chDCLC(1): “1”: 9)

David’s utterances on lines 17 and 18 are designed with the mediator in the recipient discourse role of addressee and Laura in the role of auditor. Yet Laura responds immediately to what has been said as if she were the addressee and the exchange were between her and David. Her response reverses the recipient discourse roles used by David, putting him in the role of addressee and the mediator in the role of auditor. Whilst this describes what is happening, it is also of significance in analysing and understanding the underlying dynamics of the situation. In terms of the mediation process, the dynamics are complex.

As has been mentioned elsewhere, the setting of family mediation is something of a hybrid, a kind of half-way stage between the informal arrangements which two people may agree between themselves over a cup of coffee at the kitchen table, and the highly formalised intervention of a court room. It stands between a “legal system [which] requires the participants to be adversaries” and the notion that “Interpersonal disputes are best solved privately and most people prefer to settle their family matters within the confines of the family” (Haynes and Charlesworth, 1996: 3). The mediator is there to control the discussion but not to impose an outcome. This has implications at the very basic level of who says what to whom and requires judgements on the part of the mediator which, necessarily, are highly subjective and fuzzy in nature.

At the heart of this particular mediator dilemma is how to judge what is constructive interaction and what is destructive. A couple who can communicate constructively is not likely to need a mediator. A couple who can, or will, **only** communicate destructively is likely to need a judge. In the middle are couples who are stuck in

terms of communication but willing and able to move on. What this means in reality is that the mediator is there to be used, but, ideally, only as a stepping stone to productive exchange between the parties themselves. So, on the one hand, a mediator will step back when the exchange shifts in the way it does in the above example, but only if it is constructive. On the other hand, the mediator will feel it necessary to intervene if such a shift in interaction is destructive. A shift in discourse role orientation therefore signifies a critical point in any mediation session representing either improvement or deterioration. Whilst Goffman (1981: 156) argues for the need and “capacity of a dexterous speaker to jump back and forth, keeping different circles in play”, I would argue for the additional idea of a ‘dexterous recipient’, along the same lines. To further develop Goffman’s (op cit: 156) description of “the capacity of different classes of participants to by-stand the current stream of communication whilst ‘on hold’ for the attention of the pivotal person to reengage them”, I would argue that the mediator’s professional role is not so much one of waiting to be re-engaged, but a much more active recipient role of deciding when and how **they** will reengage.

Turning to the illocutionary complexity of this exchange, Laura’s response on line 19 indicates that she has perceived meanings to David’s utterance which the mediator has not. This example, again, highlights the potential for an utterance, particularly where there is more than one hearer, to ‘belong’ to more than one category of utterance classification: this is not surprising given that such categories are “not ...clear-cut” (Thomas, 2004c: 13). For the mediator, David’s utterances contain no implications, he is simply providing information which is relevant to the discussion in hand. Laura, however, clearly does not see it this way. Her response is defensive and attacking at the same time, attack, of course, often being a form of defence.

It could be argued that David’s utterance is straightforward ambivalence, that is a statement at the level of utterance meaning with a potential pragmatic force ranging from that of a mild complaint or irritation to a major grievance. It is, of course, perfectly possible to convey a sense of dissatisfaction without attributing it to the hearer involved, as in ‘It’s raining again’, but Laura’s response indicates that she has perceived just such an additional level of meaning, that of blame directed towards her. This is indicated by her use of the word “fault” followed by a demand that he let her

keep the former family home. So, whilst at first sight David's utterance may present as either surface level fact giving only, or simple ambivalence, Laura's response suggests a 'history' on the subject with meanings that are personal, hurtful and contentious. Note that the mediator would be aware of none of this but for the way in which Laura chooses to phrase her response to what David has said.

That David seems to be aware of the provocative nature of his utterance for Laura is evidenced by his response on line 20: he does not express surprise or bewilderment at Laura's retort, but simply seeks to deny any additional meaning(s). This "cancellable" or "defeasible" (Grice, 1975) nature of implicatures is "crucial in pragmatics as most pragmatic inferences, of various different kinds, exhibit this property. An inference is defeasible if it is possible to cancel it by adding some additional premises to the original ones" (Levinson 1983: 114). By denying that he is complaining or "*moaning*" in David's words, he automatically cancels any possible implication that he is blaming Laura.

A final point I would wish to make about bivalence in general, relates to nomenclature. I believe that Thomas' (2004) terminology is potentially confusing. The term "bivalent" suggests, obviously, 'two'. But the term in fact refers to only one hearer and to the possibility of not only two, but also three or more levels of meaning. The confusion is, I believe, compounded by the more descriptive term for her second category of complex illocutionary act, "multi-targeted multivalence" (originally termed 'plurivalence'). This label captures the notion of several layers of meaning for several hearers, from two to, theoretically possible but realistically unlikely, any number. It seems to me that it may be clearer to change the name of the former category to "multivalence", with the second category remaining as "multi-targeted multivalence".

The advantage of this suggestion, in my view, is that the terminology would then more clearly distinguish the categorisations of complex utterances on the salient dimension, that of number of hearers. The term "multivalence" is effective in distinguishing both categories from indirectness/ambivalence, again on the salient dimension of number of meanings.

5) Complex Illocutionary Acts: Multi-targeted Multivalence (MTMV)

Multi-targeted multivalent, or MTMV, utterances have three or more meanings, that is the utterance meaning plus at least two other illocutionary meanings, for two or more recipients. In Thomas' (2004c: 10) words, they are "instances of a single utterance performing two different illocutionary acts either for different receivers within the same discourse role or different receivers within different discourse roles ... Seen at its most straightforward, the multivalent illocutionary act is a pleasing example of an economical use of language (the linguistic equivalent of killing two birds with one stone).".

The example below is taken from a lengthy session with a highly conflicted couple, Jane and Danny. The sole issue for mediation was Danny's wish to have contact with their daughter, Jasmin aged 3. Jane remained adamant that she would only agree to this under the strictest of conditions which Danny felt were malicious, punitive, humiliating and unfounded. The session ran to two hours and consisted primarily of allegation after allegation with rebuttal after rebuttal: In **Appendix III** I have included selected extracts of the dialogue from this session to give a 'flavour' of the highly conflicted nature of the interactions which were taking place. There was constant interruption by each party of what the other was saying, and indeed of what the mediator was saying. Jane and Danny appeared to be locked in "Implacable and bitter hostility" (Parkinson, 1997: 63). Parkinson (ibid), and referencing Kressel (1980) and Johnston and Campbell (1988) provides an eloquent, powerful and painful description of the psychology of such couples, for whom all other considerations are subordinate to the "deep emotional need to keep their fight going, despite the destruction it causes".

- 21) M *Well ... you know, I have ... have to say that, you know, if, if we're not*
22) *getting anywhere again*
(voJMCL(1): "1": 86)

The breaks in the middle of the dialogue represent the mediator being interrupted by the clients. The sentence remains elliptical, whether by design or accident is hard to say, as the clients continue to interrupt each other and go round in circles. Unlike the

example from Laura and David in section 4, in which Laura's utterance had multiple meanings for David only, the multiple meanings in this example are intended for both recipients. It is, therefore, a complex illocutionary act which falls into the category of an MTMV utterance. The surface form is actually equivocal as it seems to be neither a straightforward assertion, nor a straightforward question, but rather seems to fall somewhere in between the two.

It is a fairly common syntactic construction, and not only in mediation, in which the final clause of 'if this, then that' is left unsaid. In other words it is an elliptical conditional sentence in which the absence of the concluding part leaves an unspoken proposition 'hanging in the air'. Brown and Levinson (1987: 227) categorise such utterances as "off record" politeness strategies and note that they are "as much a violation of the Quantity Maxim as of the Manner Maxim". They further observe that elliptical constructions can occur in various conversational contexts, including FTAs: in the latter case they leave, in effect, an FTA "half undone".

Of course, it is this very lack of completion which creates the multiple meanings. In this case, the mediator, addressing the utterance to both parties, is generating, but not actually articulating, meanings on the interpersonal and discoursal levels. Interpersonally there is criticism of the negative nature of the discussion, and discursively there is a threat to terminate the session. By way of comparison with the next example, I would note that the multiple meanings in the above extract are the **same** for both parties.

The following example, from Danny and Jane, sees the mediator in a typical quandary. This relates to the difficulty of maintaining neutrality in the face of a discursive theme which is being generated by one party only, which is dominating the discussions and which is unproductive. Before going on to analyse the extract, there are some points to be made regarding the foregoing sentence.

As I have acknowledged before, and will continue to do, I am using concepts which are subjective and debatable. I believe that this is unavoidable in that any attempts to provide objective criteria by which to assess 'neutrality', 'domination' and 'unproductiveness', will, themselves, be open to criticisms of subjectivity. As Leech

and Short (1981: 188) observe, in their discussion of fictional prose, “even in apparently normal pieces of writing, the writer slants us towards a particular ‘mental set’: there is no kind of writing that can be regarded as perfectly neutral and objective”. I believe that ‘normal’ speaking can be similarly described. Nevertheless, in terms of family mediation, and indeed interactions in general, notions of objectivity and neutrality are psychologically important. The words themselves are loaded with connotation, of the ‘snarl’ and ‘purr’ variety: most of us would not welcome being told that the way we talk is ‘domineering’ or ‘unproductive’. In mediation, the practitioner would not welcome being told that the way they talk is not neutral.

I believe that these are significant themes, any one of which would merit further in-depth study. For example, in relation to ‘dominance’, is this determined solely by the amount of ‘air time’ a participant has over an interaction? Or does it have more to do with the effect they have on determining what is discussed, perhaps a participant who says little but when they do it is to throw the proverbial ‘cat amongst the pigeons’ and then sit back to watch the ensuing disarray? It is, perhaps, a combination of both, but other factors are also likely to play a part. There is the power of silence, when a client’s wilful refusal to engage “may be a sign of assumed superiority, intended to frustrate or intimidate” (Parkinson, 1997: 241), rather than a sign of a participant who feels too disempowered to engage.

There are also instances of utterances made by one party which, at least initially, appear innocent to the mediator yet have a profound effect on the other party. Typical examples are the mention of a person (who is **not** the new partner), or a possession: the mediator’s neutrality is at risk if she or he does not address what Leech (1969: 216) describes as an “area of subjective interpretation *par excellence*: a person’s reaction to a word, emotive and otherwise [which] depends to a great extent on that person’s individual experience of the thing or quality referred to” (italics in original).

In any event, and to return to the purpose of this thesis, there are certain language behaviours which, in mediation, are deemed to be ‘unproductive’. The one with which I am concerned here is when one, or both, parties is/are focussed on recriminations about past events. As mediators we point out to clients that, whilst past experiences can be used to inform current and future solutions, there is little to be gained by

repeatedly going over them in a grievous and conflicted manner. As Haynes and Charlesworth (1996: 14) point out “Mediation is concerned not with who was right and wrong in the past but how the disputants want to reorganise for the future”. In the case of Danny and Jane, it is Jane who has not accepted this guidance and is intent on raising issue after issue, and constantly repeating them.

- 23) D *I'd be surprised if you could remember, Jane, because you must have*
24) *been on your fourteenth pint [of beer] by then*
25) J *No I wasn't actually, I'd only had two and I'd only been out a couple*
26) *of hours*
27) D *Yeah*
28) J *I'd been on the fair and stuff*
29) D *Yeah, OK*
30) J *But that's got nowt [nothing] to do with it anyway, that's what you did*
31) D *Whatever*
32) M *You don't, you really are ...*
33) D *I can't, I can't do this*
34) M *... going to have to let go of the past*
35) J *Well, I'm sorry, when my daughter's safety's in jeopardy ...*

(voJMCL(1): “1”: 56)

In this example the mediator's utterances on lines 32 and 34 convey multiple meanings for both parties but with a **different** meaning for each at one of the three levels. In terms of recipient discourse roles, the mediator has designated Jane as the addressee and Danny as the auditor. Her utterances are a directive to Jane, and are intended to be perceived as such by both parties. At the level of discursial intent the message is also the same for both, that is that dwelling on grievances from the past is not a desirable topic for discussion.

But at the level of interpersonal meaning there are diametrically opposed messages and these are what constitute the challenge to the mediator's neutrality and impartiality. Whilst implicitly criticising Jane for her negative preoccupation with the past, there is the concomitant implication that Danny's conduct is not being criticised: in other, rather more blunt terms, Jane is being given the message that her behaviour

is a 'problem', whilst Danny is being given the message that his is not. Beck, Sales and Emery (2006: 472) draw attention to this kind of all too common situation in mediation when they discuss mediator neutrality as equidistance: "neutrality as equidistance is a relational process between the parties and the mediators and may result, at any given moment, in the mediator favoring one side or the other in order to achieve a balanced outcome (Cobb and Rifkin, 1991). The dilemma with this approach is that there is no guidance in the mediation literature that clearly identifies when a power difference is occurring or when to shift mediator favour to one side or the other". Beck, Sales and Emery (op cit) discuss their notion of equidistance in relation to mediator neutrality, but implicit in this is the notion of mediator impartiality. Without specifically highlighting the point, they draw attention to the fact that the tension between balancing a neutral approach to outcome and an impartial approach to process, can result in mediator language behaviours which, at times, are biased or which seem to favour one party over the other.

Moving on to another dimension of complex illocutionary acts, I mentioned earlier that the producer's **intent** in designing an utterance is not always matched by the **effect** on the recipient(s). The potential for such mismatch between speaker intent and hearer reaction was recognised by Austin (1975), although, according to Levinson (1983: 237) "this interactional emphasis (on what the recipients(s) of an illocutionary act must think or do) in Austin's work has unfortunately been neglected in later work in speech act theory (see Austin, 1962: Lecture IX). Attardo (1997: 760) takes up this point in his discussion of Grice's (1975) work, arguing that "it seems that there is a systematic, involuntary ambiguity in Grice's wording of the CP and in his analyses based on it. We have attempted to solve this ambiguity by distinguishing two levels of cooperation, LC [locutionary cooperation] and PC [perlocutionary cooperation], which both would be described by the CP (which is in fact ambiguous between them)."

The extract below illustrates this point. It is taken from a session with Maria and Judy. The couple has recently separated with Judy moving out of the former family home. There is a dispute about possessions still left in the house, but with neither party prepared to specify what it is that they wish to keep, to draw up a list for discussion as it were.

- 36) M1 *It's going round in circles this, we still haven't got to the list*
 37) Ma *Exactly, tell me what you want, write it down and then ...*
 38) M1 *It doesn't have to be Judy that comes up with the list*

(dhchMJJW(1): "1": 8)

This is a good example of the effect of an utterance not being what was intended. Here the mediator, on line 36, is addressing her utterance to both parties. There are three levels of meaning. On the surface a simple statement, at the level of interpersonal meaning a criticism of both for their continued prevarication, and at the level of discursal intent a plea to move the discussion on to specifics. Maria, however, takes the utterance as being addressed solely to Judy and contributes an utterance on line 37 in support of this mistaken view. In terms of discourse roles, Maria views herself as the auditor and Judy as the addressee. For the mediator, this is problematic as it implies that she is siding with Maria against Judy. This was not the mediator's intention and she immediately seeks to rectify the situation with her utterance on line 38. Her intervention is, in turn, multi-layered in meaning. The direct response would have been something along the lines of 'No, Maria, I wasn't singling out Judy, I want both of you to create the list'. At the level of interpersonal meaning the utterance conveys the messages of 'Maria, you've misunderstood what I said' and 'Judy, I'm not putting you on the spot', whilst at the level of discursal intent, the message is the same to both of 'I'm looking for both of you to contribute here'.

It is difficult to determine conclusively whether Maria's misinterpretation is deliberate or accidental: I believe it was unintentional, although there is nothing in the mediator's utterance to encourage such an interpretation. I have mentioned elsewhere that the level of perlocutionary intent has recently been added to the proposed model of interaction which will be discussed in the next chapter. That it is a salient factor for utterance analysis is further exemplified by Thomas (2004c: 8) in her discussion of bivalence and multivalence: "Psycholinguistic experiments (cf Clark and Schunk 1980) have shown that (approximately) 50 percent of the time addressees respond to both surface structure and pragmatic force. Thus if people are asked 'Do you know what time it is?', just under half the informants will say, 'It's twelve o'clock' (responding to force alone) and the rest will say, 'Yes, it's twelve o'clock', thereby

responding to both the utterance meaning (S wants to know of A knows the time) and the speaker meaning (tell me the time)". Using this example, humour can be engendered by the **deliberate** misinterpretation of the speaker's perlocutionary intent by the hearer simply replying 'Yes':

The final two examples of multivalent multi-targeted utterances reveal the mediator doing something slightly different in terms of her response to the complex illocutionary acts of clients. Both extracts are taken from the session with David and Laura, for whom financial issues are the main concern. The first example occurs during the initial few minutes of the session in which the mediator seeks to elicit from the clients the range and number of issues which they hope to discuss.

- 39) M *I gather that child support is also a bit of an issue at the moment*
40) L *Apparently so*
41) M *Apparently so*
42) L *I found that out in the car on the way here*
43) D *No you didn't, we discussed this about 6 weeks ago and agreed to*
44) *leave it till we came here ...*
45) M *OK*
46) D *... and you just completely forgot*
47) M *And are there any other issues that you have, or is it just ...*
48) L *No ...*

(chDCLC(1): "1": 2/3)

The mediator's utterances on line 39 constitute a question in the guise of a statement. The straightforward answer from both parties would have been a 'yes' or 'no: this does not occur, however, until line 48. The intervening dialogue represents a 'spat' between the parties, which the mediator intervenes to curtail on line 47. In conversation analytic terms, the 'adjacency pair' of question and answer has been interrupted by an 'insertion sequence'. An interesting question arises in relation to Wilson's (1991: 30) observation that "fashioning an appropriate second pair part may require intervening activity, for example, clarifying a question or gathering information to respond to a request. In such cases, accountability can be maintained through an insertion sequence consisting of intervening actions that, while not the

project second pair part itself, recognizably prepare for it, thus displaying an orientation to the fact that the project second pair part is still pending.”. Wilson was referring to courtroom interactions in which discursual detours are expected to be relevant and are sanctioned if they are not. In mediation, clients often make such detours which, in terms of conversation analysis may, or may not, have the quality of preparing for a projected second part. In such situations a mediator has to ask themselves the question ‘where is this going?’ and they have to make their decisions in “real time” and within “the ‘now-coding’ aspect of speech” (Sinclair and Coulthard (1992: 14).

The next few paragraphs of this discussion are quite dense as they comprise descriptive itemising of the potential multiple meanings of what is being said by, and for, the participants. The reasons for this detail will be discussed afterwards.

The first question arises in relation to what Laura is seeking to convey with her utterance on line 40, “*Apparently so*”. Her response is designed with the mediator in the recipient role of addressee and David in the role of auditor. Nevertheless, the ‘barb’ is aimed directly at David. The notion of ‘competing goals’ is relevant here, although it is a recurrent theme in this thesis that I am adapting notions from the literature which apply to dyadic interactional situations, to the context of multi-party participation which constitutes mediation.

Thomas (1995: 145), with reference to Pyle (1975) and Dascal (1983) notes that “we often employ indirectness because we have two goals which compete”. For example, if someone asks a close friend or partner for their honest opinion about the meal they have cooked, the shelves they have put up, their choice of clothes, or their recent haircut, the recipient may well be torn between an honest, but negative opinion, and a rather more creative, but less hurtful response. I would argue that Laura’s utterance can be analysed in terms of such competing goals but they are not in relation to **one** hearer: the competition arises from her wish to design an utterance which reconciles competing goals in relation to **two** hearers. In other words her utterance can be analysed at a level which goes beyond that of the dyad. .On the one hand she wishes to cooperate with the mediator, and answer her question; on the other hand she chooses to use an utterance which conveys both affirmation and doubt about that

affirmation. David does not respond immediately to what Laura has said. The mediator, therefore, intervenes with a repetition of Laura's equivocal utterance: this, in itself, is equivocal. It is possible that the mediator, unsure of David's eventual reaction to what Laura has said, is trying to 'tread gently'. She senses a spark of conflict and does not wish to fan the flames.

The multiple meanings in Laura's utterance could be described as follows: it is an affirmative but phrased in such a way as to convey that child support had not been an issue for her, until now; therefore the person for whom it is an issue is David; but he has not been honest with her about it; as a consequence, she is at a disadvantage in terms of discussing the issue. The meanings for the mediator are something along the lines of: 'There is conflict over this matter; I didn't know there was; that's because he hasn't been straight with me; I'm the wronged person here; side with me'.

The mediator's repetition of Laura's utterance carries the pragmatic force of a question to both parties. She is seeking a response from David and/or clarification from Laura as to what she is trying to convey. The strategy is successful in the sense that Laura elaborates on line 42. Even so, her elaboration is not straightforward. The mediator is left to assume a number of things: that Laura is telling the truth; that being 'told on the way here' is a bad thing; and that the problem lies with David and not her. David is left to infer, from both utterances, that he has done something wrong and that Laura is seeking to condemn him and vindicate herself in the eyes of the third party present.

It is evident that David is picking up on Laura's implicit meanings with his responses on lines 43, 44 and 46. For example, I claimed above that Laura's somewhat 'loaded' utterance, whilst being addressed to the mediator, was actually aimed at David. I believe this is evidenced by the recipient discourse roles he chooses for his response: Laura is the addressee and the mediator is now the auditor. He understands the nature of the criticism as he defends himself in terms of the timing of their discussion about child support payments and then seeks to undermine the truth of what Laura has said by claiming that she has forgotten their discussion. In addition, in terms of the mediator who is listening to what he is saying to Laura, there is an intention to counter-

balance the picture Laura has painted, and present himself as someone who is reasonable and being falsely accused.

One of the reasons for detailing the possible meanings in such a way is to reinforce the validity of the whole idea of complex illocutionary acts as outlined by Thomas (2004c and in preparation). The above represents only a few seconds of dialogue and yet so much is going on. One may wish to query some of the interpretations but I believe that there is little doubt that all present are processing incredibly complicated language use. Meierding ((2004: 246) captures this well when she talks of communication which “swirls around the mediation table”, echoing Goffman’s (1981) description, mentioned earlier in this thesis, of communication which is “circuitous” and “fleeting”, and Thomas’ (1995: 203) view of meaning as an “active (dynamic) procedure” in which “Meaning is not given, but is constructed” by all interactants, on an utterance by utterance, and moment by moment basis.

Of course, in reality the participants are doing this at an intuitive, possibly sub-conscious level. But it is the hidden meanings which are influencing the choice of words used. There is also little doubt that trying to fully capture this complexity is extremely challenging. Yet it is a challenge which I believe needs to be embraced on both the theoretical and applied levels, not least because, as human beings, we know how to do it, even if we do not fully understand this knowledge.

The latter point brings me on to my second reason for detailing the potential meanings of this stretch of interaction, that is the mediator’s response on line 47. Put simply, she appears to ignore all of the subtlety and complexity of the exchange between David and Laura and seeks to introduce a change of topic. This could, at first glance, appear to be the actions of an interactant who is oblivious to what is going on beneath the surface of the words being used. This interpretation is unlikely unless she is either a less than fully functioning human being, or a highly incompetent mediator. It is only if we assume that the mediator is both a capable human being and mediator, and that she is observing Grice’s (1975) “co-operative principle”, that we can make sense of her utterances on line 47, “*And are there any other issues that you have ...?*”. They are not a non sequitur but a **strategic intervention**: the mediator uses a “deflective

question”, described by Boulle and Nestic ((2006: 195) as a “moderate” level of intervention designed to “limit emotion”.

On the levels of multiple meanings what the mediator says conveys the following messages: ‘I’ve heard that child support is an issue; I note that this is about to cause an argument; I don’t want the session to get lost in recrimination before we’ve even agreed what it is we’re going to discuss today; I need to know what the agenda is for each of you and if there is anything else which needs to be discussed’. At this early stage in the session the mediator is seeking to enact one of “the main strategies” of a mediator, that is “identifying the issues”, part of which requires that “The mediator should help the parties to agree an agenda” (Roberts, 1997: 115). That at least some of these multiple meanings are recognised is evidenced by Laura’s response on line 48 and the fact that the discussion then moves on to outline some of the other issues which need to be addressed during the session.

The final example from Laura and David takes place a little later in the session. The discussion at this stage is focussed on what the couple sees as the intertwined issues about child support payments and the decision they have made about the former family home.

- 49) L *... you know, I think I’ve been really fair letting you stay in the house,*
50) *you know, I’ve been living in bloody squalor for the last seven months*
51) D *Yeah, well, it wasn’t me that decided to walk out of the marriage, was*
52) *it?*
53) L *Right*
54) D *So, and you weren’t living in squalor, it was a nice little place till you*
55) *moved Jason in [Laura’s new partner] and it was too small*
56) M *In terms of this kind of arrangement ...*

(chDCLC(1): “2”: 3)

I will not go into the many hidden messages of this exchange but will simply highlight a few of the salient meanings. David’s utterances on lines 51 and 52 are typical of the kind of comments which clients often choose to make. To borrow the

pyrotechnic metaphor described by Crawley (1995: 10-11), they usually constitute “the spark” which, if left untended, can lead to “the burning fuse”, followed by “the explosion”. For the purposes of mediation, and indeed the courts, the information is irrelevant. Of course, for the people involved, such issues are usually highly significant on the emotional and psychological levels. The counter claims in relation to the emotive term ‘squalor’ are again typical, with each party painting a very different picture of events. Parkinson (1997: 138) points out that “When couples are ending a relationship, they commonly look for allies, protectors, experts or other third parties who may become ‘triangulated’ into their conflict”. Basically, each participant is seeking not only to accuse the other, but to present themselves as the sympathetic party, and to persuade the mediator to side with them and their version of events.

The utterance on line 56 again finds the mediator seeking to move on the discussion and avoid it getting stuck in recrimination and conflict about the definition of ‘squalor’ and the presence of a new partner. But, in contrast to the intervention in the preceding example, here the mediator chooses not to change the essential topic of discussion, but to direct it in a way which does not focus on the emotional undercurrents. In a sense, she is seeking to remind the couple that they are in a mediation session, and not a relationship counselling session, or a court, or an uncontrolled free-for-all. It is fair to say that this sidelining of strong emotional feelings is often difficult, for both the mediator and the clients. In addition, as Boulle and Nestic (2006: 218) point out, “Where mediators ignore overt or underlying emotions, there is a danger that the parties might not be ready to move to a resolution, that they will find the process alienating and ungratifying, or that a settlement may later come unstuck”. Nevertheless, there needs to be some sort of limit on the expression of emotion if the mediation session is not to be “yet another occasion for personal recrimination” (Roberts 1997: 119) and if a constructive focus is to be maintained. Such utterances go to the heart of the verbal enactment of a mediator mediating and will be explored more fully in the chapter on the techniques of the profession.

The following, penultimate section, will consider the themes of power and politeness as revealed in the foregoing examples of interaction, and the practice of mediation in general.

6) Power and Politeness

As in the previous chapter on discourse roles, this examination of power and politeness will simply touch on some of the relevant issues: a fuller examination will take place in Chapter 10. But, again as previously mentioned, I believe that the verbal enactment of politeness and power in these data could easily constitute a thesis in itself.

Firstly, I would like to make the obvious point that much of the dialogue examined is, because this is a chapter on multiple and hidden meanings, polite in nature. Many, but not all, of the utterances and exchanges which I have examined could have used much less polite locutions, in other words could have been phrased much more bluntly. For example:-

- 23) D *I'd be surprised if you could remember, Jane, because you must have*
24) *been on your fourteenth pint [of beer] by then*

Could have been phrased, using the vernacular:-

- D *You were well pissed so can't remember what went on*

Similarly:-

- 36) M1 *It's going round in circles this, we still haven't got to the list*

Could have been phrased as:-

- M1 *You're avoiding the point and wasting our time*

And finally:-

- 51) D *Yeah, well, it wasn't me that decided to walk out of the marriage, was*
52) *it?*

Could have been phrased as:-

- D *This is all your fault*

The point here is that, even in tense and conflicted situations, participants will often still rely on indirectness to express their unhappiness, criticism and pain. Leech (1980) makes some relevant points in relation to this topic, although his focus was on

the nature of directives and my use of his ideas are not, I believe, strictly what he had in mind. In particular I am interested in his notions of tact as “strategic conflict avoidance”, and negative politeness as “the degree to which the individual behaviour of a particular person ... exceeds the normal degree of tact required in a given situation” (op cit: 109). These observations lead Leech to two suggestions, namely that indirectness is “a scalar phenomenon” and that “It is quite possible ... for a person to be IMPOLITE (i.e. to fall short of the normal degree of tact in a given situation), and yet to employ tact to some degree” (op cit: 109).

Whilst I would not wish to characterise the examples above as particularly ‘tactful’, they are nevertheless utterances which, to a certain degree, seek to avoid outright confrontation, at the same time as they seek to, indirectly, ‘score’ a point. If a mediator is to be effective, she or he has to be alert to such undercurrents and deal with them. Failure to do so is likely to result in a session becoming an uncontrolled ‘slanging match’ or to agreements which will fail because they do not address the underlying problems and anxieties. This, in turn, brings me onto the subject of power.

I have already established that mediators are there to exercise power: they are there to control the process, or the development of the discussion. A mediation tenet is that practitioners do not control the outcome. This is, I believe, an artificial and, ultimately unsustainable, division. By the very fact of controlling the process of negotiations, mediators inevitably influence their outcome. Dingwall (1988: 165) makes two pertinent points regarding this dilemma: he notes that “divorce mediation can incorporate some elements of *enforcement*, where settlements are required to meet moral criteria external to the standards of the disputants” (op cit: 151-152, italics in original); and further develops this observation when he states that “mediators can play a very active role in orchestrating these encounters in ways which seem inconsistent with the aspiration to party control” (op cit: 165). Dingwall thus highlights a mediator’s ability to make use of their “control of the encounter frame to push for” their own preferred outcome. He prefaces his conclusion with the question as to “whether it could ever be any different. A firm answer to that must await further detailed empirical studies, but such data as we have certainly encourages a negative answer” (op cit: 165). With the benefit of many years practical experience, and a considerable body of data, I would concur with Dingwall’s negative prognosis.

Mediators in the UK, and no doubt elsewhere, work within a cultural, and legal, framework which incorporates preconceptions about what is in the interests of children and other members of society. I would argue, therefore, that mediators are inevitably oriented to certain outcomes, in addition to which, as individuals, they carry a history of personal experiences, feelings and values. Whilst the mediation literature acknowledges such issues, it does not, in my opinion, fully address them, in the sense that contradictions are raised, but not resolved. For example, Haynes and Haynes (1989: 13-14) state that “Mediation is an arena in which the parties to the dispute can settle it on their own terms”, and that “People have the right to make their own decisions, and mediation guarantees this right”. And yet, interspersed amongst these assertions, Haynes and Haynes also comment that “Nevertheless, the outcome of mediation cannot be too far outside social norms”.

Parkinson (1997: 8) notes that “The basic principle of family mediation is that participants should retain control over the outcome” but also observes that “Mediation has its own values” (op cit: 13). Roberts (1997: 11) draws attention to “The precepts of mediation [which] are ... the competence of the parties to define their disputes and assert their own meanings, their right and power to make their own decisions, and the opportunity to do so. The mediator is subject to their authority, not vice versa”, and yet acknowledges that “the mediator is not neutral, inevitably having his/her own views, values and interests” (op cit: 103).

A final point, and one which was referred to earlier, is the nature of power between the clients and how the mediator is to recognise this, and address any imbalance (the latter being a specific mediation technique). This is a spectacularly subjective phenomenon. In all but the most hierarchical settings, it is likely to be an issue on which any participant present has widely, or subtly, differing views regarding their own power in relation to that of the other participants who are present. This, in turn, relates to another issue raised earlier: what is the reality?

Mediators, and indeed the courts, are only too aware of the contradictory ‘facts’ which are presented by clients. These often manifest in a ‘tit-for-tat’ style of interaction, that is an exchange which consists of a combination of allegation/rebuttal

and allegation/counter-allegation. Parkinson (1997: 63) points out that, when “reciprocal accusations and counter-accusations” occur “couples can get locked into permanent war”. What is saddest of all is that, **almost** without exception, these utterances are of little relevance to the substantive issue. Each party, however, is seeking the power to impose their own version of events and to ‘prove’ that they are ‘right’.

Further complications can arise when it appears that one client has more power than the other. As Boulle and Nestic (2006: 455) observe, “power imbalance can arise from a range of factors, including personality attributes, like articulateness; access to information, advice and finance; and the strength or weakness of a party’s case”. A further dimension of power is discussed by Parkinson (1997: 238), that of “emotional power”, one element of which is the “guilt feelings” of one or other party. With Catherine and Derek, the mediators made the decision that the person in the relationship with the ‘emotional power’ was Derek, and thus ‘allowed’ Catherine to use the session to the full, in terms of verbalising her anxieties. This assessment was based, amongst other things, on the fact that it was Derek who had decided to terminate their marriage, and his somewhat detached manner of engagement in the discussions which were taking place. It took Derek to say “*Sorry, I’m feeling a bit blasted at at the moment. What was I supposed to be saying?*” for the mediators (both female) to take stock about their impartiality.

In the session with Danny and Jane, the mediator was so concerned with remaining neutral that the session over-ran by more than an hour. In this case the party with the ‘power’ was Jane. In transcribing this session I was left with the overwhelming impression of one person being consistently humiliated and often for what appeared to be capricious reasons, and enduring this for the sake of seeing his daughter. It is always difficult for a mediator to make the decision to terminate a session prematurely although, in my opinion, such a course of action would have been preferable in this case. Of course, Danny himself could have ended the session, as clients sometimes do, by saying that he had had enough and/or walking out. There are power issues here too.

7) Summary

This chapter has aimed to clarify the characteristics of two kinds of complex illocutionary act, namely bivalence (or multivalence) and multi-targeted multivalence, and to distinguish both from ambivalence. The key distinctions centre on the number of hearers in an interaction and the number of meanings in an utterance.

The analysis of extracts of 'real life' dialogue from family mediation sessions has, hopefully, illustrated the scope and power of CIAs in explaining and describing language use. I believe that the notion of complex illocutionary acts does help to make sense of the language used by participants, and some of the motivations underlying their choice of locution. I have also touched on the relevance of CIAs to mediation techniques, a topic which will be discussed in detail in Chapter 9.

In addition, I have raised some questions about Thomas' (2004 and 2006) ideas, mostly in relation to terminology. One further question has occurred to me in relation to the spectrum of ambivalence, bivalence (multivalence) and multi-targeted multivalence, and that is whether there is a need for a category of multi-targeted ambivalence. In terms of elegance, and using the proposed term of multivalence for bivalence, this would give a clear, four category spectrum of ambivalence, multi-targeted ambivalence, multivalence and multi-targeted multivalence.

Finally, I have briefly discussed the themes of power and politeness and noted that these are enormously complex, and fascinating areas of interaction. I firmly believe that the analytical and conceptual framework as explicated by Thomas (2004 and 2006) has much to contribute to the existing literature on these vital themes.

CHAPTER SEVEN
A SCHEMATIC MODEL OF DYNAMIC INTERACTION

1) Introduction

It is clear that the language behaviours which are being discussed in this thesis are complicated. This complexity is partly derived from the multi-dimensional nature of interaction, and partly from the many ways in which those dimensions may interact and combine, that is their **dynamism**. In numeric terms, the set variables are five categories of the producer discourse role, namely the roles of author, speaker, spokesperson, reporter and mouthpiece (Thomas, 2004a) and four categories of the recipient discourse role, that is addressee, auditor (plus audience as sub-division), bystander and eavesdropper/overhearer (Thomas, 2004b). (I would point out, however, that Thomas does not lay claim to these discourse roles being the only ones which it is possible to identify). In addition, there is the potential for up to five levels of meaning in any one utterance, those of utterance meaning, pragmatic force, interpersonal intent, discursal intent and perlocutionary intent (Thomas 2004 and 2006). All of these elements can be combined in various ways and, therefore, produce a large number of potential outcomes.

It is not my intention to reduce the wonder that is language to a dry, mathematical computation of variables and outcomes. This would be missing the point if, indeed, it were actually possible. I am interested, however, in trying to capture, in a meaningful way, some of the fleeting and intricate nuances which are often present when two or more people gather to talk. My interest is not solely intellectual or academic: it stems from the belief that, complicated as the use of language is, users with the basic levels of competence **do** indeed process it in an incredibly sophisticated way, with amazing speed and at varying levels of consciousness.

I also acknowledge that paralinguistic features such as facial expression and tone of voice are of equal, if not greater, importance: indeed such non-verbal forms of communication constitute yet more variables which go to make up the overall ‘message’ or ‘messages’ which

is/are being processed. I believe that much, but not all, of our 'intuition' has its foundations in the complex interplay of these elements of communication. Further variables are found in the match, or mismatch, between what a producer **intends** to convey and what is actually **received** or **perceived** by the hearer or hearers present, or between the verbal message and the paralinguistic message. So, for example, a participant may have the 'feeling' that someone is lying but not be able to 'prove' it. Or a participant may 'feel' that they have been insulted but be unsure about how or in what way.

These are all areas which would benefit from further research. This thesis, however, confines itself to the study of words, an area which is complex enough. It is because of this complexity that I have sought to devise a schematic model of dynamic interaction. My intention is to provide a visual aid to understanding. This chapter is dedicated to presenting and explaining the model I have in mind, although it is still in the early stages of development.

2) Origins of the Model and Definition of Concepts

The basic model has been developed using the ideas of Thomas (2004) in relation to the potential number of meanings which a producer of talk may intend to convey in their choice of a particular utterance. These are:-

- Utterance Meaning
- Pragmatic Force
- Interpersonal Intent
- Discoursal Intent

A fifth layer has recently been added, that of Perlocutionary Intent (Thomas: 2006). Itemised below is a brief reminder of the definitions of each of these categories.

Utterance meaning is the sum of the disambiguated meanings of the lexical and syntactical composition of the locution, in the context in which it is uttered. For example, the phrase "*It's impossible to operate in these conditions*" will mean different things depending on whether it's uttered by a fisherman on a deep-sea trawler caught in a North Atlantic storm, or a surgeon in a hastily improvised field hospital in the middle of a war zone.

Pragmatic Force relates to the meaning of an utterance which may underlie its semantics. The pragmatic force may be congruent with the utterance meaning, or it may not. For example, an illocutionary imperative may be presented in the form of a question, as when a teacher says to a pupil *“Would you like to read the next paragraph Johnny?”*; or an illocutionary request may be disguised as a statement, as when someone without a watch says *“I wonder what the time is”* in the company of a person who is wearing a watch.

Interpersonal Intent relates to the idea of social distance and whether a producer is seeking to increase, decrease or maintain this, for example *“Call me Tony”* or *“My tutor told me that, in the School of Ocean Sciences, students address their lecturers by their title and surname”*.

Discoursal Intent focuses on the producer’s intentions in relation to the flow of dialogue which is taking place, for example to initiate a change of topic as in *“Speaking of John, is his mother out of hospital yet?”*.

Perlocutionary Intent is concerned with the effect on the hearer which a speaker wishes to produce, for example an action, verbal response or state of mind. An utterance which I use with tiresome frequency in relation to my computer, and in the presence of my partner, is *“I can never get this bloody thing to work properly”* which he invariably, and correctly, interprets as a request for assistance.

Every utterance, obviously, contains the level of utterance meaning: the other levels may be present in various combinations, or not at all.

The model also includes the dimension of meaning complexity engendered by the presence of more than one hearer. So, one utterance may have: the same multiple meanings for all hearers present in the interaction; multiple meanings for one hearer but not others; or different multiple meanings for different hearers. The next four sections briefly introduce the basic model and the symbolism used to display meaning mismatch, uncertainty and different meanings for different hearers. Sections seven and eight will use the model to focus in more detail on excerpts from the data in relation to multivalence and multi-targeted multivalence respectively.

3) The Basic Model

S	H

- Utterance Meaning (UM)
- Pragmatic Force (PF)
- Interpersonal Intent (II)
- Discoursal Intent (DI)
- Perlocutionary Intent (PI)

There are two columns which are headed 'S' for Speaker and 'H' for hearer. At this stage the model does not break down the sub-categories of either discourse role. The diagram above depicts the essential requirements for an interaction, namely two participants.

Under the heading in each column there are five cells which represent the potential number of meanings in an utterance, that is the utterance meaning, pragmatic force, interpersonal intent, discoursal intent and perlocutionary intent.

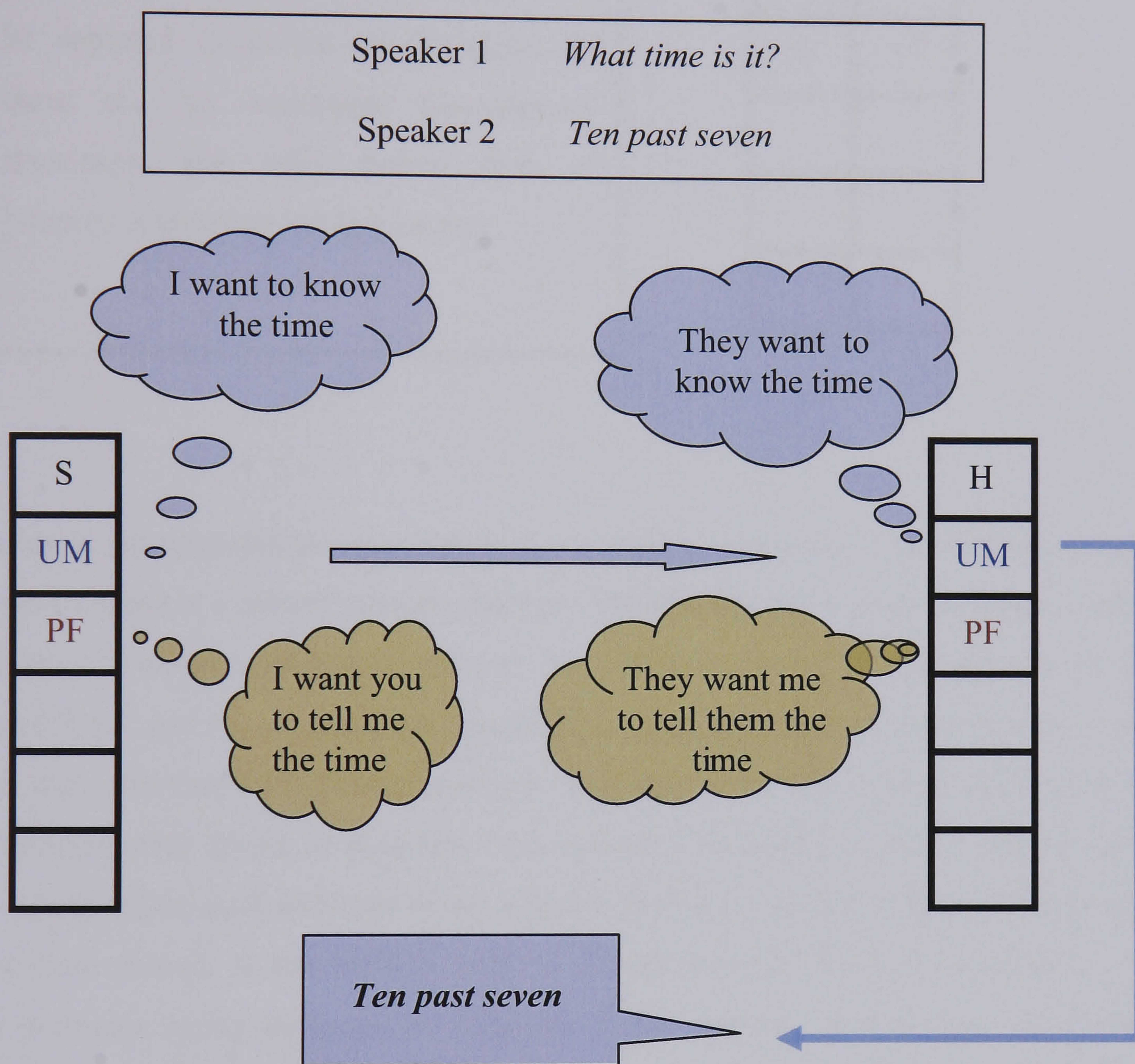
A fully 'loaded' utterance would, therefore, be depicted as follows:-

S	H
UM	UM
PF	PF
II	II
DI	DI
PI	PI

I have used different colours to depict each level of meaning simply for stylistic purposes. With the more complicated models which occur later in the chapter I believe that different colours for each level make for greater ease of reading and reference

But, to begin with, I would like to take the example of a straightforward utterance which has no intended or perceived hidden meanings and a response which reflects this. In the example

on the next page, and one or two others which follow, I have designed a rather florid illustration of the dynamics which are taking place at the level of meaning, before presenting the same exchanges in model form.



The above example is included simply as a prelude to more complicated examples which will follow. The exchange in question is straightforward and simple as the message is on two sublocutionary levels only, that of utterance meaning and pragmatic force. In later examples I will introduce various symbols to show more complicated relationships between utterance meaning and the other levels. In this case, however, there are no such complexities: the meaning of the utterance and its pragmatic force are one and the same, that is a question requiring an answer. The flow of the single arrow illustrates the pathway from the initial

utterance to its response. Not all exchanges are so simply pictured, as will be seen later.

In terms of the proposed model of interaction, the above illustration would be depicted as shown on the right. As there are no additional illocutionary meanings, the cells below that of Utterance Meaning are left empty.

S	H
UM	UM
PF	PF

The question is not intended to convey any other meaning, and none is inferred by the hearer: in other words there is a match between the two. The utterance is a direct question, requiring the provision of a simple informative answer. The only cells which contain entries, therefore, are those of 'UM' and PF, or utterance meaning and pragmatic force in each column. I would point out that utterances of similar syntactic structure could, of course, depending upon context, contain other levels of meaning. For example, "Would you like a cup of tea" is a question which office staff at North Wales Family Mediation routinely ask of clients as they arrive for their session. In this context there is an interpersonal level of meaning or intent, with the utterance being designed to decrease social distance and convey the idea that mediation is 'friendly' and 'informal'. It is not an offer that a judge is likely to make to petitioners and respondents as they enter the courtroom.

The next example is taken from a couple who have lived together for some time and who share the use of a car. They have, ostensibly, agreed a place where the keys to this vehicle should be left, so that they are to hand when either person wishes to use it. Again, the illustration is somewhat messy but I am seeking to convey just how 'busy' some apparently straightforward utterances can be.

S1 *I can't find the car keys*
 S2 *Oh, here we go*

S

H

I can't find the car keys

She can't find the car keys

UM



UM

Where are they?

I'm supposed to know

PF1



PF1

Why do you NEVER put them back

It's my fault

II



II

Do we HAVE to go through this yet again

She wants to start an argument

DI



DI

I want YOU to find them

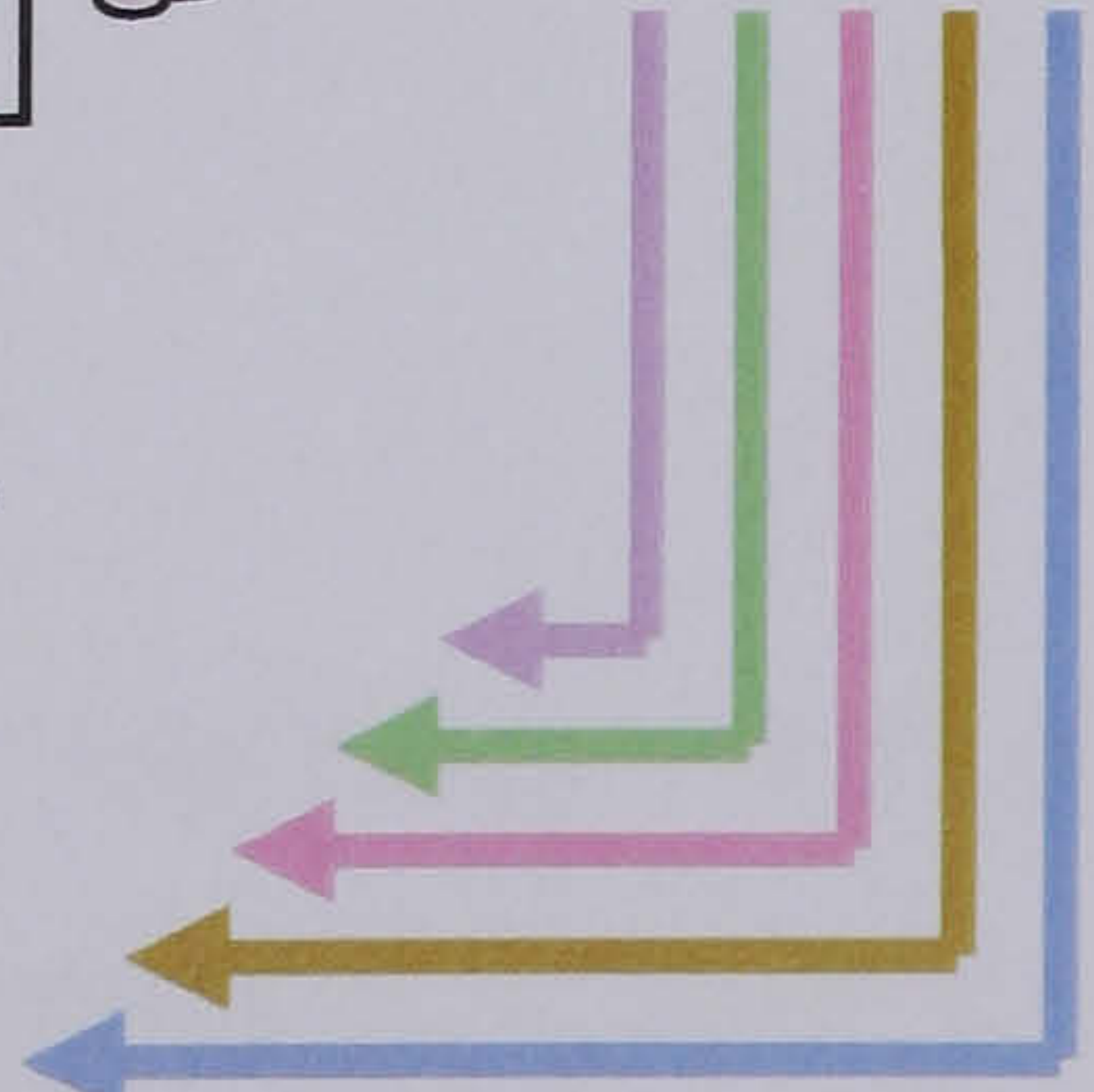
She expects ME to find them

PI



PI

Oh, here we go



The above, rather overwrought and messy picture, reveals that the apparent non-sequitur of speaker two's response to speaker one's statement is, in fact, perfectly understandable in context. In fact speaker two has fully understood the multiple implicit meanings of speaker one's utterance. The model depicts the complexity of speaker one's utterance as shown below.

	S	H
STATEMENT	UM	UM
QUESTION	PF1	PF1
CRITICISM	II	II
START AN ARGUMENT	DI	DI
DEMAND FOR ACTION	PI	PI

The entry in the cell for pragmatic force contains the numeral one: this is to indicate that the force of the utterance is **different** to the ostensible force of the utterance meaning. That is to say that, whilst the force of the utterance meaning is that of a statement, its pragmatic force is that of a question. Where there is more than one hearer, and the speaker intends to convey different pragmatic forces to each speaker, the numerals two, three etc will be used to depict this, as will be shown later.

In the next section, however, I demonstrate my proposal for illustrating situations in which there is a mismatch between the speaker's intended meanings, on any level, and those perceived by the hearer or hearers.

4) The Depiction of Meaning Mismatch

Ambiguity is not the focus of this thesis but, for the purposes of completion, I will discuss how this would be depicted in the proposed schematic model. For example, a headline taken from the Guardian newspaper on 28th October 2006 "Chinese bank shares rocket". In terms of

an utterance, the meaning of the headline is fairly clear, although other interpretations are possible, albeit unlikely. Thus it was that my partner chose to interpret the sentence in humorous vein by switching the noun status of ‘shares’ to that of a verb, and vice versa with the term ‘rocket.’ to envisage the intriguing scenario of a national financial institution choosing to share, with an unspecified other, either an inter-planetary travelling machine, a firework or a green leafy salad vegetable.

S	H
UM	xUM

The point I am making is that a mismatch between speaker intention and hearer perception can occur and the model depicts this as shown on the left

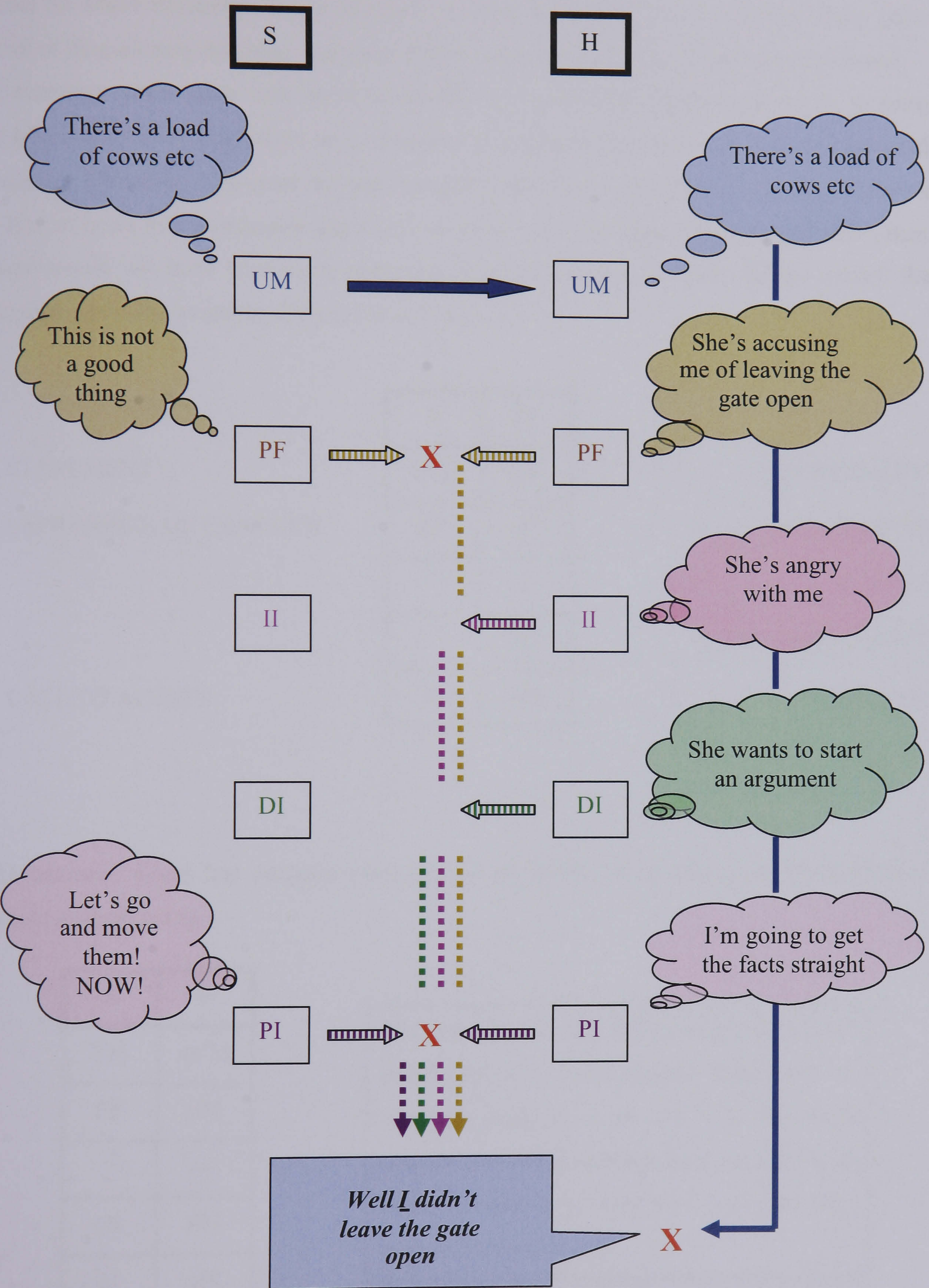
The mismatch, which can occur on any level of meaning, is indicated by ‘x’, a symbol which is quite relevant to the ‘crossed wires’ nature of the phenomenon. Below is another pictorial representation of what can happen when mismatch occurs, followed, as previously, with the way in which the model would depict this phenomenon.

The example occurred between my partner and me some years ago. At that time we had recently moved to the countryside and were new to the lifestyle. We quickly learned that a ‘city dweller’s’ ideas about how things worked did not match those of the local native and domesticated flora and fauna. We had laboriously planted and nurtured what was, up until that point, a rather successful vegetable patch. In fact it was so successful that a delegation from the local bovine population decided that they would show their appreciation by invading and eating it. They were in a full feeding and frolic frenzy when I happened to look out of a window and the following exchange took place:-

Me *There’s a load of cows in the vegetable patch!*

Partner *Well I didn’t leave the gate open*

This was not the response I was expecting, or wanted: clearly a misunderstanding had occurred and this is illustrated on the next page.



From the above illustration it will be seen that, apart from the utterance meaning, every other level of illocutionary meaning is mismatched, with either wrong meanings being attributed, or meanings where none were intended. Speaker two's response makes sense to him, in terms of his interpretation of speaker one's utterance, but makes no sense to speaker one's intended meaning. Of course, if speaker one had expressed herself more directly, for example, "There's a load of cows in the vegetable patch and we need to go and clear them off right now", then there would not have been such room for misunderstanding. In terms of the model, the original exchange would be depicted as follows:-

	S	H	
STATEMENT	UM	UM	STATEMENT
EXPRESSION OF CONCERN	PF	xPF	ACCUSATION
		II	BLAME
		DI	START ARGUMENT
CALL TO ACTION	PI	xPI	DEFENCE

An utterance which has intended meanings on all levels, all of which are misunderstood would be depicted as:-

S	H
UM	xUM
PF	xPF
II	xII
DI	xDI
PI	xPI

The depiction on the left is simply a logical possibility of a multi-layered framework of utterance analysis. I am not sure that such comprehensive misunderstanding is possible in reality: certainly no examples from the data spring readily to mind.

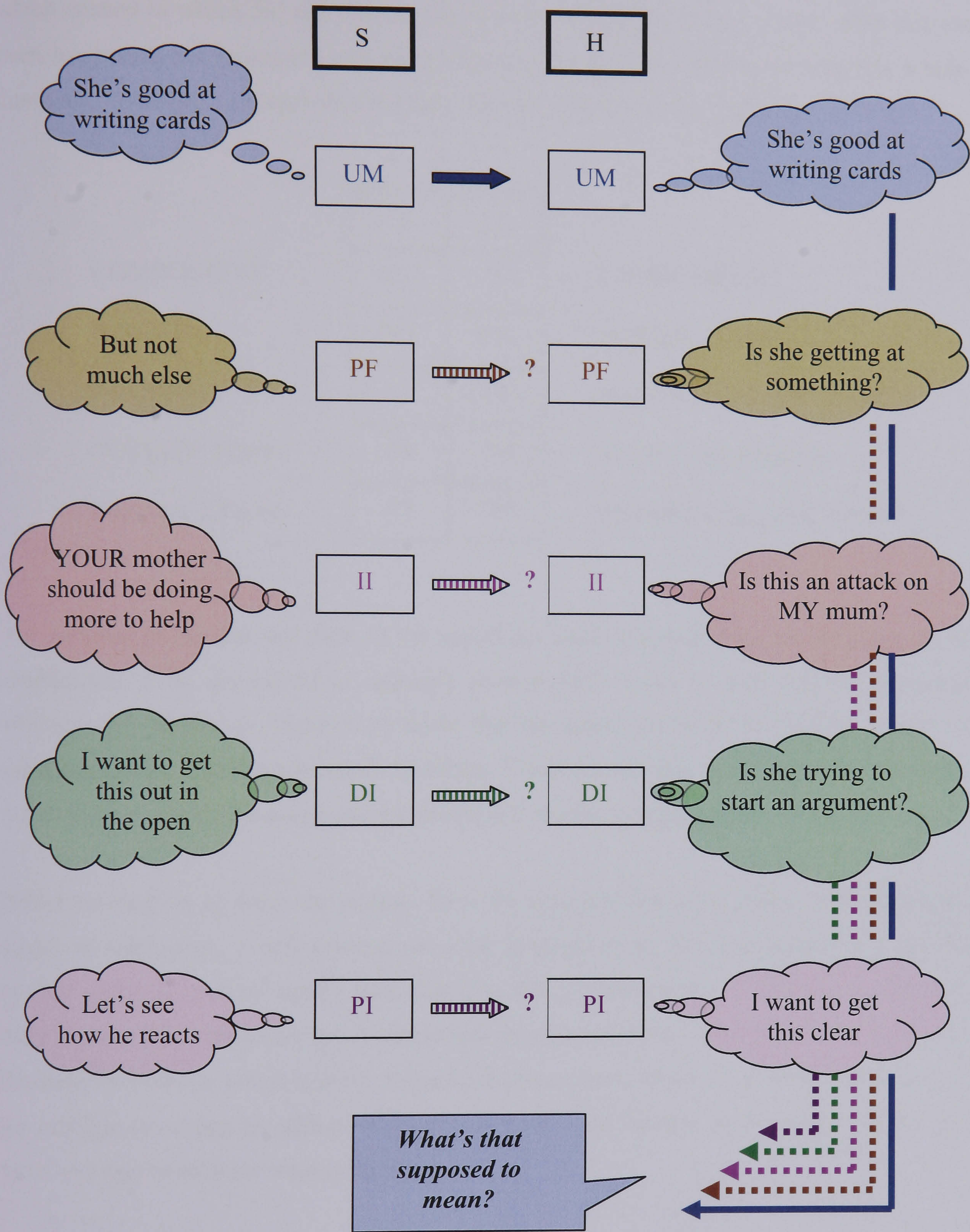
5) The Depiction of Meaning Uncertainty

It is by no means unusual for a hearer to be uncertain about one, or more, levels of meaning. This is one of the advantages for a speaker of using indirectness: if challenged they can choose to deny the existence or nature of any illocution present in their utterance. The disadvantage is the potential for confusion or misunderstanding. In terms of the model, a question mark is used to denote the uncertainty.

The example I will use is taken from an exchange which took place between members of my extended family, shortly after my maternal uncle had died. There were several of us present at my aunt's house, including her daughter (my cousin), Jill and her husband, Graham. Graham's mum, Beryl, had sent a card of condolence to my aunty.

To provide a little context, there is something of a 'history' between Jill and her husband's mum, Beryl. For whatever reason, Jill appears to resent Beryl's tendency to send cards and letters to people whenever she hears about particularly good or bad events which they have experienced. Most of the family think that this is rather touching and thoughtful but Jill remains firm in her attitude. Graham is aware of this of course and, like a lot of individuals who are in long-term relationships where there is antagonism between their partner and other members of their family, is caught between the two. He usually adopts the line of least resistance (again like most of us) but on this occasion decided to 'rise to the bait'.

Aunt	<i>Beryl sent a lovely card</i>
Jill	<i>Yes, she's good at writing cards, very good</i>
Graham	<i>What's that supposed to mean?</i>



With meaning uncertainty, it is often the case that a hearer will verbalise this, as in the example above, and as will be seen in an example from the data later in this chapter. In the

illustration above, I have been able to reconstruct what was going on because of the dialogue which ensued in which Jill did, indeed, want to ‘get things out into the open’. Had this not been her intent, her response to Graham’s question would have been something like a non-committal “Nothing”. In terms of the model, the exchange would be depicted as follows:-

	S	H	
COMPLIMENT	UM	UM	COMPLIMENT
INSULT	PF1	?PF1	POSSIBLE INSULT
ACCUSATION	II	?II	POSSIBLE ACCUSATION
INITIATE TOPIC	DI	?DI	START ARGUMENT
PROVOCATION	PI	?PI	POSSIBLE PROVOCATION

The columns to the left and right of the model are utilised at this stage for the purposes of clarification. I do not intend to routinely provide such labels as they can be somewhat arbitrary and subjective. There is no doubt that the identification of the precise number of meanings is also subjective and open to debate. I believe that what is not debatable, however, is that there **are** other meanings and the model is intended to capture this.

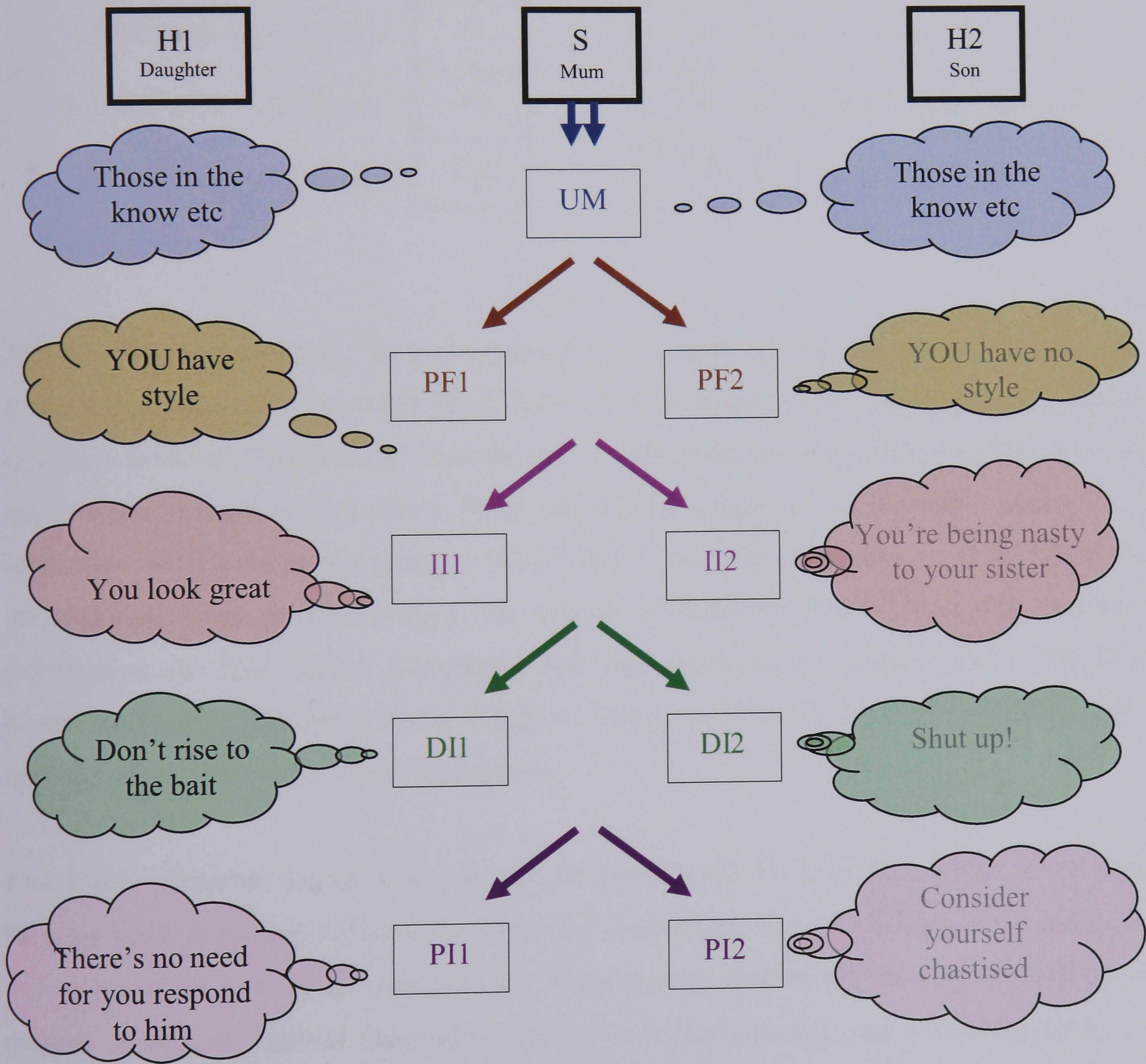
Before moving on to focus on extracts from the data and the applicability of the proposed model of interaction, I will present one final illustration of meaning complexity and the symbol which is used to signify this. These additional dimensions of meaning occur when there is more than one hearer in an interaction. In such situations, multiple meanings may be the same for both (or more) hearers. What is of interest here, however, is when some or all of the multiple meanings are **different** for at least two of the hearers. In the model I utilise the ‘plus’ (+) sign to indicate what is happening.

6) The Depiction of Additional Meanings for More than one Hearer

The following interaction is, again, drawn from personal experience and took place between my sister and her two teenaged children. My niece, who was about fifteen at the time, had bought a new outfit to go to a special party that evening. After hours of getting ready, she

finally came down into the living room and asked something along the lines of “What do you think?” to those of us who were present. My nephew, aged about seventeen, replied “Mingin”, a derogatory term meaning, amongst other things, to have the appearance of, or be, ugly, dirty, undesirable. My sister’s reply, said with haughty tone, is illustrated below. Hearer One is designated as my niece, as this was the person to whom my sister’s eye gaze was directed.

Of course, those in the know recognise style when they see it



What the above intends to show is that, rather than issue a series of utterances to each of the hearer's present, the speaker chooses to make one comment which, in effect, achieves multiple goals. The elaborated model would depict this as follows:-

	H1	S	H2	
STATEMENT	UM		UM	STATEMENT
COMPLIMENT	PF1		PF2	PUT DOWN
ENCOURAGEMENT	II1		II2	DISCOURAGEMENT
AVERT SIBLING SPAT	DII		DII	AVERT SIBLING SPAT
HAPPY DAUGHTER	PI1		PI2	CHASTISED SON

As I have mentioned before, the interpretations noted above are not intended to be definitive: it is almost impossible to avoid some level of subjectivity in deciding upon the precise meanings involved. This is to be expected and simply replicates the subjectivity which we all utilise when interacting with others. What we also do is take into account the context of our interaction and I have drawn upon my knowledge of the relationships between my sister and her children. I can predict, with a fair degree of certainty, that without their mother's intervention, the son's initial disparaging comment would have escalated into a somewhat heated exchange culminating in the daughter fleeing the room in tears and tragically, for a teenager, ruining her make-up in the process.

I have also attributed the same discorsal intent to my sister's utterance, whilst at the same time noting it as having different meanings for each of her children. Whilst the overall aim was to divert an anticipated argument, the meaning was slightly different for each child, as pointed out in the pictorial illustration. For her son, the message was something along the lines of "Shut up!", whilst for her daughter the message was more along the lines of "Don't respond to him".

The simplified version of the model would depict the utterance in question as shown on the right.

S	H1	H2
UM	UM	UM
PF	PF1	PF2
II	II1	II2
DI	DI1	DI1
PI	PI1	PI2

The following two sections will focus on extracts of data from mediation sessions, beginning with some examples of multivalence.

7) The Model and Multivalence

The first example is taken from the session with Maria and Judy. This couple had bought a house together and co-habited for over ten years. After the separation, Judy had left the former family home, taking her daughter with her, and leaving Maria, and her teenaged daughter in the house. Maria had started a new relationship but maintained that she was not co-habiting.

- 1) J ...but then, you know, how long is this going to go on for? I'm
- 2) supplying the furniture for whoever in, in your life then, aren't I? And
- 3) you ...
- 4) Ma For whoever? What does that mean? (dhchMJJW(1): "2":8)

S	H1	H2	H3
UM	UM	UM	UM
PF	?PF	?PF	?PF
II	?II	?II	?II
DI	?DI	?DI	?DI
PI	?PI	?PI	?PI

The model depicts a 'snapshot' of the uncertainty verbalised by Judy on line 4 of the extract. This uncertainty is the same for all of those present, namely Judy and the two mediators.

Judy's use of the lexical item "whoever" is not only vague at the level of utterance meaning, but, by its very vagueness, generates implicatures at the levels of pragmatic force and interpersonal intent. These, in turn, generate uncertainty at the levels of discursal intent and perlocutionary intent.

This uncertainty of the 'meaning' of Judy's utterance stems from the 'fact' that Maria maintains that only she and her daughter are living in the former family home. In this context, all of the hearers present are prompted to ask themselves why Judy has chosen to use a vague and impersonal pronoun, rather than the name of Maria's daughter. The pragmatic force is to raise a question about who else is in the home, and the suspicion that Maria has 'installed' another partner for whom Judy feels she is paying. At the interpersonal level it is unclear what Judy is trying to achieve in terms of her relationship with Maria. On the one hand there is a suspicion of lying by Maria, and yet Judy appears to be avoiding making a direct accusation.

Given these uncertainties, it is also unclear what Judy is trying to achieve at the levels of discursal and perlocutionary intent. Is she trying to provoke a direct challenge by Maria, thus opening up a new topic of discussion? Or is she hoping to 'slip in' the notion that someone else is resident in the former family home, which, if unchallenged, would provide her with 'evidence' of what she suspects? It is not an utterance which the mediators would have let pass without an attempt at clarification: in the event, Maria chooses to directly challenge these potential implicatures herself.

The next extract occurred during the session with David and Laura. Laura and their child had moved out of the former family home and were living in rented accommodation, whilst David remained in the house and had assumed responsibility for all of its finances. This was, ostensibly, an arrangement which the two had agreed between themselves although David maintained that he was struggling financially.

- 5) D *So our costs there are similar, well actually Laura's are quite a bit cheaper*
6) *than mine because her rent is cheaper than the mortgage*
7) L *Yes, but whose fault is that David? Let **me** have the house*
8) D *Li, Li, Laura, I'm not moaning about that, do you know what I mean*

(chDCLC(1): "1": 9)

S	H1	H2
UM	UM	UM
PF	xPF1	?PF1
	xII	
	xDI	?DI
	xPI	?PI

The model on the left depicts the meaning uncertainties and mismatches generated by David's utterances on lines 5 and 6 of the excerpt for each of the other two participants present. Hearer one is Laura and Hearer two is the mediator.

That Laura has attributed an underlying pragmatic force to David's utterances is evidenced by her response on line 7 of the example. That, as far as he is concerned, this is misplaced is evidenced by his comments on line 8. For the mediator, a number of uncertainties are generated by David's original utterances which are firstly reinforced by Laura's comments and then negated by David's response to what she says.

Laura appears to infer that David's original comments have the pragmatic force of a complaint with the associated interpersonal intent of a criticism of her. As such she responds by potentially opening a whole new topic of discussion about an arrangement which, up until this point, each party had maintained was what they wanted. From the mediator's point of view, David did tend to have a habit of making comments with the potential of multiple meanings which, when challenged by Laura or the mediator, he then denied. The cumulative effect was to engender the 'feeling' that, whilst he insisted he was satisfied with the agreement that he remain in the former family home, he was, in fact, unhappy with the arrangement. I classify this as a 'feeling' as he never verbally acknowledged this.

In any event, what the model shows in this particular exchange is that, as far as David was concerned, he was simply providing information for the purposes of developing the current topic of discussion. Thus the cell for pragmatic force is marked with a simple 'PF' in his, the speaker's column, indicating congruence between this level and that of utterance meaning. Laura has, apparently incorrectly, attributed an additional meaning at this level, hence the 'cross' and use of the numeral '1' in her column, that of Hearer one. The mediator is uncertain about any such additional pragmatic force, hence the question mark and numeral '1' in her column.

Similarly, the cell at the level of interpersonal intent is left unfilled in David's column, whilst that of Laura contains a 'cross'. I have left the cell unfilled in the mediator's column because, had there actually been an interpersonal intent, in this particular example it would have been directed as Laura, and not the mediator. This does raise a complication which will be discussed later in the chapter.

I have also left unfilled the discorsal and perlocutionary intent cells in David's column. Obviously, all utterances have some form of intent at these levels, and perhaps also at the levels of interpersonal intent, simply by virtue of being part of an ongoing dialogue and interaction with another person. The focus of complex illocutionary acts, and the model, is not, however, the 'unmarked' utterances which occur in the flow of interaction, but those which are 'marked' by having specific illocutionary purpose. In terms of the utterance being analysed here, there is a 'cross' and question mark in each of these cells in Laura's and the mediator's columns respectively as Laura is mistakenly assuming meaning at these levels, whilst the mediator is querying the possibility of their existence.

8) The Model and Multi-targeted Multivalence

The first example in this section is again taken from the session with Judy and Maria, in which two mediators were present.

- 9) M1 *It doesn't feel as if there's an awful lot of give on either side here, I'm*
10) *looking at both of you equally, alright. It doesn't feel, it, it feels a bit*
11) *like, that, it doesn't feel as if either of you's really prepared to, sort of,*
12) *compromise*
13) M2 *Well, I think, if, if I could say something – I think because it's a bit*
14) *raw, it's a very new break up*

(dhchMJJM(1): 1)

S	H1	H2	H3
UM	UM	UM	UM
PF	PF1	PF2	PF2
II	II1	II2	II2
DI	DI1	DI2	DI2
PI	PI1	PI2	PI2

The model depicts the utterance of mediator two on lines 13 and 14 of the excerpt. Hearer one is mediator one, whilst the columns headed Hearer two and three signify Judy and Maria.

The diagram aims to show that the surface level of what Mediator Two says is the same for all participants, that is she is making a statement about facts. The pragmatic force, however, is not the same for Mediator One, and Judy and Maria. For Mediator One, the pragmatic force of the utterances in question is one of challenge: the utterances seek to convey that Mediator Two's perceptions of what is happening is at odds with those of Mediator One. For Maria and Judy the pragmatic force is one of support or 'rescue'. The interpersonal intentions are also different for the hearers. For the clients the interpersonal meaning is one of acknowledgement and empathy. For Mediator one, who happened to be me, the interpersonal intent is mixed. There is criticism, but it is phrased in a way which also contains an element of 'friendly advice'. I certainly felt that my co-worker was paying attention to my positive face, whilst also steering me away from this particular line of questioning. Thus I was being controlled, or manipulated, but in a way which did not leave me feeling disempowered or embarrassed.

At the levels of discoursal and perlocutionary intent, the meaning could be classed as the same for all hearers, namely something along the lines of 'let's not pursue this particular line of discussion'. It could also be categorised as having slightly different meanings for Mediator One and the clients, within the overall aim of changing topic. There are echoes here of the interaction described earlier between a mother and her two teenaged children, except in this case the speaker is paying attention to the positive face needs of all of the hearers present. Mediator Two is seeking to prevent her co-worker from continuing in the same vein, whilst also, on behalf of the clients, averting any need they may feel to leap to their own defence. Within the overall aim of averting an imminent rise in tension and possible conflict, Mediator Two seeks to leave her co-worker with her professional dignity intact, whilst reducing any

anxiety on the part of Judy and Maria in the face of what they might perceive as a personal criticism from Mediator One.

The second example in this section is taken from the meeting with David and Laura. The exchange occurs during the early stages of the session, when the mediator is seeking to clarify the agenda for the meeting.

- 15) M *... and I gather that child support is also a bit of an issue at the moment*
 16) L *Apparently so*
 17) M *Apparently so*
 18) L *I found that out in the car on the way here*
 19) D *No you didn't, we discussed this about six weeks ago and agreed to leave it till*
 20) *we came here*

(chDCLC(1): "1": 2)

The schematic on the right depicts the utterance of Laura on line 16 of the above extract. Hearer one is the mediator, as Laura's utterance was a response to a question from her. Hearer two is David.

S	H1	H2
UM	UM	UM
PF	PF1	PF2
II		?II
DI	?DI	DI1
PI	PI1	PI2

Laura's comment on line 16 is, on the surface, a simple statement of fact: it is, however, a 'loaded' utterance, as evidenced by David's response on lines 19 and 20. I have classified the pragmatic force of the utterance as different for the mediator and David on the grounds that, in terms of the dynamic of the situation, it is something of a justification to the mediator about her uncertainty regarding the issue of child support, whilst for David it is more of a complaint. As a contribution to the discussion it is, strictly speaking, superfluous, **unless** there are other meanings entailed.

For the mediator, there is no interpersonal intent in what Laura says, but for David there is an implied criticism about his behaviour. At the level of discursal intent, there are a number of possibilities in relation to the two hearers. Does Laura want the mediator to pick up on this point? Does she want to antagonise David? Or is she simply ‘scoring a point’ as an aside to the main topic of discussion? Whatever her discursal intent, Laura is presumably aware that the reactions of the mediator and David to her statement will be very different. This kind of utterance is not unusual in mediation and represents points of crisis for mediators: should they intervene to avert the consequences of any perceived and/or intended provocation; or should they wait to see how the other party responds?

In any event, at the level of perlocutionary intent, I think it is safe to assume that Laura had two aims in mind. In terms of the mediator, it seems that Laura was seeking to present herself as disadvantaged by her ex-partner’s alleged behaviour, and to be treated accordingly. In terms of David, she was seeking to make an accusation about him, but not directly to him, which could only leave him in the position of reacting with verbal or silent acquiescence, or spirited defence.

9) Summary and Conclusion

The proposed model aims to capture schematically the complexities of utterance meaning at single, fleeting points of an ongoing interaction. It also aims to demonstrate the dynamism of interaction, an analysis of how a speaker’s choice of expression and a hearer’s response, are inextricably entwined around the axes of understanding, uncertainty and misunderstanding at the illocutionary levels of meaning.

The origins of the model have their roots in the analytically bewildering array of elements which are present in a complex utterance. I, personally, felt the need to try to ‘picture’ these inter-related and interactionally sensitive elements in a manner which offered a stronger form of clarity.

I believe that the model, as it stands, achieves many of these aims, but that it cannot accurately capture all of the subtleties which I have encountered in the data. It therefore remains as a ‘work in progress’.

From my own experience of devising and applying the model, I have found it to be a useful tool in understanding the language behaviours of both mediators and their clients. It has proved to be extremely illuminating in analysing situations where feelings and intuition are concerned. For the record, I acknowledge that subjects such as feeling and intuition are often considered to be somewhat woolly, soft and peripheral to hard objective analysis, even in the field of linguistics. Be this as it may, I am unequivocal in my view that, without these dimensions, there cannot be a meaningful appreciation of the nuances of language as it is actually used.

CHAPTER EIGHT

MEDIATION TECHNIQUES

1) Introduction

The aim of this chapter is to demonstrate the understanding which the concepts of discourse roles and complex illocutionary acts, as outlined by Thomas (2004 and 2006), bring to the practice of family mediation in the UK, and to argue that it is time for such insights to be formally incorporated into mediation theory and training.

I have already pointed out that the vast majority of a mediator's 'tools of the trade' are linguistic: as Meierding (2004: 225) points out "Communication is the heart and soul of the mediation process". I have also pointed out that, in spite of this, there is not a great deal of reference to linguistic research in mediator practice, theory or training. Nor, indeed, is there much focussed emphasis on the whole notion of communication and language use. For example, in the comprehensive volume compiled by Folberg, Milne and Salem (2004) there is only one of twenty four chapters which is dedicated to "communication"; Boulle and Nestic (2006) allocate one section of one of thirteen chapters to "communication"; and Parkinson (1997) dedicates only one of thirteen chapters to "language and communication".

I would argue that one of the main reasons for this paucity of specific consideration is because language comes so naturally to most human beings that its use is taken for granted. To a certain extent, this is as it should be. Language is tremendously complicated and we would not be able to interact naturally if we were to stop and consciously compute the nuances of what we have heard, and then methodically design our utterances to address these. Of course, in the swiftly flowing, fraction-of-a-second exchange of words which typify much human interaction, we are doing exactly this – but **subconsciously** and with incredible speed.

It is my belief that a fuller understanding and analysis of these processes, on the pragmatic level, is long overdue. There is no doubt that delving so deeply into the subtleties of language use can be bewildering: it is much easier to skip the analysis

and rely on our innate instincts and abilities. But, for me, as a linguist and past and present practitioner in a number of language-based professions, this approach is just a little too superficial. There is much to be gained from appreciating the power of word choice. In the next paragraph I recount a discussion to which I was party and which, hopefully, illustrates some of the points I am making.

In the summer of 2006, at North Wales Family Mediation Service, I attended a supervision session with a co-worker. There were three people present, namely the supervisor, my colleague and myself. Between us we had over thirty years experience as practitioners in the field of family mediation. The topic of discussion had moved on to the issue of power imbalances between clients and how a mediator should ‘address’ these. Both of the other parties present were aware of my current research so were not surprised when I raised the issues of how to recognise a power imbalance and how, in actual words, a mediator might enact the vague term ‘addressing’ them. The ensuing discussion was highly informative (and enjoyable!) and some paraphrased quotations are presented below. Whilst they are from personal recall, I believe that they fairly accurately reflect the nature of what was said. I had posed the question and received responses from the supervisor and my colleague along the lines of “well, I don’t know the actual words I’d use but I **would** address it”; “I don’t know quite know how I’d do it, but I would certainly not let it go”. I hasten to add that I did not have any ready answers either. The supervisor then made the observation that he had supervised a mediator who “does actually use the words, ‘you have the power here’” towards one or other client. I and my colleague were surprised and uttered exclamations and questions along the lines of “you mean she actually uses those words”; “that seems risky”; and “doesn’t that increase the imbalance”.

There are a number of points which could be made in relation to the above but I want to concentrate, in this chapter, on the words used by mediators to manifest their various techniques and skills. I would also argue that this ‘spotlight’ could, and should, be aimed at any interaction in which power is a factor. I am not advocating ‘scripts’ but, in my opinion, any individual in a position of authority who purports to ‘address’, ‘challenge’, ‘confront’, ‘support’, ‘encourage’, ‘manage’, ‘facilitate’ and any number of other terms should ask themselves this: what exactly does it mean?

And how do I verbalise it? This was what was happening in the discussion referred to above.

In the next section I will outline the techniques/skills for which family mediators in the UK need to provide evidence in order to become fully qualified. There have already been introduced in Chapter 3 but are reproduced below for ease of reference.

2) Mediation Techniques

There are twenty two specific skills which are stipulated in the portfolio requirements of the UK College of Family Mediators (2005). To put this in context, potential mediators need to complete a number of training programmes before they are allowed to co-work sessions with a qualified mediator: these training programmes often assume prior knowledge, qualifications and experience, usually in such fields of work as social services, children's services, teaching and family law. In order to become accredited with the UK College, a trainee mediator needs to complete a portfolio of case studies and, as mentioned, provide evidence of competence in the requisite skills.

I would point out in relation to family mediator training and professional recognition that, whilst "The UK College of Family Mediators acts as a regulator for professional family mediation organisations", it is also the case that "In England, Wales, Scotland and Northern Ireland there is a wide range of family mediation organisations, with their own standards, codes of practice and disciplinary procedures, although in many cases these mirror those of the UK College of Family Mediators" (Boulle and Nestic, 2006:441)

The twenty two family mediator skills which are required as portfolio evidence for accreditation by the UK College are listed below. They are, on the whole, self explanatory, but the examples and analyses which follow in the subsequent sections should serve to clarify any grey areas. In this chapter, however, I do not intend to work systematically through every technique listed for a number of reasons, which are discussed below, but also for reasons of space and interest.

- a) Clarifying (and rephrasing)
- b) Open and focussed questions
- c) Summarising
- d) Checking assumptions
- e) Constructive challenge
- f) Active listening
- g) Rephrasing
- h) Acknowledging feelings and needs
- i) Responding to body language
- j) Re-defining issues in a mutual rather than exclusive way
- k) Respecting the roles of individuals
- l) Separate people from problems
- m) Establishing interests rather than problems
- n) Challenging destructive comments
- o) Accurately rephrasing/summarising/redefining/reframing to the satisfaction of each party
- p) Not speaking for the other person or interrupting
- q) Acknowledge power imbalances
- r) Neutralise or reduce power imbalances
- s) Reduce/diffuse tensions
- t) Limit the effect of strongly expressed negative feelings and emotions
- u) Normalising
- v) Identify key words and phrases

There are several points I wish to make about this list before moving on to look at the data. I will begin with some general observations before examining particulars: I would also point out that, for clarity, any mention of a specific technique is underlined in the discussions which follow.

There is a great deal of vagueness and fuzziness about many of the items and the terms in which they are expressed. Take, as an example, the skill itemised as ‘t’ Limit the effect of strongly expressed negative feelings and emotions. In the context of this thesis, the questions are obvious: who decides what is ‘strong’ about an expression; who decides what is ‘negative’; how does one assess the ‘effect’; and how does one

'limit' these? That these skills exist is not a matter of contention. What is a matter of contention for me is that they are based on subjectivity and, therefore, need to be much more fully explored and delineated. Subjectivity cannot, and indeed should not, be taken out of the equation. In human interaction our 'instinctive', 'intuitive' or 'gut' feelings often take precedence over 'observable facts'.

My argument is that what appears to us as intuitive is often based on an accurate observation of what is actually happening at the 'hidden' level. In terms of words and utterances, this means the illocutionary levels. There is no doubt that paralinguistic features such as tone, eye gaze and body language are also significant components here, although I do not agree with the claims of Meierding (2004: 244), drawing on the research of Mehrabian (1981), when she states that "Mediators should be aware that only 7% of what they communicate is transmitted through spoken words. Intonation, inflection, and stressing of words – how the voice is used – accounts for 38%, and a full 55% is nonverbally or visually communicated". I do wholeheartedly agree with the observations of Bush and Pope (2004: 66) that "since silence and nonverbal messages can be used in directive as well as supportive ways, the mediator needs to consider them as carefully as any verbal communication". I have no doubt that paralinguistic features in mediation, on the part of both practitioners and clients, would be a marvellously rich area of study, as would the congruence, or lack of, between the messages being communicated by verbal and nonverbal means. At the moment, however, my view is that we should try to capture the richness of the words themselves, before moving on to the additional complexities of paralinguistic features.

To return to the mediation techniques mentioned earlier, apart from the subjectivity inherent in many of them, there is also the matter of overlap. This is a further reason for not examining each and every technique. A very clear example of overlap is the skill itemised as 'o' which, in fact, is a reiteration of the skills listed as 'c', 'g', and 'j' with the addition of the words 'accurately' and 'to the satisfaction of each party'.

A further point relates to the nature of the items: they are not all of the same 'kind'. Some seem to signify more of an overall aim, whilst others are more 'nuts and bolts' strategies for achieving these. For example, open and focussed questions are not an aim, but a means to achieve an aim, such as establishing interests rather than

positions. Normalising will usually be used in the service of another aim, such as reducing or diffusing tension, rather than as an end in itself. Challenging destructive comments, again, is not likely to be an end in itself but a means to, say, neutralising or reducing power imbalances.

A final point is that some of the techniques, but not all, appear to be able to switch their nature, or sometimes to be both a means and an end at the same time, or at different times. So, whilst the use of open and focussed questions, the identification of key words and phrases, or the use of reframing are unlikely to be ends in themselves, other techniques are not so clear cut. For example, as Haynes and Charlesworth (1996: 12-13) point out, the skills of reframing and normalising may be used as a means of mutualising, that is counteracting the tendency of clients to “frame the problem in a way that blames the other and denies personal responsibility for the problem”. But, achieving the goal of a shared definition of the particular issue at hand is, in itself, a means towards other ends, for example establishing interests rather than positions: it is usually only at this stage that parties are prepared to consider ideas that do “not involve one party’s losing and the other’s winning” (Haynes and Haynes, 1989: 23).

This overlap and flexibility of categories is not necessarily a problem. In my view it reflects the richness and complexity of language as it is actually used, which, in turn, goes to the heart of this thesis. What also goes to the heart of this thesis is that there is room for much better clarification and understanding of these phenomena.

In the next section I will examine extracts of mediator and client interaction, with a view to highlighting and exploring the ways in which mediators use discourse roles in order to verbally enact various skills and techniques. The section after will do the same with complex illocutionary acts.

3) Mediator Techniques and Discourse Roles

Most of the extracts in this chapter include stretches of dialogue. I have chosen to do this for two reasons. Firstly, as this is a chapter dedicated to the practice of mediation I thought it would be helpful, and of interest, to allow more space for the ‘feel’ of

family mediation to be conveyed through the words of the participants themselves, rather than through description on my part. Many of the issues, and the manner in which they are expressed, are typical themes and episodes in a family mediation session. Secondly, context is of great importance in pragmatics and I hope that the fuller stretches of dialogue provided will give a more detailed idea of the immediate verbal context in which the highlighted examples are situated. I shall, however, concentrate my discussions on the details of what the mediators are doing.

The extract below is taken from the session with Nat and Tamsin. Their daughter, Melanie, aged 5, lives with her mother, Tamsin and the couple are discussing contact arrangements between Melanie and her dad, Nat.

- 1) N *... it doesn't even have to a fixed day, it can be Tuesday one day, week*
- 2) *or a Wednesday the*
- 3) T *You see, you see, that's no good for either of us because we can't get*
- 4) *on with our lives. You've got on with yours, got your new life, when*
- 5) *can we start getting on with ours? Without you coming along and*
- 6) *saying "I want her that night, I want her to do this, I want a, an extra*
- 7) *bit there, I want to swap my nights here" and you know*
- 8) M *A, a defined contact arrangement is something we look towards.*
- 9) *Obviously we keep saying revisit it every sort of year or so, but you*
- 10) *need it defined, mainly for your daughter, so she knows ... in her own*
- 11) *mind "Oh, it's Tuesday night, I'm with dad"*

(dhNATA(1): "1": 1)

The mediator's utterances on lines 8 to 11 encompass a number of discourse roles but, throughout the role switching, what she is saying is addressed directly to both parties, in contrast to Tamsin's prior contribution which put Nat in the role of addressee and the mediator in the role of auditor. This is a small, but strategically significant move on the part of the mediator, returning the session to the more formal footing of a mediation session in which the third party is active. It is used frequently when the parties start talking directly to each other in a contentious manner.

On line 8 the mediator, who is working the session on her own, chooses to use the first person plural pronoun 'we'. She is seeking to convey that what she is suggesting

is not just a personal whim but has the greater authority of some unspecified 'we'. Whilst the nature of the 'we' is not articulated it is implied by the setting and suggests that the mediator is a spokesperson for the agency itself. She switches to a sort of spokesperson for the couple on lines 9 and 10 when she tells the couple what they need. On line 11 the mediator adopts the very powerful role which has been mentioned before but which does not sit easily in any of Thomas' (2004 and 2006) producer roles: this is not, in itself, particularly problematic, as the roles are intended to be fuzzy in nature. The question, in my view, is whether such a distinctive form of utterance should be categorised as a spokesperson or reporter role, with an element of mouthpiece (Thomas, personal communication); or whether it 'deserves' a category of its own; or whether (my preferred option) the discourse role of mouthpiece could be widened to include this kind of reported direct speech utterance.

As I have already stated elsewhere, part of my reasoning stems from the nature and purpose of a speaker's deployment of another's utterances and the discourse role of mouthpiece. Thomas (2004 and 2006) describes the use of the mouthpiece role, of which reported direct speech utterances are a key characteristic, as prototypically being used by a speaker to distance themselves from acts of control by quoting the words of (usually) a 'higher' authority, for example 'the law states', 'the university rules are' or 'mum says'. Whilst prototypical examples of the mouthpiece role do occur in mediation, for example when a practitioner quotes the law, or service policy, direct speech reporting of a different nature, that is from 'authorities' of a less typical kind, are used for the same, and different purposes, by both mediators and clients.

I have in mind here linguistic behaviours described by Leech and Short (1981) in relation to works of fiction, combined with the need, recognised in mediation literature, for clients to 'tell their story' (Mayer, 2004 and Boulle and Nesic, 2006), and the need for creative uses of language on the part of mediators. It is not my intention to conflate the notion of creating fiction with that of mediator or client language use, but rather to draw on the notion of relating events, whether fictional or real, and whether past, present or future, in a manner which seeks to convey "the 'thisness' of things, rather than their general and abstract form. The sense of being in the presence of actual individual things, events, people, and places" (Leech and Short, 1981: 156). These authors also discuss other ideas which, I believe, are of relevance

here, for example the creation of “credibility” and “authenticity”, “symbolism and realism”, and “specification of detail” (op cit: 153-159). I have already touched upon some of these ideas, for example my discussion of the voice of the child in chapter four, and will discuss further elements later in this and other chapters. At this point I would wish to acknowledge that I am applying ideas which relate to the creation of written fiction to the verbal language behaviours of a far from fictional setting. Yet, for me, the connection is strong: certainly, when I first read the ideas of Leech and Short (1981) some years ago, and more recently, amongst the first images which came to my mind were those of clients and the various ways in which they seek to ‘tell their stories’.

But, to return to this particular extract, with her utterance on line 11 of the transcript the mediator chooses to ‘put words into the mouth’ of the child in question in a hypothetical and future-oriented manner. It is a way of bringing home the fact that there are very real consequences for the couple’s child of the discussions which are taking place in the mediation room. The mediator is, therefore, aiming to create something along the lines of what Leech and Short, (1981: 156) call “verisimilitude”, that is an immediate sense of ‘reality’, rather than the vagueness of possibility. In terms of the mouthpiece discourse role described by Thomas (2004 and 2006), I would argue that there are also elements of distancing and control present: the mediator is using the projected words of the child to avoid a more direct and confrontational approach such as ‘if you don’t sort this out your child won’t know where she is’.

The question of ‘authority’ is an interesting one: the child is not present and is not, in the prototypical sense, a ‘higher’ authority. But, as Boulle and Nesic (2006: 186-187) point out, “In many mediations parties not present at the meetings may have significant roles in the overall effectiveness of the process”. Such parties are termed “external ratifiers” and may be formal, as in the case of a board of trustees ratifying a policy decision, or informal, as in the case of children, in which case the ‘ratification’ stems from the fact that “they have influence over the party to the agreement and might destabilise their decisions if they do not approve”. So, for the adults, there is something compelling about the perspective of the child. Furthermore, by ‘bringing the child into the room’ the mediator is also invoking the authority of the service and

the law: both of these bodies clearly state that any and all negotiations and arrangements should have the child's best interests as their focus. Whatever the nature or identity of the 'non-participant', their powers of ratification can be "invoked by one party to provide leverage in the negotiations".

In relation to this extract (and those that follow) I do not aim to provide an exhaustive analysis of all the mediation techniques which are being used, or to suggest that my interpretation is definitive: I'm not sure that such concrete objectivity is ever possible, or even desirable, with such richly nuanced language. Nevertheless, there are certain key themes. In this extract, for example, the context provided by what has just been said prior to the mediator's intervention reveals that Nat and Tamsin are in disagreement about fundamentals and not just details. One party is advocating a highly flexible approach, the other a more structured approach, to contact arrangements. For the mediator, this presents the potential for an impasse, an event which "defines the point when the negotiations have stalled and, whatever the reasons for the conflict, there is now an added complication with the intensification of the stress and frustration level in all concerned." (Benjamin, 2004: 250). He also points out that "While many disputes are little more than differences of opinion or questions of interpretation over generally agreed-upon principles, an impasse describes a heightened level of difficulty" (op cit: 250). The situation is further complicated, as it often is, by the fact that one party's views are more in line with 'cultural norms' and legal expectations, that is the overall social context in which the mediation is taking place. These latter points naturally present a considerable challenge to a practitioner who is charged with conducting her/himself in a manner which can be judged as neutral and impartial by both parties.

There is little doubt that the mediator has to exercise great caution and skill in navigating such potentially treacherous waters. One skill which can be used is to re-focus the discussion from the immediate disagreement between the parties, from 'I want x and you want y ', to what the child might want and need. In terms of the techniques used in this example, the mediator seeks to establish interests rather than positions and separate people from problems by the use of the discourse role or roles discussed above. Both of these techniques contribute to a view of facilitative mediation which Macfarlane (1999: 259) describes as "much more than simply the

introduction of a non-partisan third party into disputing contexts; it represents a paradigm shift in how disputants think about the resolution of their conflict”. In other words, the mediator is encouraging the couple to stop dwelling on their opposing and somewhat entrenched positions, or viewpoints, and to focus instead on what their daughter, Melanie might want and need. In seeking to shift the focus, the mediator is also aiming to reduce/diffuse tensions and limit the effect of strongly expressed negative feelings and emotions, that is to prevent the parties’ focus on the disagreement over their opposing positions from escalating into greater conflict.

Apart from re-focussing the discussion, the mediator also has to express her preference for one party’s ideas over the other’s, in this case Tamsin’s over Nat’s. Obviously, she avoids saying something as overtly biased as ‘You’re right Tamsin and you’re wrong Nat’. She strives to maintain the appearance of impartiality by the use of ‘we’ rather than ‘I’, as already mentioned, but this pronoun is also used to introduce a statement about what ‘we’ consider desirable. There is an element of the technique of normalising here, a matter-of-fact manner of ‘dropping’ into the discussion an outcome which is ‘generally’ preferred, whilst avoiding drawing attention to the fact that the preferred outcome is more in line with one party than the other. Whilst normalising is typically defined in mediation as a practitioner “Explaining that difficulties or feelings experienced by participants are natural and normal in their situation” (Parkinson, 1997: 491), the technique can also be used, as it is in this example, as a means of verbally enacting “the larger social function of keeping order, regulating and facilitating a range of social activities” (Maley, 1995: 95).

The effect of the mediator’s utterances, in total, is to constructively challenge the views of Nat, without personally attacking him. This particular couple were motivated to work together to seek a solution which was in everybody’s interests and responded to such ‘soft’ interventions. With more combative or entrenched couples the mediator may resort to constructively challenging, amongst other techniques, by drawing on other, more ‘authoritative’ discourse roles as implied in utterances such as ‘the courts are likely to take the view’, ‘the children’s act states’, ‘research shows’ and so on

As I have done elsewhere in this thesis, I acknowledge the highly subjective nature of some of the ideas discussed above, especially in relation to adjectives such as

‘desirable’, ‘preferred’, ‘neutral’ and ‘impartial’, or nouns such as ‘needs’, ‘wants’ and ‘interests’. These issues will be discussed in more detail in a later section.

A final point I would wish to make is that I have described the mediator’s intervention as assigning both Nat and Tamsin to the role of addressee. I believe this to be the case from my knowledge of what takes place in the entire session and my knowledge of the mediator in question. From the extract itself, however, one could also infer that the intervention is aimed solely at one party. I mention this because, in the following example, I believe that the mediator’s interventions **are** addressed directly to one party only, but with significance for the other party in the role of auditor. Without the benefit of the visual and paralinguistic clue of eye gaze, these attributions on my part are, of course, debatable.

The next example is also taken from the session with Tamsin and Nat. The term ‘shared care’ relates to an arrangement, which may be legally endorsed and with legal implications, in which a child spends more equal time with each parent, although not necessarily on a fifty/fifty basis. The latter point is a common misunderstanding on the part of clients who assume that any form of legally endorsed shared care entails strictly equal time with each parent. In reality, as Roberts (1997; 45) points out, and with reference to the Children Act (1989: s.11(4) if the court is to be involved in such an arrangement, any order it makes “may specify the periods for the different households concerned”.

- 12) T *...personally I think shared care, my view is that it's disgusting ... why*
13) *should, why should a child who's completely innocent in what's gone*
14) *on have to be pushed around from pillar to post between her, between*
15) *two homes. I think its disgusting that anybody would do that to their*
16) *children*
17) M *Well I think it's fair to say that, in terms of mediation, we get all kinds*
18) *of er contact arrangements come out of it. Some of it's shared care,*
19) *some of it's kind of [what] you've got, and in my experience it works*
20) *for a child as long as the two parents agree and want it to work, and*
21) *the child feels loved and content and secure. Then whatever you two*
22) *decide will work, so shared care might sound really off the wall to you*

- 23) T *hmm*
- 24) M *... but there are lots of people that I could introduce you to who would*
- 25) *say "it's what we wanted, we think it was the best for our child" and*
- 26) *the child works fine with it*
- (dhNATA(1): "1":19)**

On line 17 the mediator starts off in the speaker role, but actually uses this to introduce the role of spokesperson for mediators in general. This in turn sets out the 'authority' underlying what she has to say when she reverts to the speaker role 'in my experience' on line 19. Line 24 appears to involve some fuzzy overlapping of producer discourse roles, part spokesperson, part reporter, which the mediator develops on line 25 with the inclusion of a purportedly, and generalised, direct speech report of certain previous clients, before returning to what seems to be more of a reporter role on line 26. As mentioned earlier, the mediator appears to be addressing her comments directly to Tamsin, assigning Nat to the role of auditor. It is likely that this is because Tamsin has addressed her previous comments directly to the mediator, with Nat in the recipient discourse role of auditor.

I believe that there is also a more strategic reason underlying the mediator's choice of following Tamsin's assignment of recipient discourse roles: in this particular context, it maintains the deflection of Tamsin's implied criticism of Nat. There is no space to go into the full underlying issues here but suffice to say that, at no point during the session does Nat actually suggest the notion of shared care, explicitly or implicitly. The underlying issues have to do with mistrust and suspicion about hidden motives, which regularly occur in the exchanges between participants in mediation, and which a mediator needs to keep in mind.

To move on to the specific mediator techniques which are being employed, the first point to make is that the overall aim of what the mediator is saying is to constructively challenge the assertions of Tamsin. This is not done by an outright negation of what Tamsin has said, but rather by putting 'the other side of the coin'. The mediator is aiming to achieve, in this case with regards to one party only, some of the goals which Haynes and Charlesworth (1996: 10) describe in relation to both parties over the

whole conduct of a session, namely the way in which a mediator “begins to take control of the problem definition process by first creating doubt in both parties’ minds about the validity and fairness of their original stories” (or viewpoints/positions) and to do this “without challenging either side’s image of self”. This aim really is extremely important in mediation: an overt criticism of one party has the potential to not only detract from the views of the person in question, but also, by association, to reinforce the views of the other party.

The mediator has also identified the key words of ‘shared care’ as being particularly contentious and uses the words herself, but by placing them in a continuum of possible arrangements. She thus seeks to normalise ‘shared care’ as but one of a number of possible, and acceptable, set of arrangements. The mediator’s use of the producer discourse roles identified above are an essential part of enacting these techniques in a manner which strives to be neutral.

On line 22 the mediator uses the reflecter role to acknowledge feelings and needs when she says to Tamsin ‘so shared care might sound really off the wall to you’ There is also an element of, very subtle, reframing present, in that “The mediator’s response uses different words, emphasis and intonation to reflect part of what the previous speaker has said, but to change the frame of reference around it” (Boulle and Nestic, 2006: 205). Having let Tamsin know that she has been heard, the mediator then moves on to let past clients make her strategically reframed point, by using the reporter role with elements of the mouthpiece role. Thus, the mediator is simultaneously seeking to reduce/diffuse the tensions within the couple, and between herself and Tamsin, firstly by making the point, and secondly by distancing herself from it. The utterance also serves to normalise the message by phrasing it in terms of the experience of other clients.

There is also an element here of neutralising or reducing power imbalances, but in this case the potential power imbalance which exists between the mediator and the clients in terms of expertise. I say ‘potential’ power because this is by no means a given: clients can, and do, challenge any claims to expertise on the part of the mediator with utterances such as ‘but I know my child’. But to return to the main point, mediators tend to view the techniques as strategies for dealing with what is happening between

the parties. They are also equally applicable to what is happening between the mediator and one or both clients. This may seem an obvious point but I have to admit that, until writing this thesis, it was not a perspective to which I had given much thought.

The final example of mediator skills and discourse roles is taken from the session with Maria and Judy. These two clients were fairly intractable over the issue of the former family home, each claiming that the (considerable) cost of going to court was of no concern, whilst, of course, also claiming that every penny counted in terms of the financial settlement that each obtained from the house. Each party was also claiming, and again this is not unusual, that their lawyer had told them they were likely to ‘win’ any ultimate court case.

27) M1 *What do you think a judge is, is going to have to look at this, to, if you*

28) *put yourself, try and put yourself as the judge – you’ve got, er,*

29) *Maria there and Judy there, two children and one child, a legal*

30) *document [for the house] saying fifty fifty signed over*

31) [?] *Uh huh*

32) M1 *And you two saying to the judge “Right, you decide what’s fairest*

33) *here”, what do you think a judge is going to say?*

(dhchMJJW(1): “1”: 21)

The above is the example, referred to earlier, of reported direct speech utterances being used for reasons other than that of bringing the voice of the child into a session. In this case, it is the voice of the court. Whilst the use of such an authority is more prototypical of Thomas’ (2004 and 2006) mouthpiece role, its deployment here is not. The mediator is taking full advantage of the idea, described by Boulle and Nestic (2006: 41) that “There is no limitation on the future matters which the parties [or the mediator] can refer to and agree on”. The mediator is seeking to create a possible future scenario which is realistic, and which has “credibility”, that is that the event portrayed is characterised by the “likelihood, and hence believability” of its status as a “potential reality” (Leech and Short, 1981: 157).

I believe that, within this creativity, the mediator is implicitly stating something along the lines of ‘there’s nothing in this, you both have equal arguments, and a judge isn’t going to come up with something that favours either of you – so sort it out between yourselves’. On line 28 she explicitly invites the couple to take the perspective of the judge, and then continues with a sort of hypothetical reporter role on the ruminations of him or her. The mediator develops this hypothetical scenario with the use of projected direct speech reports which depict both parties standing before a judge. The practitioner then puts very direct words into the mouths of both parties and then invites Maria and Judy to take the perspective of the judge, and think through what she or he might say to them.

In terms of mediation techniques, the mediator’s utterances on lines 28 to 30 aim to summarise what has gone before. In this instance her summary is deliberately peremptory and aims to present a dispassionate, judicial perspective on the tangled emotional issues which the couple have presented: in other words the mediator is seeking to separate people from problems and redefine issues in a mutual rather than exclusive way. The former technique often relates to separating the clients social identities from their discoursal identities (Sacks, 1992, Greatbatch and Dingwall, 1998, Thomas, 1995, 2004 and 2006), for example focussing on their individual or shared identities as parents from their discoursal identities as opponents. In the case of Maria and Judy, if they go to court, most of what they have to say will boil down to the ‘bare bones’ of two single parents, each with a fifty per cent claim on the house. Neither party, therefore, has a ‘priority’ claim, both have ‘equal’ needs and responsibilities to fulfil, and they would both benefit from avoiding the costs of litigation.

The mediator poses an open question on line 33, but not directly from herself. She is inviting the clients to adopt a discourse role which will hopefully lead them to voice, themselves, something which she does not wish to say directly. As is a common theme in mediation, these strategies are chosen to try and maintain the appearance of neutrality and impartiality. They are strategies which often seek, utilising indirectness, to verbally enact such techniques as constructive challenge and challenging destructive comments. They are also techniques with which a mediator may seek to

“get out of the middle position” and “direct the parties toward each other” (Mayer, 2004: 45).

4) Mediator Techniques and Complex Illocutionary Acts

In this section of the chapter, I will focus on three extracts of dialogue and the way in which complex illocutionary acts are used by mediators to verbally enact mediator techniques. The following is a lengthy extract from the session with Maria and Judy. The couple had cohabited for a number of years in a house which they had bought together. Each had children from previous relationships: Maria had a thirteen year old daughter, Rachel, and Judy had a fifteen year old son, Mark, and an eleven year old daughter, Amy.

- 34) Ma *... so I don't have anywhere to live, so I have to provide a property for*
35) *me and my daughter to live in. I can't, not on that [sum of money*
36) *being offered by Judy], and not on the wages I earn, erm, Judy*
37) *therefore is in a different situation -she has a lump sum and has a*
38) *home to live in*
- 39) J *I'm actually living in somebody else's home, I haven't got my own*
40) *home*
- 41) M1 *The, the, what is this other home that keeps cropping up? Is it, are you*
42) *renting somewhere are you ?*
- 43) J *I pay rent where I'm living, yeah*
- 44) M1 *Right*
- 45) Ma *She lives with her girlfriend*
- 46) M1 *Right, so that's why it's an issue*
- 47) Ma *It's not an issue for me, no. It's just, the issue is, I'll end up with some*
48) *money and no home*
- 49) M1 *Because Judy doesn't feel she's got a home, do you?*
- 50) J *No I haven't*
- 51) M2 *So you don't feel that you've moved in with a partner and that you now*
52) *have established a home with your current partner?*
- 53) J *Not after 7 years of living with somebody and it all goes belly up, no.*
54) *Why would I? After 7 years you don't feel very secure really, do you?*
55) *And I've got nothing and that's why, at the moment, half my life is*

- 56) *where I am, the other half is still at the other house*
- 57) Ma *Half your life isn't at my house*
- 58) J *It's how, how, that's how I feel. How can you tell me how I feel?*
- 59) Ma *Well I don't see why half of you, I, I don't understand that, I don't*
- 60) *understand where you're coming from with that*
- 61) J *It doesn't matter because, so you don't understand*
- 62) M1 *The, the reason we're, the reason we've asked you the question is*
- 63) *because you're referring to this property as a home to live in, and you*
- 64) *clearly don't see it as a home to live, it's a place where you're staying*
- 65) *for now*
- 66) Ma *That is a crock, and you know that is rubbish*
- (dhchMJJW(1): "1": 16)***

The first point to make is that there are two mediators present and, therefore, one element of the multiple meanings of the utterances includes that fact. The second point is that the length of the extract was chosen because it represents the culmination of a tension which had been 'rumbling on' for some time during the discussions.

Before looking at specifics, I will make some observations about the 'episode' as a whole. The mediators are seeking to unearth what appears to be a 'hidden agenda' between Judy and Maria. It is a mediation tenet that, unless any hidden agenda is addressed, it is unlikely that any agreements reached will last. The parties' use of two lexical items to refer to the same place has been troubling mediator one, primarily because of the widely differing connotations between a 'house' and a 'home'. At the very least this presents a difficulty for the mediator(s), and it is not an unusual one, in terms of how the mediator is to refer to the 'entity' herself. The use of either word will imply bias. The mediator has, therefore, decided to try to clarify the issues which have not yet been fully articulated, that is to fulfil a "key task" of facilitative mediators in which parties are helped to "express their concerns, articulate their needs, and give voice to their feelings" (Mayer, 2004: 45)..

Mediator one begins her clarification of the issues with two closed questions on lines 41 and 42. For Maria and Judy, who are both in the recipient role of addressee, these are simple, direct utterances. For the other mediator, however, who is in the role of

auditor, there are other meanings at the levels of discoursal intent and interpersonal intent along the lines of ‘I’m not clear about this (are you?)’, and ‘I think this should be explored (do you agree?)’. Mediator one assumes that mediator two will intervene at this point if she has any contribution to make on these implied meanings.

On line 44 there is a straightforward example of active listening that is the use of a “receipt marker” of what has just been said (Atkinson, 1992: 201), which is followed on line 46 with a statement which seeks to summarise the previous exchanges. The mediator phrases her utterance as a statement but its pragmatic force also includes an element of questioning. This springs primarily from the context in which the participants are meeting: the utterance is not a concluding statement, but a tentative question paving the way for the direction in which the mediator intends to steer the discussion. In other words, her utterance has two additional meanings, one at the level of pragmatic force and one at the level of discoursal intent. The multiple meanings for the second mediator are similar, with the additional meaning at the interpersonal level, referred to earlier, in which there is the implicit invitation for her to intervene if she does not agree with what her co-worker is doing. This is one of the advantages of co-mediation in that “The presence of a co-mediator gives added protection against errors, oversights and omissions” (Parkinson, 1997: 73). I would argue that it is the ease with which mediators understand each other’s unspoken messages, and with which they feel free to intervene, which marks a productive co-working relationship. In other words, it is the effectiveness of their communication at the illocutionary levels which determines whether they will feel comfortable with each other and be able to genuinely ‘co-work’.

There is evidence that Maria senses some of the underlying meanings in the mediator’s utterance when she responds by denying that this is an issue for her, and then going on to give reasons why it is! Again, this is not unusual in mediation. The mediator’s utterances on line 49 are complex in a number of ways. She is seeking here to acknowledge feelings and needs, in this case those of Judy, check assumptions and summarise her understanding of what is going on for Judy. The mediator’s statement and tag question convey different meanings for each party at the level of interpersonal intent: for Judy it is acknowledgement of her needs, whilst for Maria the message is something along the lines of ‘it may not be an issue for you, but it is for Judy’. The

message at the level of discursual intent is the same, namely that the mediator intends to pursue the matter: she is intent, in the words of Haynes and Haynes (1989: 50) on “controlling the competitive couple, and orchestrating the negotiations”.

Mediator two intervenes on lines 51 and 52. The mediation techniques she is using are the same as those of mediator one in her prior utterances, and the multiple meanings, or complex illocutions are also the same. There is an additional meaning for mediator one, however, to the effect of ‘I agree with you that this is an issue which needs resolving, and we should try to resolve it now’. It is the kind of intervention in which mediators indicate to each other, without directly saying so, that they agree with what their co-worker is doing. Of course, there are also interventions which indicate the opposite, an example of which will be discussed in the next extract.

The final utterances of mediator one on lines 62 to 65 again seek to clarify, summarise and acknowledge feelings and needs. The surface meanings are fairly clear and direct, with the mediator even prefacing what she has to say with an explanation of why, as mediators, they have pursued this line of questioning. The whole episode, however, has an underlying meaning which runs throughout, but is never openly acknowledged by any participant. The significance of the words ‘house’ and ‘home’ relates not only to the feelings and emotions involved, but also to the hard reality of who gets what in terms of property and money. If somebody already has a ‘home’ they are, by implication, in less financial need than the person who does not: this, in turn, generates the further implication that they need less than a half share of any proceeds from the separation.

Such undercurrents are not to be underestimated. As Rose (2004: 187) observes, “the family residence presents uniquely challenging psychological and emotional considerations. As perceived by the clients, the home represents many things. It is the “nest” where the children reside, the known present (as opposed to the unknown future); the repository of most of the marital equity and savings; the emotional heart of the family; cost-effective housing; a deductible housing expense; and security”. That the mediators choose to leave this matter at the level of implicit meaning is probably a strategic use of multiple meanings. The tension between Maria and Judy does not ease and, for the mediators, it becomes clear that they are most unlikely to

agree on terminology. To force an articulation of the link between this and bargaining over money would have escalated the conflict and proved counter-productive.

One final point in relation to this episode is the nature of a phenomenon which is discussed further in Chapter 10, that is the notion of “cumulative pragmatic force” or “cumulative effect” (Thomas, 1995: 201 and personal communication). This tends to occur when the pragmatic force of an original utterance is not addressed, with the result that the speaker continues to issue utterances which increase in directness until, as in the example above, there is an unequivocal utterance which forces the issue.

The next example is also taken from the session with Judy and Maria and gives further insight not only into their particular situation, but also to the use of CIAs between mediators.

- 67) M1 *It doesn't feel as if there's an awful lot of give on either side here, I'm*
68) *looking at both of you equally, alright, it doesn't feel, it, it feels a*
69) *bit like, that, it doesn't feel as if either of you're really prepared to*
70) *sort of compromise*
71) M2 *Well I think if, if I could say something, I think because, it's a bit raw,*
72) *it's a very new break up*
73) J *Yes*
74) M2 *Still quite raw, isn't it?*
75) M1 *Is it, is it very recent?*
76) [?] *mmm*
77) M2 *Yes it, at the intakes I gathered it was very recent, and so ...*
78) J *Yes, it was July wasn't it?*
79) M2 *It's er ...*
80) M1 *Oh god, right, yeah, hmmm ...*
81) M2 *I think that's why you're picking that up*

(dhchMJJW(1): “1”: 26)

On lines 67 to 70 mediator one says a number of things which, on the surface are statements, but which also have illocutionary levels. In terms of mediation techniques,

the utterance meaning is aimed at summarising. There is an additional pragmatic force, however, which contains an element of questioning, a sort of ‘this is how it seems to me, am I right?’. This relates to the technique of checking assumptions which, in turn is reliant on active listening.

Active listening is a skill which Mayer (2004: 45) describes as “the most overtalked-about and underdeveloped skill of human relations professionals”. I would agree. It is partly characterised by Boulle and Nesic (2006: 204-205) as “not just a passive exercise”, but one which “involves hard work” in which the listener “must be physically attentive, concentrate on and encourage the speaker, display an attitude of interest and concern, be non-judgemental, not be preoccupied with responding, and not be distracted by non-relevant matters”. In this example the mediator is seeking to verbally enact the product of her active listening: that her utterances are complex simply reflect the complexity of what she has heard.

In addition to the techniques mentioned above, there also appears to be an element of the mediator making a sort of plea for the clients to re-think their positions, with an implication at the discoursal level that, if they don’t, then mediation will not be able to help. In terms of techniques there is a constructive challenge going on, a sort of ‘you’re getting stuck here, we can only help if you each give a bit’. As has been mentioned elsewhere, I do not seek to present a definitive or exhaustive analysis, but simply to convey the complexity of the relationship between language and its messages, and specifically between this complexity and the skills of mediators.

The intervention by mediator two on lines 71 and 72 are a simple statement at the level of utterance meaning, and could be classed as acknowledging the feelings and needs of the clients. At other illocutionary levels, however, her comments convey other meanings for mediator one. They constitute a constructive challenge to her, a criticism at the level of pragmatic force. At the level of discoursal intent mediator two is advising her co-worker to ‘back off’ and, in doing so, seeks to reduce/diffuse the tensions which are likely to occur if mediator one pursues the matter. On line 74 mediator two reinforces these messages in response to an affirmative from Judy, directly addressing the clients and drawing them in to increase the force of what she has said.

This stretch of dialogue illustrates an important concept in mediation, that of 'modelling'. Parkinson (1997: 72-73) cites this as one of the conditions of effective co-mediation and describes the idea as follows: "Co-mediators can act as a model for the couple, discussing different points of view in a constructive way. The dialogue between the mediators, conducted in a friendly atmosphere which encourages problem-solving instead of confrontation, may help couples shift from arguing to a more co-operative discussion". In other words, when two mediators work together they seek to provide a demonstration or 'model' of co-operative dialogue between themselves in which problems, differences and uncertainties can be constructively addressed and resolved.

Mediator one, in such a spirit of co-operation, responds on line 75 with a question which has multiple meanings. They are, possibly, the same for all participants. Whilst her utterance is a question on the utterance meaning and pragmatic force levels, it has the additional pragmatic force of an acknowledgement of the reprimand/advice which has just been conveyed by mediator two. On the interpersonal level the response of mediator one implies that she takes seriously the information which she has just received. At the level of discoursal intent her utterance conveys that she is willing to engage in the suggested change of topic.

Mediator two continues to make her point, with the support of Judy, at the illocutionary level, until on line 80 mediator one makes a number of utterances which, on the surface, are a series of exclamations. Their illocutionary meanings, however, are similar to her utterances on line 75. But, on line 80 there is an air of finality in what mediator one has to say, conveyed by the nature of her utterances: that is they no longer carry the pragmatic force of questioning. Mediator two utters a statement on line 81 which responds to the multiple meanings of mediator one's prior utterance: she makes a statement but, unlike the statements which she has made on lines 71, 72 and 77 which challenged mediator one, there is an element of 'rescuing' her colleague and providing a concluding explanation for her co-worker's original focus. Throughout the episode overall, mediator two has employed the technique of redefining issues in a mutual rather than exclusive way and, in so doing, has successfully brought about a change in subject matter. Mediator two has diverted mediator one's attention from the different negotiating positions of Maria and Judy to

the more salient matter of their shared pain and heightened levels of emotion at their recent separation.

The final short extract of dialogue is taken from the somewhat tortuous session with Danny and Jane. The session had been going on for over an hour and the parties were still engaged in constant interruptions of each other, and the mediator, and in going round and round issues from the past. The mediator is trying hard to move the discussion on.

82) D *Why should I be dictated to by you, where I'm going?*

83) J *That's not what I said*

84) M *Can you not decide between yourselves on a list of places so that it's*

85) *not anyone ...*

86) J *It's, he ...*

87) M *... telling someone else what to do*

(voJMCL(1): "I": 67)

As has been mentioned elsewhere, Jane is adamant that she will only agree to contact between Danny and their daughter taking place if a number of conditions are imposed. Danny strongly objects to this. At this stage in the discussions, Jane has rejected many options and suggestions and is now insisting that, before each contact visit takes place, she should stipulate to Danny the venue to which he may take their daughter. In many ways, Jane's behaviour is an 'indicator of non-suitability' for mediation: she appears to "have ulterior motives for using mediation" which include a desire "to cause delay beyond a limitation period" and "to punish the other party" (Boulle and Nestic, 2006: 96). The notion of delay, whilst often used in terms of legal requirements, is also used in a more general sense by clients: put simply, the longer a child is deprived of a relationship with his or her 'absent' (that is non-custodial) parent, the less likely it is that a child will want, or respond to, the introduction of such a relationship. Sadly, as Haynes and Charlesworth, (1996: 140) point out, such disagreements "are the most common intractable disputes between former partners".

Jane has also done what clients often do, in that she has verbally denied that she is trying to do such-and-such but, in fact, is doing precisely that, in this case, in Danny's

words, 'dictate'. The verb 'dictate' has sufficiently negative connotations for Jane to engage in a denial that this is her aim. The mediator uses the technique of rephrasing, by substituting the phrase 'anyone telling someone else what to do'. In doing this the mediator is also seeking to reduce/diffuse the tensions evoked by the notion of dictating, and acknowledge the feelings and needs as indicated by both parties that this is not a desirable way to behave. Finally, in relation to this particular utterance by the mediator, there is an element of two related techniques, those of acknowledging power imbalances and seeking to neutralise or reduce power imbalances. Note that the power in this context relates to the practical, but not legally endorsed, ability of Jane to prevent contact.

In fact, the language of contact discussions usually contains implicit power imbalances, for example in the routinely used phrases 'I'll let you see [child]', or 'when can I see [child]'. There are many aspects to power, some of which will be discussed more fully in Chapter 9. In this instance, Lang (2004:211-213), drawing on the ideas of (Haynes, 1988, Boulding, 1989 and Mayer, 2000), draws attention to a number of elements which seem to be underlying Jane's behaviour, such as "the idea of domination and control over another person" through the issuing of rewards and sanctions and control of access to resources.

The mediation techniques described above are dependent on what is happening at the illocutionary levels. This is by no means unusual and, I believe, helps to account for the overlap of techniques, certainly as experienced by mediators in practice. In other words, it accounts for why utterances can be described as simultaneously enacting a number of techniques. It also helps to explain the considerable frustration mediators feel in compiling their professional portfolios: because these are competence based they appear to 'split hairs' and to be unduly repetitive. My experience in other fields of employment leads me to believe that frustration at competence based assessments is not confined to mediation and I wonder if there is scope for a closer examination of the relationship between competences and complex illocutionary acts.

In any event, to return to the discussion of what is happening in the above extract, the mediator's utterance which continues her rephrasing of the contentious word 'dictate', has a number of multiple meanings. I have mentioned that it is Jane who has the power in this particular situation and yet the mediator avoids overtly stating this,

employing the neutral pronouns of 'anyone' and 'someone'. It is her use of these nouns which helps to maintain her neutrality at the interpersonal level of illocution, in other words an illocution which conveys the message 'I'm not accusing/blaming either one of you'. This message in turn is dependent on the pragmatic force of the mediator's utterance, which is one of acknowledgement that it is not a 'good thing' for one party to have the power to control the actions of the other. In the context of what has been happening in the session, which is too fractured and lengthy to include as a coherent extract, the discursial intent of what the mediator says is to draw a line under protracted tit-for-tat exchanges along the lines of 'I'm not telling you what to do but' and 'You are telling me what to do and', and to progress the discussion to a focus on solutions rather than recriminations. She is also seeking to bring an end to Jane's "conflict expansion ... a ploy whereby one party expands the conflict, making it more difficult for the other party to negotiate on the core issue" (Haynes and Haynes, 1989: 181).

I would argue that the effectiveness of many mediation techniques is based on the practitioner's ability to recognise the illocutionary elements in client's utterances, and to respond with utterances which are, in turn, complex.

One final point in relation to the above extract concerns the mediator's phrasing of her question on line 84. The negative construction 'can you not' carries meanings which the construction 'can you' does not. The mediator has also chosen to include the, grammatically superfluous, prepositional phrase 'between yourselves'. The difference between these two utterances is that the way in which the mediator chooses to express herself carries illocutionary meaning. The negative construction changes the force of her words from a straightforward question to a question which carries the pragmatic force of an exhortation, something along the lines of 'you **should** be able to do this'. At the interpersonal level there is, therefore, implied criticism. The addition of 'between yourselves' serves to reinforce these implicit meanings and "emphasizes the participants' own responsibility for making decisions that affect their lives" (Folberg and Taylor, 1984: 7-8).

5) Summary

This chapter has aimed to demonstrate that there is a close and practical relationship between mediation techniques and the concepts of discourse roles and complex illocutionary acts. I would go further and say that, not only are many mediation techniques intricately bound up with these concepts, but that the overall aim of maintaining an appearance of neutrality and impartiality is dependent upon them.

The use of producer discourse roles allows mediators to express contentious views and opinions which do, indeed, side more with one party than another, in a way which reduces the potential conflict between themselves and one, or other, or both of the clients. So, for example, an utterance such as ‘the court is likely to take the view’ serves to distance the mediator from what follows, and deflect any potential anger from her or himself. It can also serve to simultaneously deflate any conflict between the parties by informing them of a likely outcome should they rely on litigation to resolve their disagreements. This sort of intervention is particularly useful when the parties’ high level of conflict is focussed on themselves, and a need to be ‘right’, rather than a focus on the child or children involved. In short, they can help to steer a discussion away from an attempt by each party to impose their version of past events as the only ‘true’ one, towards a discussion about what their child needs, from them as parents, for the future.

The concept of complex illocutionary acts helps to explain why many mediation techniques are fuzzy and overlapping in nature. Even when clients are in open conflict, they often express their concerns implicitly rather than explicitly. Rarely, for example, will a party say ‘I’m scared’, or ‘I feel powerless’ or ‘I’m in great emotional pain’ or ‘I don’t know what to do’. Mediation practice is predicated on unravelling ‘hidden agendas’ and ‘getting to the heart’ of what is ‘really’ at stake for each client. It is no surprise, therefore, that a mediator’s interventions will often seek to address these underlying issues in a similarly implicit manner. If clients’ are reluctant, for whatever reason, to go ‘bald on record’ about what is really troubling them, it would be risky for a mediator to do so. Of course, mediators can and do take such risks, but, usually, only with great care.

Finally, given the wonderful intricacy of the interactions in a mediation session which I have sought to illustrate in this thesis so far, I would hope that my argument for the inclusion of a much more detailed examination of language use in mediation theory and practice is made. As also mentioned elsewhere, I believe that such an examination is applicable to many other settings, work-place and otherwise, in which language is the primary 'tool of the trade'.

CHAPTER NINE
POWER AND POLITENESS IN FAMILY MEDIATION

1) Introduction

The first point I wish to make is that one chapter clearly cannot do justice to the topics of power and politeness: indeed, these subjects could easily constitute a thesis in themselves. The second point to make is that I have chosen to look at these issues in tandem because they are so often interlinked, not only in mediation but in most other interactional settings. Finally, power and politeness are the common factors underlying the utilisation of complex illocutionary acts and discourse roles. As Holmes and Stubbe (2003: 163) observe, “although ... ‘almost every example of authentic discourse has several layers of meaning’, power and politeness consistently emerge as important dimensions constraining the ways in which participants negotiate and resolve miscommunications and problematic issues at work”. In relation to mediation it is miscommunication of some sort which brings couples to the negotiating table in the first place, and until, and if, solutions are identified, the whole of the encounter is aimed at resolving ‘problematic issues’.

The first two sections of this chapter will examine the specifics of power and politeness in relation to the mediation process, and touch upon some of the ethical questions and dilemmas which arise and which are widely acknowledged within the professional literature and linguistic literature, for example Dingwall (1988), Roberts (1997), and English and Neilson (2004). In sections four and five I will discuss examples of data in relation to clients and mediators respectively. This is obviously a somewhat artificial separation which I have chosen for greater clarity of exposition, but there will undoubtedly be areas of overlap. Section six will provide a brief summary of the main points made.

2) The Nature of Power and Politeness in Family Mediation

I have mentioned elsewhere in this thesis that the exercise of power and politeness in mediation is a particularly complex phenomenon: this is because of the place which

mediation occupies on the continuum of conflict resolution as it pertains to separating or divorcing couples.

In the UK, couples who have co-habited, or who have been married but do not seek a divorce, are free to make their own arrangements in relation to their separation. They do not **need** a legal document to sanction the arrangements they have made, but can **choose** to follow this route. Couples who are married and intend to divorce, rather than simply separate, do need a legal document which formally records the dissolution of their marriage and the arrangements which will be in place once this has occurred.

In all three scenarios, the parties involved can choose how much control they wish to exercise in deciding upon the detail of future arrangements. Of course, the situation is not always simply a matter of two people freely exercising choice. There are a number of reasons for which a client or a mediator may feel that mediation is not an option, for example situations in which “the safety of a participant or well-being of a child is threatened” or when a client “is unable to participate due to the influence of drugs, alcohol, or physical or mental condition” or when one or other party “is using the mediation process to gain an unfair advantage” (Schepard, 2004: 540). Occasionally one party may be in denial about the ending of the relationship and therefore see no point in discussing a future in which the couple is separated. One or both parties may feel so aggrieved that the only future arrangements which they can countenance are those which are as punitive as possible for the other party.

The continuum of conflict resolution has, at one end, the completely informal setting of two people sitting at the kitchen table over a cup of coffee and working out, together, their own arrangements. In this scenario there is the potential for both parties to retain full control. At the other end is the entirely formal setting of a courtroom in which the future arrangements of a couple will be decided by a judge. In this scenario both parties relinquish all control and hand it to the court. I would point out that even married couples who are seeking divorce have the power to determine the full extent of their future arrangements because as Roberts (1997: 71) points out, “the court is reluctant to interfere with freely-negotiated agreements on financial matters made by the parties with full knowledge and proper advice unless there is ‘some clear and

compelling reason' such as duress or failure to disclose (Cretney and Masson, 1997, p403)". Similarly, in relation to arrangements for children, under the terms of the Children Act 1989 s.1(5), there is a principle of non-intervention, stipulated in the following: "Where a court is considering whether or not to make one or more orders under the Act with respect to a child, it shall not make the order or any of the orders unless it considers that doing so would be better for the child than making no order at all". So, unless a couple propose arrangements which are bizarre in some way or clearly detrimental to one party or the children, the court is very likely to simply endorse the arrangements with which it is presented.

In the middle of this continuum are two alternatives: resolution through lawyers or resolution through mediation. Resolution through lawyers is situated nearer the courtroom end of the spectrum, whilst resolution through mediation is situated nearer the 'kitchen table' end. I say this because lawyers, by the nature of their profession, are more oriented towards a 'win-lose' scenario: a lawyer's main priority is to achieve the best possible outcome for their own client. As such they will actively advise their clients on what they should and should not do: as a consequence lawyers may increasingly take over control of the negotiation process to the extent that clients may, ultimately, lose sight of the fact that it is they who 'instruct' their lawyers, and not the other way round. Of course, this is not always the case and there are many legal advisers who aim to take a more balanced approach, for example lawyers who subscribe to the Solicitors' Family Law Association, and whose members have followed "the Law Society's recommended family mediation training standards" (Boulle and Nestic, 2006: 429).

The task of a mediator, on the other hand, is to promote the interests of both parties and their children, to seek a 'win-win' scenario for all concerned. Mediators are prohibited from actively advising their clients or from acting in a partisan manner. Yet, on the other hand, they must also act to remedy any power imbalances between the parties and always act to remedy any arrangements which are detrimental to a child. As I have mentioned before, there is a high degree of subjectivity and 'woolliness' involved in these ideas and this is an issue which will be discussed further in the next section. The overall aim of mediation is for the clients to keep as much control over the outcome as is possible. Indeed, a truly 'successful' mediation

would result not only in the resolution of specific issues, but a situation in which the clients no longer need the services of a mediator because they are able to continue negotiations on their own.

To sum up, therefore, the place of mediation in the range of possibilities available to couples in terms of conflict resolution: it is a hybrid, somewhat 'fuzzy' setting which seeks to exercise control and yet promote self-determination on the part of the clients, and does this in a setting which, relatively speaking, has elements of both formality and informality.

3) Ethical Questions and Dilemmas

There are many layers to the ethical implications of mediation theory and practice and, needless to say, I cannot do justice to all of them here. The following discussion is, therefore, highly selective.

I have made regular reference to the subjective nature of many mediation ideas and to the vagueness of many of its techniques. As a profession, mediation is not alone in this and, indeed, it is precisely such 'woolliness' which has motivated my current research. Language use can be put to myriad powerful ends, most of which, I would argue, are more appropriately understood less in terms of "contrast and difference" and more in terms of "clines and degrees, in particular degrees of explicitness of control" (Maley, 1995:108).

I am particularly interested in exploring the verbal enactment of power and politeness: in other words, what words do we use to realise professional skills in settings where we, as the practitioners, are in a powerful position. This is especially important in professions which are charged with helping, advising, supporting, guiding and changing behaviours in some way. It seems to me that there is too much 'professional mystique' taking place 'behind closed doors'. I would hypothesise that this is caused by two related factors. Firstly, precisely because language is so taken-for-granted, it is assumed that a professional in a language based area of work is, by virtue of their professional status, skilled in language use: in other words, an ability to use language effectively is considered to be part of the skills and know-how of the

‘occupationally based expertise’ of the ‘cultural communities’ of such professions (Clark, 1997: 102-103). Secondly, to raise questions about this ‘expertise’ is experienced as threatening: as Clark (ibid: emphasis added) further observes, “A cultural community is really a set of people with a shared expertise *that other communities lack*”. That is to say that the very act of seeking clarification of such ‘exclusive’ skills may be seen as, implicitly, questioning their existence or validity.

To return to the notion of subjectivity, in family mediation this starts with cultural norms in relation to ‘the welfare of the child’ which is, without question, ‘paramount’, norms which are also enshrined in law. So, from the start, mediators cannot claim to maintain any form of objective neutrality if, indeed, such a thing exists. This is unavoidable and not intended as a criticism although it is an issue which I believe should be more fully discussed in mediation theory and practice. Nevertheless, practitioners have ideas in mind about arrangements which are helpful or harmful to children. There is no clearer example in mediation of the use of language as “an instrument”, whose “concepts are instruments” which “lead us to make investigations; are the expression of our interests, and direct our interests” (Wittgenstein, 1953: 151). Utterances, by either mediators or their clients, which include the terms ‘in the best interests of the child’ or ‘the welfare of the child’ are powerful on many levels and convey assumed knowledge about, for example, the nature of childhood and parenthood, notions of ‘good’ and ‘bad’ parenting and the possibility of outside or legal intervention. Such utterances can also be used to many ends, including justification, criticism, accusation and as a threat or as a promise.

From the perspective of a ‘pure’ model of facilitative mediation, with its focus solely on process, any form of mediator intervention in relation to outcome poses a problem. On the other hand, some form of intervention regarding outcome appears to be unavoidable. As Mayer (2004: 33) points out “Few family mediators are purely facilitative in all cases, because the realities they face in helping families arrive at workable agreements pose many challenges to such an approach”, for example the fact that “Sometimes parents agree to something that is unrealistic, illegal or unethical” (op cit: 36). These issues go to the heart of the tension inherent within the mediation tenet that mediators control the process whilst clients control the outcome.

Another area which is huge in its implications but under-explored is embodied in the mediation technique of ‘neutralising or reducing power imbalances’. The wording of this technique presupposes that a mediator can recognise a power imbalance in the first place, even before they go on to ‘neutralise’ or ‘reduce’ it. Just how does one define a power imbalance? Does a mediator have the right to impose her or his assessment over that of the parties involved? I recall a female client who, when asked the routine question at Intake about whether there were any issues in relation to domestic abuse, answered ‘no’. Later in this one-to-one meeting, when the discussion had moved on to the financial situation of the couple, she mentioned that she knew nothing of the family finances as her husband dealt with this aspect of their affairs. She then added that her husband withheld money from her if she did not consent to sex. On the one hand, in my opinion this constituted financial and sexual abuse; on the other hand I was also cognisant of the possibility that “Victims of domestic violence [abuse] can feel easily disempowered by well-meaning professionals who think they know what is best” (Mayer, 2004: 37). So, whilst I saw the potential for mediation to ‘empower’ this woman, I was also aware that this was a subjective assessment on my part: the client herself did not perceive that she was ‘disempowered’ in any way.

The question of power imbalances creates a major problem for the mediation principles of impartiality and neutrality. With the caveats mentioned above, the mediator may perceive power imbalances in any number of guises. Perhaps one party seeks to control the topic of discussion; or they may constantly interrupt what the other person is trying to say. A power imbalance may be present simply by virtue of the fact that it is one party who wishes to end the relationship, whilst the other does not. The ‘talk’ of contact arrangements for children is very often expressed in terms of power, with words such as ‘I’ll let you see little Emily’ or ‘when can I see little Ben’. Sometimes there are overt power struggles which relate child contact to the level of child support payments. It is challenging for a mediator to address these issues and, at the same time, remain unbiased. And, to compound the complexities presented by the myriad manifestations of power, are the additional uncertainties which are so perceptively summed up by Lang (2004: 210) when he observes that “Absent from considerations of power in family mediation are responses to two key questions: ‘Why am I intervening at all?’ and ‘What do I hope to accomplish?’”.

A final example is the thorny issue of when ‘information giving’ becomes ‘advice’. As Mayer (2004: 34) notes, “Many facilitative mediators make the distinction between providing information and giving advice or making recommendations ... However, the line between information provision and advice giving is a subtle one”. Of course, the information given seeks to guide the couple’s deliberations: it is often, therefore, advice in all but name.

It is my contention that the concepts of discourse roles and complex illocutionary acts illuminate the verbal realities of the questions and dilemmas which I have described, and reveal the ways in which mediators seek to address these. The level of detail which these concepts generate is analytically demanding. Nevertheless, it is what speakers and hearers intuitively and swiftly do when they are engaged in an interaction. The following three sections will provide examples of just how this happens.

4) Power, Politeness and Client Talk

The first six sets of extracts are taken from the session with Catherine and Derek. This couple had been married for nearly thirty years and had two children who were both in their late teens. The extracts are presented in time sequence, that is in the order they occurred during the session. I will discuss each excerpt after its presentation and then move on to make some points in general after I have discussed all six.

- 1) C *So at some stage, I’m not suggesting that I want to sabotage today’s*
- 2) *meeting and do it now, I, I don’t know what he thinks but I would*
- 3) *welcome a discussion before too long about what we’re going to say to*
- 4) *the children and how we’re going to answer their questions*
- ...
- 5) D *Hmm, I think, could we reserve a bit at the end for it, rather than, coz I*
- 6) *think the financial is part of the problem, so ...*

(vochCEDE(1a): “1” and “2”: 1)

The beginning of a mediation session can often present the first ‘test of power’ for all concerned. This is not an issue if the parties have agreed both the detail of their agenda and the order in which items are to be discussed. The situation is more complicated when either the detail of the agenda, or the priority of items, or both, is not agreed. With Derek and Catherine the agenda in general was not an issue, but they each had different ideas about the priority of items: for Catherine, there was an urgent need to agree what the couple were going to tell the children; for Derek the more pressing need was finances.

At this stage, both parties are expressing themselves in a fairly polite manner, with the use of hedges, minimizers and modals. Both use a combination of the speaker producer discourse role and the spokesperson role for the couple with the use of inclusive “we”. The use of this personal pronoun can be categorised as an utterance designed to address positive face needs, in the sense that it seeks to convey that the speaker and hearer are co-operators, and performs the sub-strategy of ‘including both S and H in the activity’ (Brown and Levinson, 1987: 127). Inclusive ‘we’ is, however, not always so ‘polite’. It can be used as a mechanism of dominance when one party seeks unilaterally to make pronouncements on behalf of the couple. Mediators are alert to this and, if such pronouncements go unchallenged by the party whose views and opinions are purportedly being represented, will directly ask something along the lines of ‘and do you agree with what X has just said?’ or ‘it that how it seems to you?’

Catherine’s use of the verb ‘sabotage’ raises a number of questions for the mediators present in this interaction. Its surface level obviously has militaristic overtones and this, in turn, creates meanings at other levels. For example, it offers hints about the interactional dynamic within the couple: Catherine seems to be implying that, interpersonally, Derek will perceive an initial focus on the children as threatening in some way. At the level of discursal intent her choice of this lexical item implies that she has the power to prioritise the topic of discussion but does not wish to use it. Its overall pragmatic force is to alert the mediators to the potential that, in spite of their apparent air of politeness and co-operation, stormier waters may lie ahead with this couple. This, in fact, turns out to be the case. What I find so very interesting is that all of this will have been processed by the mediators within micro-seconds and, for the main part, sub-consciously. Such a fine-grained analysis makes sense of the kind of

statements which mediators make in their post-session discussions, with their co-worker or supervisor, such as ‘I got a feeling right at the start that something was brewing’ or ‘I knew that was going to blow up’. I firmly believe that an analysis of utterances within the conceptual framework of discourse roles and complex illocutionary acts offers the opportunity to bring into the open much of our ‘intuition’ in relation to language use.

The next exchange takes place some minutes later, when the couple is still trying to decide the order of items for discussion.

- 7) D *Well let's do the money first*
- 8) C *But if we do the money first and it takes the whole of the two hours,*
- 9) *when do we discuss the children?*
- 10) D *OK ...*
- 11) C *How soon can we have another mediation session?*
- 12) D *Let's try discussing the children first*

(vochCEDE(1a): “1”: 3)

Catherine and Derek continue to speak in the discourse role of spokesperson for the couple and, thus, maintain the appearance of co-operation. But their utterances have become much more direct. The exchange highlights the importance of context in analysing meaning in interaction. Whilst it is Derek who appears to be taking control with his imperatives on lines 7 and 12, it is actually Catherine who is exercising the power here. Prior to what Derek says on line 7, he has been pressured by Catherine to make a decision. As soon as he does, he is made to realise that it is the ‘wrong’ one. Catherine does not say this openly, however, but conveys her disapproval of his choice primarily by the use of two surface level questions, “*when do we discuss the children?*” and “*how soon can we have another mediation session?*”.

I would argue that there is an element of coercive power in what Catherine says, although much of the linguistic literature on this form of interactional power tends to approach the concept from the perspective of more clearly defined notions of institutionally or societally based hierarchies, for example Mey (1985), Thomas (1990), Fairclough (2001) and Holmes and Stubbe (2003). In mediation there is no

clearly defined hierarchy so Catherine is able to (successfully) seek control of the timing of this particular topic. The pressure which she applies is conveyed primarily at the level of implicit meanings. The overall pragmatic force of what she says is one of disagreement. At the interpersonal level, as mentioned above, she conveys disapproval of Derek's choice. At the level of discoursal intent there is an element of threat, something along the lines of 'I want this issue sorted out today or else we'll have to come back'. For the mediators the coercion lies in Catherine's implied insistence that they support her choice of topic priority or else be under an obligation to arrange a separate meeting as soon as possible.

Power, of course, comes in many forms, as is indicated in the next example of dialogue from Derek.

- 13) D *Well, I mean it's me who's driving this and, erm, I mean the position*
14) *that I'm in, kind of mentally about it at the moment, is that I definitely*
15) *want a separation but whether or not I press ahead to a divorce is not*
16) *something I've made my mind up about*

(vochCEDE(1b): "2": 1)

Derek is talking in the speaker role as opposed to the role of spokesperson for the couple and this, in itself, is significant in terms of the overall style of interaction within the couple. His use of the first person singular pronoun "I" conveys the power imbalance between the two parties: it is Derek who is in control here simply by virtue of the fact that it is he, and he alone, who wants to end the relationship. To a certain extent, Catherine appears to be a hapless bystander, dependent on the decisions of Derek for her future happiness and unhappiness. Holmes and Stubbe (2003: 3), in their discussion of workplace interactions, point out that, in terms of sociology or psychology, "power is treated as a relative concept which includes both the ability to control others and the ability to accomplish one's goals. This is manifest in the degree to which one person or group can impose their plans and evaluations at the expense of others". Such a description of power is readily applicable to more 'domestic' situations: in this case, Derek has 'evaluated' his marriage to Catherine as no longer desirable and is able to 'accomplish' his goal of ending their existing relationship by 'imposing' his evaluation on her.

There is another aspect of power, and that is the extent to which one person is prepared to ‘give’ this to another person, or ‘allow’ them to exercise such control. There are many issues raised in the previous utterance, including the choice of lexical items, but there are certainly elements of emotional vulnerability and self-confidence which play a part in such imbalances of power. That Derek himself is uncomfortable about his level of power is implied in his utterance on line 13, “*well it’s me who’s driving this*”. Why does he make this statement at all? On the surface it is simply a statement, acknowledging responsibility, but there are other levels of meaning present. It is difficult to ascertain precisely what Derek is implying with this utterance but there appear to be elements of an acknowledgement of ‘guilt’, a sense of ‘this is all my fault’. It is worth noting that such sentiments are not always present in mediation. There is also an element of concomitant apology which is directed at Catherine, perhaps in anticipation of the autocratic nature of what he is about to say. That he makes the statement at all is, I would argue, an indication that he is aware of Catherine’s feelings and is seeking to express this indirectly.

The following two extracts throw further light on the complexity of the power dynamic between Derek and Catherine.

- 17) C *Yes, I don’t know, I’m not frightened of talking to them, but I don’t*
 18) *know what to say to them, other than that he’s got fed up of me, which*
 19) *men do, and he can’t stand the sight of me, and he can’t bear being in*
 20) *the same house as me*

(vochCEDE(1c): “1”: 3)

- 21) C *But I don’t know what we’re going to say. I mean, I was try..., we*
 22) *agreed when, months ago, that our relationship, to a certain extent is*
 23) *no business of theirs, why it’s broken down. I mean we can, I think,*
 24) *assure them nobody else is involved*
 25) D *No, nobody else is involved*
 26) C *And we can say that. Erm, and it’s broken down, they don’t have to*
 27) *know all the details of why, the strength of your antagonism to me. I*
 28) *was try ..., I suppose I was trying to protect you. Because if they think*

- 29) *you're to blame, if they end up losing their home and you're to blame,*
30) *they won't half take it out on you*
(*vochCEDE (1c): "1": 4*)

I have chosen these extracts to exemplify the overall 'tone' of the mediation session with Catherine and Derek, and to make sense of the final extract from their session which is discussed after these.

I would describe Catherine's utterances on lines 17 to 20 as skilful and manipulative, whilst at the same time being a raw expression of her vulnerability, pain and despair. As Moore (1996: 334) observes, "Practical experience and social psychological experimentation indicate that when negotiators have an equal or symmetrical power relationship, they behave more cooperatively, function more effectively, and behave in a less exploitative or manipulative manner than when there is an asymmetrical power relationship". She begins in the role of speaker for herself, before switching to that of spokesperson for Derek. Catherine has designated the mediators as the addressees of her words and Derek as an auditor, as evidence by her use of the third person singular pronoun "*he*". This, in itself, is an exercise of power, a sort of 'I'm talking about you, not to you'.

In terms of politeness strategies, her utterances are difficult to classify clearly, and this is a question which arises regularly in terms of mediation. Neither the ideas of Leech (1983) nor those of Brown and Levinson (1987) are always easily applicable to an interaction of more than two people. So, for example, Catherine's utterances are fairly bald-on-record, that is direct, but they are not **directly** addressed to Derek. There is, therefore, a distancing, or partial 'dissociation' of the FTAs inherent in what she is saying. I find it difficult to decide upon the relative power and politeness issues here. In the presence of other ratified participants, is it more powerful, and less polite, to directly challenge a person to their face? Or is it more powerful, and less polite, to challenge them by proxy?

In terms of complexity of illocution, Catherine's utterances in the first excerpt are, I would argue, designed to gain the sympathy of the mediators for herself, whilst encouraging their condemnation, and expressing her own, of Derek: as such, there are

dual elements to both the levels of pragmatic force and interpersonal meaning. Catherine is not overtly saying ‘I am the wronged person here’ but what she says conveys this idea quite powerfully and invites the mediators to take sides. There is also, for the two female mediators, a dangerous gender generalisation in the utterance “*which men do*”. A final point to make is that all of the participants are aware that Derek has not expressed himself in such a manner in the meeting so far: there is, therefore, a challenge to all concerned in terms of whether to raise this point or not. What is particularly challenging for the mediators is that Catherine appears to be genuinely conveying her own perceptions of the situation, and her feelings that these perceptions are extremely painful and distressing. The situation for the mediators is, therefore, very sensitive and one which brings home all too clearly what Brown and Levinson (1987: 231) describe as “The delicacy of the interactional balance”.

On lines 20 to 28 Catherine continues to ‘dig’ at Derek whilst, on the one hand claiming to have been trying to “*protect*” him, and on the other giving voice to her immense vulnerability. On lines 21 to 24 she adopts the discourse role of spokesperson and reporter for the couple, speaking on behalf of both of them and reporting previous decisions between them. There is implicit criticism in this seemingly straightforward series of utterances, however, as Catherine’s previous utterances have highlighted her dissatisfaction with what she perceives as Derek’s reneging on their agreements. Her use of the spokesperson role in the utterance “*I mean we can, I think, assure them nobody else is involved*” is a poignant and highly sensitive moment. The utterance is phrased as a statement, albeit one with some uncertainty, but has the pragmatic force of a question. Certainly Derek takes it as such when he answers Catherine on line 25. Whilst it is Catherine who is holding the floor her utterance shows just how powerless she is in terms of the ending of the relationship. On the interpersonal level it conveys that she is not even sure of the reasons for Derek’s decision, is not confident that he has been honest with her, and that the topic is too painful for her to approach it directly. At the level of discursal intent it is a ‘red alert’ moment for the mediators: the ensuing dialogue will go in one of two very different ways, depending on Derek’s answer.

The potential storm passes however and Catherine continues with the utterance “*And we can say that. Erm ...*”. For me, as a mediator, there is ‘something going on’ with

this utterance but I find it hard to be sure what it is exactly. On the surface it is a sort of summarised repetition of what she has just said. At the interpersonal level it is an acknowledgement of what Derek has just said whilst at the level of discursive intent it serves no particular purpose in terms of progressing the discussion. Perhaps it is the apparent superfluity of the utterance which conveys its implicit meanings. There is a sense of Catherine mentally pausing or taking stock of what she has heard which, in turn, conveys a sense of its emotional impact on her. The point is debatable but, for me, it reinforces the poignancy of her preceding statement/question.

Catherine alternates the spokesperson and speaker roles to particular effect in lines 26 to 28 to convey multiple meanings and various facets of power and politeness. The overall effect is of 'mixed messages'. The primary discourse role used is that of spokesperson for the children and Catherine deploys this in a manner familiar to family mediators: she uses their voice to introduce clear concepts such as blame and punishment, that is to say things in a manner which dissociates the speaker from the face threat which is being articulated. To speak on behalf of children is also a particularly powerful tactic, drawing on the legitimate authority of a concerned and protective parent. The motivation for this kind of language behaviour can range from the genuinely caring to exploitation for the speaker's own ends, with many shades of variation in between. At their most pernicious such negotiating tactics are examples of a form of repressive power (Holmes and Stubbe, 2003) which is used by parents who "add to the problems children experience in divorce by ... Using the children as emotional pawns" and who "claim that their positions are really the positions of the children" (Haynes and Charlesworth, 1996: 135). This particular form of the spokesperson role is, therefore, always a matter of considerable delicacy for practitioners, especially when each parent presents opposing or contradictory ideas.

In this extract, Catherine chooses to 'slip in' two other discourse roles which "move the speaker and addressee [and other participants] back and forth between approaching and distancing in their interaction" (Brown and Levinson, 1987: 231). She speaks on behalf of Derek to convey her own pain. Her utterance "*or the strength of your antagonism toward me*" is presented as a report of Derek's feelings but also implies a number of feelings: there is a reinforcement of her own helplessness, that is, 'this is all your doing' which in turn suggests accusation and blame; there is also an

element of challenge, a sort of ‘tell me I’m wrong’; finally, at the level of discursive intent the ‘embedding’ of this utterance within the overall flow of what she is saying seeks to have it implicitly accepted as a matter of fact, rather than personal conjecture. In such situations the mediators, and the other party, have to decide whether or not to challenge this kind of ‘throwaway’, but provocative, remark.

The factors underlying this decision, at least for the mediators, are complex (and will be discussed further in the analysis of the final extract from this sequence with Derek and Catherine). Part of the complexity arises from the various approaches to the role of the mediator in balancing power between a couple. These range from the view, summarised by Lang (2004: 209) which urges mediators to “neither defang the lion nor give claws to the lamb”, that is to refrain from any intervention in perceived power imbalances, through approaches which advocate interventions which “level the playing field” (Kelly, 1995: 96), to suggestions that it may, occasionally, be necessary for mediators to more actively “shore up the weaker party” (Lang, *op cit*: 214).

In terms of the current extract, I will conclude with some observations about Catherine’s assertion on line 28 that she was trying to “*protect*” Derek. The complexity of this utterance stems primarily from its situation in the surrounding dialogue. Catherine here switches to the speaker role to voice something positive in amongst the series of negative ideas which she is putting forward. I would argue that it is significant that, through her use of the speaker role, she is choosing to ‘own’ this particular statement, rather than interject a polite level of dissociation. There is a sense of Catherine perhaps seeking to ‘soften’ what she is saying, of conveying that, in spite of her criticisms she has not condemned Derek to the extent that she no longer cares about him. What she also conveys implicitly is that she has the power to protect him, and protect him from the consequences of his own actions. At the same time, these meanings also serve to reinforce the assumption that Derek **has** behaved badly. This is, arguably, more the talk of a parent than a partner: there is an element of ‘I’m doing this for your own good’.

The final extract from the session with Catherine and Derek raises a number of questions.

- 31) D *Sorry, I feel a bit blasted at, at the moment. What was I supposed to be*
32) *saying?*

(vochCEDE(1c): "1": 7)

In relation to discourse roles, there is nothing complicated going on with what Derek says: he is simply speaking on his own authority about himself. There is much more going on, however, in terms of complex illocutionary acts, and their use in the expression of power and politeness. His utterances illustrate the perceptive observations made by Winslade and Monk (2000: 118) of power as a factor which is “constantly shifting and fluctuating as we offer each other positions ... and supplement the positions offered to us by others in return”.

Derek begins his contribution with an apologetic “*sorry*”, a negative politeness strategy associated with the wish to avoid imposing the speaker’s wants on the hearer. It is a word which prefaces the direct expression of his feeling “*blasted*” (by which he means ‘under attack’), although this expression is hedged about with the negative politeness devices of minimisers, namely “*a bit*” and “*at the moment*”. On the surface, therefore, Derek is apologising for his feelings. It is my belief that the notion of ‘feelings’ has undergone something of a sea-change over the last two decades or so. It was once the case that to talk about one’s feelings was a way of minimizing what was being said, as in ‘it’s just a feeling I have’ or ‘that’s just the way I feel’ – and the verb **was** often used with the minimizer ‘just’. This situation is still the case but, alongside this usage, there has developed a more ‘powerful’ connotation, a sense that ‘feelings’ are not to be so easily dismissed and stand, in their own right, as ‘acceptable reasons’ for an individual’s behaviour or viewpoint. This, in turn, goes to the heart of another complicated issue, that of the ‘truth’ of an utterance: is it what was intended by the producer, or what was inferred by the recipient?

In family mediation, at least, what Derek says is taken very seriously indeed. Given that mediators seek to conduct the process in an impartial and neutral manner, it is not acceptable for one person to feel so negatively overwhelmed by what the other person has been saying. Whilst, as Lang (2004: 216) notes, “If power is a variable force, then a mediator would do well to observe and monitor its altering patterns between parties prior to instigating any comment, question, or other intervention”, there is also the

risk of mediators protracting their observation and monitoring to the point where it overlooks the needs of one or both parties. It appears that this is what took place in this session. So, whilst on the surface, Derek's statement is simply that, its pragmatic force is much more powerful. There are interpersonal levels of helplessness and criticism, to both Catherine and the mediators. At the level of discursal intent there is a kind of request for 'time out'. Derek's subsequent utterance, "*what was I supposed to be saying?*" reinforces these implicit meanings whilst, on the surface, being a straightforward question.

I believe that part of the reason for this failure on the part of the mediators lies in the multi-faceted nature of power in a setting such as mediation, where there is no clear hierarchy. Mediators have to work with the 'power imbalances' within the couple, a slippery concept which I have already mentioned. The mediators took the view, rightly or wrongly, that, within this couple, the emotional power lay with Derek: he was the one who had decided to terminate a long marriage, to the shock and despair of Catherine. Such emotional imbalances occur regularly in mediation and are a factor considered at the Intake meetings: put simply, and at its most extreme, one party may wish to use mediation to finalise divorce arrangements, whilst the other party may wish to use mediation solely to seek reconciliation, to use it as a form of 'relationship counselling'. Where such positions are clearly articulated by the parties, and because "It is difficult for mediators to maintain a balance so that they give equal support to two partners who are facing in opposite directions and reacting in entirely different ways" (Parkinson, 1997: 238), a practitioner may well decide that mediation is not appropriate.

Of course, most couples who proceed to mediation do not overtly exhibit such a polarisation of relationship aims. On the other hand, however, "Mediators see many couples whose decision to separate or divorce is not a mutual one. The partner who has initiated the break-up may have brought about traumatic changes which the other partner does not want and for which he or she is completely unprepared. Although initiators also suffer loss and grief, they are stronger because they have commenced the process of adjustment earlier, often after considerable thinking through their decisions and future intentions" (Parkinson, 1997: 238). This was certainly the case with Catherine and Derek. And, as is not unusual in such situations, Catherine

appeared not only to be emotionally distraught, but to have a 'need' to use mediation to express views and ask questions, in short to seek some sort of 'closure' about some of her issues. Derek's approach was two-fold: in emotional terms, he had clearly 'moved on', to the extent that he wanted to focus on practicalities; on the other hand, he was prepared to engage in the emotional devastation which Catherine was expressing, to the extent that he did not seek to 'justify' himself or avoid responsibility. Within this power dynamic, the mediators 'took the side' of Catherine, and gave preference to her need to express her emotional pain, both in terms of their lack of intervention or challenge, and in terms of 'floor space'. I have a question about, but no answer to, the matter of gender imbalance and whether or not this was a factor. In any event, Derek's utterances in the last extract indirectly evidence his perception that the mediators had not effectively 'managed the process' of mediation.

To conclude this section, and by way of contrast, I will discuss excerpts from a session with a couple whose expressions of power were far from polite. Beck, Sales and Emery (2006: 462-465) draw attention to the research into couple interactions, both married and divorced, and the various typologies which have been proposed. These cannot be examined in any detail here but some of the highlights of their summary will, hopefully, draw out the distinction between the interactional styles of Derek and Catherine, and those of the next couple, Jane and Danny. Drawing specifically on the research of Ahrons and Rodgers (1987), Gottman (1993) and Ahrons (1995), Beck, Sales and Emery compare the notion of 'co-operative colleagues' with that of 'validating' couples, that is couples who give the impression that "they are working together, even though each is contentious in supporting his or her position on the issue under discussion" (Catherine and Derek), and contrast both with the notion of 'angry associates' and 'fiery foes', that is couples who "remain angry and bitter" and who are often "unable to respect each other as parents and undermine each other's parenting efforts" (Danny and Jane). The differences between these styles of couple interaction, with which mediators are all too familiar, should become clear from the following extracts.

The examples are taken from the session with Danny and Jane, a young couple in conflict about the arrangements for their 3 year old daughter, Jasmin, to see her father, Danny. At the time of mediation, Jasmin had not seen her father for over five months.

The extracts are, again, presented in time sequence and are lengthy in order to convey the dynamics of the interaction. The analysis after will be brief and specifically for the purposes of contrasting the interactional dynamics between the two couples.

- 33) J *... all I want you to do is to prove to me that you're responsible to look*
34) *after her*
35) D *I know that I'm responsible*
36) J *If you get somewhere adequate I might consider it later on, when she's*
37) *older*

(voJMcLSO(1): "1": 3)

- 38) D *I don't need to prove to you anything Jane, right? This is all about*
39) *hurting me*

(voJMcLSO(1): "2": 7)

- 40) D *Look Jane, I want my daughter for 24 hours a week. I'm not going to*
41) *be dictated to [by] you, where and when I can see her. You don't have*
42) *the right to do that. I will get parental responsibility, I will get joint*
43) *custody...*
44) J *Go and get it*
45) D *... and then - well I will, and then when you say I can't have my*
46) *daughter you[can] be taken to court*
47) J *Hmm*
48) D *Right. And you'll get arrested. You're out of order mate, you're out of*
49) *order*
50) J *You're ...*
51) D *This is wrong to Jasmin, what you're doing to Jasmin is wrong*
52) J *I'm looking after her*
53) D *You're not Jane, you're depriving her of her father*
54) J *I'm not. I'm being responsible, looking after her. I'd be irresponsible*
55) *if I was to pass her over to you*
56) D *I'm 37 years old. You talk to me like I'm a 15 year old drug addict*
57) *Jane, it's disgraceful. How, how do you get off speaking to me like*

- 58) *this? It's disgraceful. The things I've done Jane, I've uprooted my*
 59) *entire life to be down here and close to Jasmin*
 60) J *You were drinking all the time. You left because you had a drink*
 61) *problem*
 62) D *Oh just shut up*
 63) J *It didn't have anything to do with Jasmin*
 64) D *Rubbish*
 65) J *You know that*
 66) D *Why do you keep insulting me all the time? This is just nonsense*
 67) J *You know that's true Danny*
 68) D *I didn't move to Wrexham for Jasmin?*
 69) J *Well, probably, yeah but ...*
 70) D *PROBABLY! What, you think I came here because I love Wrexham?!*

(voJMcLSO(1): "1": 9)

- 71) D *... What gives you the right to say this when I can't say a damn thing*
 72) *to you? Why are you the superior parent? Why are you in charge?*
 73) *Why is it down to you to decide where and when ...*
 74) J *Coz I'm her mother*
 75) D *... Jasmin gets to see her dad. I'm her father. Hello, remember me?*

(voJMcLSO(1): "1": 15)

- 76) D *Look, I can't take any more of this. It, it's just constant accusations.*
 77) *It's, she's got no ... no evidence*

(voJMcLSO(1): "1": 55)

The power imbalance within this couple is fully 'on the table' and the parties use few politeness strategies: many of their utterances are, therefore, 'bald-on-record'. Jane has no hesitation in expressing her criticisms of Danny and, in fact, as the session wore on more and more were introduced. There is little doubt that the resident parent of a divorced or separated couple, that is the parent with whom the child primarily lives, wields considerable power. This power may be used, as in this case, to prevent a child from seeing the non-resident parent pending resolution of the dispute. Such resolutions, if they end up in court, can take many months, or even longer, to achieve.

The impact of this “Power to resist or block a settlement” (Parkinson, 1997: 238) is profound for both the child and the non-resident parent. Sometimes there are genuine, child-centred reasons for a parent preventing contact; sometimes there are genuine but mis-guided reasons; and sometimes the reasons appear to be more motivated by malice and revenge than any concern for the child. The stakes are very high for all concerned. From the mediator’s perspective, they must walk a tightrope between ‘genuine’ concerns about the potential, or experienced reality, of child abuse, in which case mediation should be terminated and a referral made to the relevant child protection agencies; or they must consider the possibility that “One party’s apparent acquiescence with the referral may disguise a profound determination to resist agreeing to anything at all. Accepting mediation may be a delaying tactic in itself”. In the latter scenario, mediators “need to ... recognise the advantages for one party in prolonging the status quo” (Parkinson, 1997: 238). The power of the ‘status quo’ should not be underestimated. As Roberts (1997: 73) notes, there is a judicial reluctance to interfere with existing arrangements, whether contested or not, on the basis “that what is best for the child is the minimum of disruption of the child’s emotional, social and educational life”.

Danny’s utterances leave little to doubt about his perception of Jane’s motivations. He repeatedly challenges the truth of what she is saying and vividly describes his sense of powerlessness and humiliation. Jane openly talks in ‘powerful’ language, for example that Danny needs to prove himself to her and, even then, she only “*might consider*” allowing contact at some non-specified point in the future when their daughter “*is older*”. Jane dismisses Danny’s claim that he has moved over a hundred miles to be near their daughter, then briefly acknowledges that this may be the case, before returning to dismissing the fact as an event of no significance.

During the session Danny made a number of efforts to satisfy Jane’s demands, including undergoing medical tests and visits from Social Services to prove that he was not some form of drunken lout living in a rat infested hovel frequented by the neighbourhood drug addicts. Jane then raised other issues: she “added a new strategy” to her negotiating behaviour, that of “conflict expansion” (Haynes and Haynes, 1989: 181). She claimed that their child suffered from night terrors and Danny would not be able to cope with that; that their child walked in her sleep and he would not be able to

deal with it; that their child was frightened of certain fairground rides and he would not know which ones to avoid; and so it went on. There is little doubt that Jane had no hesitation in portraying Danny as a wholly incompetent parent. Despite Danny's efforts to placate Jane, there was one condition to which he would not agree, and that was the supervision of his time with their daughter.

This is an issue which always causes huge disagreement in mediation, and for understandable reasons. 'True' supervised contact, in which a third party is present, is a formal affair, often arranged by Social Services, and usually when there are well-founded suspicions that a child might be at risk. Its imposition, therefore, carries powerful 'messages' about the character of the parent in question for the community in general and "the circle of relatives, friends and advisers who line up behind the divorcing couple [like] the chorus in a Greek tragedy" (Parkinson, 1997: 244, referencing Wallerstein and Blakeslee, 1989). Jane was aware that Social Services were most unlikely to see any reason for their involvement and, therefore, suggested that she was the most appropriate 'supervisor', a suggestion which Danny rejected out of hand. In the extracts Danny threatens Jane with the courts, an attempted exercise of power which Jane dismisses. In reality, his 'chances' in court of getting what he was seeking were far higher than those of Jane: her power lay in the fact that, until a court hearing, or unless he agreed to her 'supervision', she could ensure that Danny did not see their child.

What is a mediator to do in the face of such overt 'power play'? The answer, of course, depends on the practitioner's subjective assessment of the motivations underlying it. Firstly, in relation to the validity of the concerns, a mediator will enquire whether the parents themselves have made contact with Social Services. If so, what was the outcome (and the mediator will check this), if not, why not? Secondly, if a mediator forms the opinion that, in spite of no contact with Social Services, there are genuine child protection issues, the practitioner will stop the mediation process and make a referral to Social Service themselves.

In this particular case Jane had not contacted Social Services and saw no reason to, in spite of her protestations about Danny's incompetence and undesirability as a parent. Danny was willing to contact Social Services himself if he thought it would help

matters. The mediator also felt no need to make a formal referral to Social Services. The conclusion, therefore, is that in spite of the directness in the couple's interaction, there was a 'hidden agenda' on Jane's part, perhaps motivated by a wish to hurt, humiliate or punish Danny, perhaps by a wish to seek a reconciliation, perhaps elements of both. Whatever the precise nature of her apparent 'hidden agenda', Jane appeared to belong to the category of client who "may seek to use mediation for a variety of purposes that have nothing to do with its true objective of joint decision-making. They may, for example, participate in the belief that some strategic advantage may be obtained in subsequent litigation, or to 'have a go' at the other party, or to exert some ulterior pressure (for example, to effect a reconciliation or to impose their own wishes)" Roberts (1997: 130). Of course, a mediation session, or series of sessions, can only provide a 'snapshot' of a couple's interactive style and the issues which underlie them: there may be deeper, historical power influences at play, a factor which is compounded by the distinct perceptions which each person often has about 'where the real power lies' in a relationship.

Finally, in relation to Jane and Danny, I would like to raise the subject of the mediator power in this session. It was left for Danny to directly express that he could not "*take any more*", a far more direct expression than that of Derek's "*sorry I'm feeling a bit blasted*". Why did the mediator 'let' matters reach this stage? The reason is that the mediator's legitimate power to control the process is only effective if the clients 'allow' her or him to exercise it. In this case the practitioner's power was severely compromised by the simple, and none too polite, strategy of interruption, a means of exercising "power in discourse" by "the more powerful participant putting constraints on the contributions of less powerful participants" (Fairclough, 2001: 113). The mediator repeatedly had to 'fight' to complete an intervention, or did not complete it at all.

As is evident in the extracts above, many of the contributions by Danny and Jane allocated each other to the recipient discourse role of direct addressee, with the mediator as auditor or even, perhaps, a mere bystander: with Derek and Catherine the emphasis was the other way round. In other words, the latter couple made far more use of the third party presence than did the former couple. Producer discourse roles evidence this orientation: with Catherine and Derek there was far more use of the

spokesperson role on behalf of the couple, that is use of “we”, whereas with Danny and Jane there was far more use of the speaker role and the spokesperson role on behalf of the other party, that is the use of “I” and “you”.

As a mediator I have occasionally intervened with utterances such as ‘you don’t need me here to carry on this discussion, you can have a slanging match anywhere’. Such statements are provocative and not strictly ‘by the book’, but are effective in achieving one of two ends: either the couple decide to ‘use’ me or they do not. It is an exercise of power but leaves the power to decide with the couple. There are elements of both coercive and reward power present, depending on the parties’ view of the situation. If there is more ‘investment’ in perpetuating the conflict, that is if the couple “want war more than they want settlement” (Parkinson, 1997: 63) then mediation will end: if not, it will continue. The termination of a session is the ‘ultimate power’ which a mediator has and, arguably, this could have been exercised long before the two hours which the session with Jane and Danny lasted.

The next section moves on to discuss extracts which reveal some of the ways in which mediators verbally enact power in their interactions with clients.

5) Power, Politeness and Mediator Talk

The first three examples in this section occurred in the early stages of the initial mediation session with Catherine and Derek, who could not agree upon the order of discussion for their agenda.

Extract 1

- 78) M2 *So which is the most pressing problem for you, the children or the*
79) *finances? We don’t want to mix both of them*

(vochCEDE(1a): “1” and “2”: p2)

Extract 2

- 80) M1 *There’s just one thing to point out, quite often the facts and figures*
81) *alone take about two hours, so erm, we’re happy either way, whichever*
82) *you want to start with. If we run out of time then we’d have to come*

83) *back at another time to finish off the finances – if we run out of time*
(*vochCEDE(1a): “2”: 3*)

Extract 3

84) M2 *And, you know, we are a child focussed agency, obviously, so our*
85) *concern is their welfare also. So, if you are really concerned about*
86) *that, maybe it would be easier if you both discussed it and worked out*
87) *ways in which you are going to tell them - when and how and what*
88) *you're going to tell them*
(*vochCEDE(1a): “3”: 3*)

All three extracts reveal the mediators exercising their authority to control the process of mediation whilst encouraging the parties, who have already decided what is to be discussed, to make their own decision about the topic with which they want to start. To an extent this is an allocation of expert power (Spencer-Oatey, 1992, Thomas, 1995 and Holmes and Stubbe, 2003) which is inherent in the process of mediation: it is the mediators who ‘know’ how to mediate, whilst it is the clients who ‘know’ what it is they wish to resolve. This ‘division of labour’ in terms of who is managing the session is in contrast to the more typical situation in many workplace settings described by Holmes and Stubbe (2003) where “Managers set work agendas not only in terms of their section’s work programme over a period of time, but also at a more specific level for particular meetings. They often made explicit at the beginning of a meeting what they expected to cover and in what order” (op cit: 72). Of course, as has been mentioned elsewhere, the boundaries in mediation are not always so clear cut. It is this blurring of boundaries, and the ebb and flow of various kinds of power, the notion of power as a “fluid, rather than a solid, entity” (Parkinson, 1997: 234) which, for me, makes mediation such a fascinating arena for the study of power and its nature, expression, variety, and interplay.

As is typical of many mediator interventions, there are politeness strategies evident in the use of inclusive ‘we’ and frequent references to the needs and wishes of the clients. There are also examples of ‘boundary laying’, for example “*we don’t want to mix both of them*” on line 79, an utterance which emphasises to the couple that the mediators will ‘allow’ discussion of only one topic at a time. The mediator does not

explain why it is undesirable for topics to be mixed, relying, presumably, on a shared ‘common sense’ perspective or perhaps an acceptance on the part of the clients that this is ‘just the way things are done’ in mediation. The spokesperson role here could be interpreted as either all-inclusive ‘we’ or ‘we’ on behalf of the mediators: in the former case it could be classed as a ‘repressive’ or more covert expression of discourse control, presented as a form of ‘collaborative’ power; in the latter it case it could be classed as a more ‘oppressive’ or overt expression of power (Fairclough, 1989, Thomas, 1995, Holmes and Stubbe, 2003). In either event, it is a seemingly straightforward utterance which, in reality, has a number of profound complexities in relation to power, in particular the notion of “professional-client asymmetry” (Drew and Heritage, 1992) and the idea that “power in discourse is to do with powerful participants *controlling and constraining the contribution of non-powerful participants*” (Fairclough, 2001: 38, italics in original).

In the second extract the mediator draws on her expert power as an experienced mediator to provide information, which carries the pragmatic force of a warning, that there may not be enough time in the current session to fully discuss both the children and the finances. The warning is indirectly expressed but undoubtedly puts pressure on the couple to make a decision and commence discussions sooner rather than later. There is, therefore, an element of coercion in what she says. Her motivations are double-edged: on the one hand, the mediator is seeking to provide useful information to the clients; on the other there is an element of self-protection, in the sense that the mediator is aware that clients who fritter away their mediation time usually end up feeling disappointed, frustrated and hostile. So it is that one intervention may simultaneously enact several aspects of power, in this case legitimate, expert and coercive ‘types’ of power with the multiple motivations of facilitation, information (and therefore power) sharing, control and self-interest.

In Extract Three the mediator’s utterances on lines 84 and 85 are more controlling although still in a very indirect way. In the absence of a decision from the parties themselves, the mediator chooses to ‘guide’ the selection of one particular topic by adopting the spokesperson role for the agency and its priorities. To paraphrase Greatbatch and Dingwall (1998: 127) she is adopting a discourse identity which is congruent with her institutional social identity. Whilst this increases the legitimate

authority of what she says, it also reduces the face threat potential by increasing the distance between herself and the 'message' she is delivering. In this particular situation, as in many others, it is vitally important that the mediator achieves some appearance of balance, because what she says implicitly 'favours' one party's preference over the other's. The mediator then moves on swiftly to adopt the reporter role for the couple, thus seeking to render the implied topic choice as one which is shared by both of them, rather than one which is preferred by a mediator who has 'taken sides'.

The next extract is taken from the beginning of the session with Nat and Tamsin. They have come to mediation to resolve issues regarding a change to contact arrangement between their 5 year old daughter, Melanie, and her dad, Nat.

- 89) M *With regard to your daughter Melanie, erm, the idea of mediation is*
90) *obviously a step prior to, or an alternative to, going to court. If people*
91) *can't resolve the issues for themselves then ul... ultimately a judge*
92) *will make a decision. But he [sic] much prefers not to. He prefers if*
93) *the parents themselves can at least try and sort it out. So that's why*
94) *you've come along here today. Erm, in order for us to, to proceed in a*
95) *fashion that, that we find acceptable, we ask you to do things like listen*
96) *to each other when one's speaking, if the other one can, you know, and*
97) *just generally er, not get into arguments and stuff, because that's not*
98) *conducive to mediation*
- 99) T,N *[laughter]*
- 100) M *And if it does go down that route, I'll probably stop you anyway*
- 101) N *[laughter]*
- 102) M *I think I'd like to start the session by each of you just taking a couple of*
103) *minutes to say what the issues are, as you see them, what you wanna*
104) *try and resolve today. While that person's speaking, if the other person*
105) *could say nothing at all, and then if you could both change over - it's*
106) *just to give you both a couple of minutes to, to say what you want to*
107) *say without any interruption. So, who would like to start?*

(dhNATA(1): "1": 1-2)

The mediator's first stretch of dialogue on lines 89 to 98 switches between a number of discourse roles which are sequenced to achieve maximum effect on a number of levels. On lines 90 to 93 the mediator wastes no time in raising the spectre of the, for most couples, 'worst case scenario', that is a judgement in court. She is exploring a key mediation question, that is the couple's "WATNA (worst alternative to a negotiated agreement), a variation of Fisher and Ury's (1981) BATNA (best alternative to a negotiated agreement)" (Haynes and Haynes, 1989: 11). She does this by utilising the reporter role to convey information about what happens to people who "*can't make a decision for themselves*", followed by the spokesperson role for a generalised judge. There is enormous complexity in these opening utterances.

Firstly, by utilising the above discourse roles, the mediator aims to maintain politeness by dissociating herself from any face threat implicit in her utterances. She draws on her own legitimate and expert power to bring in the 'ultimate' power of a court intervention. There is an element of coercion and reward in what she says, implicitly threatening and encouraging the couple to avoid being the kind of people who cannot make their own decisions, a kind of 'make the most of mediation or else'. She then reduces the implicit threat by speaking for a judge who would prefer the parties to sort out their own affairs.

On lines 93 to 98 the mediator raises the hope of successful mediation by speaking on behalf of the parties and, implicitly, encouraging them to be the kind of people who would gain the approval of a judge, that is parents who are capable of self-determination. This is followed by positive politeness and the use of the spokesperson role for all, as indicated by the collaborative 'us', and then the use of negative politeness and the spokesperson role for the agency in her choice of 'we'. In this session there is only one mediator so there is no other interpretation for the use of this personal pronoun.

The overall effect is quite 'powerful' in the sense that the mediator has set a scene in which a positive outcome from mediation implies 'capable' parents, and a negative outcome implies some sort of failure as parents. There is something quite paradoxical going on in such interventions in that they are both empowering and controlling. On

the one hand there is the notion that ‘knowledge is power’ (Neumann, 1992, Kelly, 1995, Mayer, 2000), in which case the mediator’s sharing of her knowledge about court expectations could be viewed as an attempt at empowering the parties. On the other hand, there are the ideas of Clark (1997) in relation to advancement in joint activities, which he acknowledges were “inspired by Steven Levinson’s (1979, 1992) notion of *activity types*” (op cit: 30), and which draw specifically on the notion of ‘common ground’ as outlined by Stalnaker (1978). Put briefly, the common ground between participants is the knowledge and beliefs which speakers presuppose they share with other interactants. Significantly, for the purposes of this discussion, Clark (op cit: 39) notes that presuppositions can change over the course of an interaction, to the extent that “The common ground may also get restructured as new information accumulates”. This appears to be the motivation for the mediator’s interventions in the current example but the shifting of common ground **is all one way**. It is for this reason that there is an element of control: the mediator is sharing knowledge but is doing so with the intention of ‘persuading’ the couple to adopt the viewpoint of herself and the court.

In any event, I would think that Tamsin and Nat were left in no doubt that this mediator ‘meant business’. As an experienced mediator, I would say that this kind of approach is generally appreciated by clients: they need to know that there is structure and that someone is ‘in charge’. The ‘powerful’ hints at ‘desirable/undesirable’ parental characteristics are risky and manipulative. Such strategies are subtle and can be highly effective: in other settings, and perhaps in mediation, they can be highly dangerous. I say this because, in mediation, such strategies are intended to move clients on from interpersonal conflict and historical grievance, to a shared parental focus on the present and future wellbeing of the child involved, a wellbeing which certainly does not involve ‘parents at war’. That is to say that the exercise of mediation power aims to be ‘benign’. Of course, the definition of ‘benign’ and ‘malign’ power is extremely subjective: one person’s empowerment is another person’s tyranny.

On lines 100 and 105 the mediator is in speaker role, directly taking responsibility for her legitimate power in the process. She clearly informs the couple of what she will do to control the session, followed by what she requires from each of them for the

discussion to begin. In terms of the model described in Chapter 7, there is quite a lot of activity at the level of discursual intent. Whilst the mediator's utterances are made in speaker role and are fairly direct, she nevertheless seeks to mitigate these expressions of power with the use of hedges, modals and 'soft' verbs, that is "*I'll probably stop you anyway*" and "*I think I'd like to start by*" on lines 100 and 102 respectively. These utterances are less authoritative than, say, "I will stop you" and "I want to start by". As Maley (1995: 108) notes, mediators' "ideology requires that the parties be empowered, but they themselves need power in order to control the process satisfactorily ... Mitigating and face-saving strategies, such as modalities are helpful in resolving the tension between principle and practice, allowing the mediator to interact with the parties in a non-directive and non-confronting way, and drive the process along".

The third example occurs in the session with David and Laura who have been 'circling' the issue of an agreed amount of child support payments for some time. Again, this is fairly typical in mediation sessions. Clients often appear more willing to engage in criticism of the other person than to put forward their ideas for solutions to the problem. This is especially so when it comes to being specific about their own preferences. In the following extract, the mediator has decided that it is time to sharpen the focus of the discussion.

- 108) M *Well, lets, that's getting off the track a bit. Child support - what, what*
109) *I could ask you, what do you feel would be a reasonable amount, but*
110) *that's not gonna answer the question, so the question I'm gonna ask is*
111) *this, what do you want to be able, each of you, to have money to spend*
112) *on at the end of the month, after you've spent it on what we all spend it*
113) *on, the rent, the bills, the children, your petrol, all the boring routine*
114) *stuff, your council tax, your water rates. OK. What would you feel*
115) *would be a good amount to have left over for each of you, to do what...*
116) D *[laughs]*
117) M *Yeah, well we know, yeah yeah yeah yeah, we'd all like - I'm asking*
118) *you to do it realistically*
119) D *Well, I just wanna be able to afford to go out when I want to, within*
120) *reason*

121) M *OK, put a figure on it for me*

(chDCLC(1): "1": 14)

On line 108 the mediator is fairly direct although she does employ the negative politeness device of distancing by using the impersonal determiner "*that*" rather than the more accusatory "you". She is in speaker role which reinforces the notion of her legitimate power to decide what is, and is not, 'on track'. On lines 109 to 115 she uses a number of metalinguistic utterances to reveal her thinking and reasoning to Laura and David. In short, she is employing a positive politeness device in conjunction with her deployment of power. In revealing her reasoning and the question she is **not** going to ask she is also indicating that she wants specific answers to her specific question. There is considerable power in her use of the spokesperson role for all on line 110 with the utterance "*that's not gonna answer the question*". The power stems from the implicit assumptions in what the mediator says, that is: that she knows what information is needed by herself and the clients; she knows how to elicit this; and the clients are in agreement with her assessment.

The overall effect of the intervention is of applying increasing pressure on the clients to pay attention to, and clearly answer, the question she finally asks. The mediator is, to all intents and purposes, seeking to 'force feedback' (Thomas, 1986 and 1990) and is acting very much like the chair of a workplace meeting. As Holmes and Stubbe (2003: 74) point out, this role "often involves moving a group back to the agenda topic during or after a digression. This topic control strategy is typically signalled by a discourse marker such as *right, so, anyway, okay,* or even more explicitly, *to get back to the point, or getting back on track*" (italics in original).

Nevertheless, David seeks to avoid the issue somewhat when his response is to laugh. As I have mentioned before, there is the ever-present potential in mediation for clients to exercise their right to query or resist the interventions of the mediator: mediation is voluntary and the practitioner has no power to 'force' any participant to 'follow the rules' or 'do what they are told'. The mediator in this instance has had enough of the couple's evasiveness so responds with a fairly inarticulate series of utterances in the spokesperson role for all, before reverting to the speaker role to deliver a direct statement about her expectations. The combined effect is to challenge David's

avoidance of the issue and pursue the information which the mediator seeks, but in a way which retains an element of positive politeness with the use of inclusive 'we', followed by a metalinguistic utterance which is hard to classify, "*I'm asking you to do it realistically*". There is the direct expression of legitimate power in this utterance, although it is 'softened' by the use of the verb 'ask', and an element of criticism in the mediator's choice of the adverb "*realistically*". For me there is an air of a naughty school boy being chastised and told, indirectly, to "stop messing about and answer the question".

On lines 119 and 120 David continues to prevaricate in the style which he has used so far in the discussion. He does what clients often do, which is to stay 'stuck' in phrases which, on the surface, aim to convey a sense of reasonableness but which continue to avoid the issue at hand. I would argue that there is considerable power in withholding specific information: certainly, in mediation, such vague, apparently 'reasonable' utterances can prevent any meaningful discussion about solutions. In fact, as was the case with this couple, such vagueness can constitute the major part of the dialogue, with each person's contribution simply perpetuating the conflict in a well-rehearsed but ultimately futile routine. David use hedges and minimizers, that is "*just*" and "*within reason*" to 'argue' his case, but does not answer the question.

On line 121 the mediator deals with the situation by way of a direct imperative, "... *put a figure on it ...*". There is a 'power struggle' going on here and the mediator is determined to 'win' it. Her experience tells her that, without the specific details, the discussion is doomed. She therefore draws on her legitimate power to try to force David to provide specific information, whilst embedding it in politeness. The opening utterance "*OK*" indicates that she has heard what he has said, and the final utterance "*for me*" indicates something along the lines of "I need this information and it would help me if you provided it". As always, one might consider a more direct alternative which, in this case, might be a sequence of utterances such as "David, you're avoiding the question, I'm not happy about this, now just how much, exactly, are you talking about?". Nevertheless, the mediator's interventions illustrate the point made in the linguistic literature, for example, Fairclough (1992) and Holmes and Stubbe (2003) that even in ostensibly equal or equalised encounters, it is the person in authority who

retains the ultimate right to sanction, or not, varying levels of the overt expression of power.

A final point in relation to this example is the notion of ‘cumulative pragmatic force’ (Thomas, 1995 and personal communication). The mediator’s utterances become increasingly demanding, or forceful, during the exchange: she has a goal in mind and, depending on the contributions of the other participants, is prepared to incrementally ‘up the ante’ until she achieves it. This phenomenon can only occur when indirectness, or complexity of meaning, is in play and will be discussed more fully in the next chapter.

The final example in this section, and chapter, is taken from the mediation with Judy and Maria. As with David and Laura, this couple had been ‘circling’ the issue for some time, in this instance the need for Judy to retrieve her personal possessions from the former family home. The couple had, so far, resisted all attempts by the mediators to bring a clear focus to the discussions, or to concentrate on options for resolution. The parties had confined themselves to allegation and counter-allegation, assertion and rebuttal of ‘facts’, and emotional ‘dig’ after emotional ‘dig’. One of the mediators chooses to summarise this in the following way:-

- 122) M *So we’ve had burglaries, we’ve had chucking stuff up the drive, we’ve*
123) *had various bullying and intimidation tactics ...*
124) *[laughter]*
125) M *No, these are all options, so ...*
126) *[more laughter and comments]*
127) M *... we can bin those. So how about looking at the constructive option?*
128) *Which is that you draw up ...*
129) Ma *OK*

(dhchMJJW(1): “1”: 29)

The first point to make is that the mediator has opted to use humour: the second point to make is that, as a strategic intervention, this is highly risky. The risk lies in the use of humour to make acceptable the bald-on-record, less than polite or flattering presentation of the clients’ behaviour so far. As Holmes and Stubbe (2003: 110)

observe, humour is a “useful strategy for softening face-threatening acts such as directives and criticisms ... [or] even riskier speech acts such as insults and challenges”. If the humour is lost then the parties will perceive direct criticism of their efforts to discuss what is, for them, a highly sensitive and emotional issue.

There is legitimate power in the mediator’s attempt to summarise the main points of the discussion, but no legitimate authority to make fun of them. Humour is categorised by Brown and Levinson (1987) as a positive politeness strategy and it can, indeed, be a ‘powerful’ tool for expressing ideas which are, for whatever reason, not easily expressed in a ‘polite’ way. The ‘success’ of this intervention relies entirely on the clients’ acceptance of what has been said: if they do not accept it, then the mediator ‘has gone too far’ and alienated the people she is trying to help. The use of humour is, I believe, a highly sophisticated and complex expression of language: as Holmes and Stubbe (2003: 110) observe, in a chapter dedicated to the topic of humour in the workplace, “multifunctionality is typical of almost every instance of authentic discourse ... but it is perhaps especially characteristic of humorous comments”. Holmes and Stubbe (op cit: 109) also make the salient point that humour is a “relevant resource in the construction and management of power relationships in the workplace”.

In any event, the mediator in this example seeks to further ‘soften’ the criticism of her utterances by the use of the spokesperson-for-all role: her intervention is mainly delivered with the use of inclusive ‘we’. But, again, we see the effectiveness of combining discourse roles in certain sequences: having spoken for all, and hopefully engendered a shared perspective on the obstacles to mediation, the practitioner then moves on to the use of the personal pronoun “*you*”, thus shifting the focus, and responsibility for resolution, to the couple alone. The mediator here is seeking to achieve the practitioner’s control of the process, whilst facilitating the parties’ control of the outcome.

Whilst Boule and Nesic (2006: 216) counsel that humour should not be used “at the expense of the parties”, it’s use by the mediator in this example does precisely that. What it also does is to provide the mediator with an “extremely good way of clarifying what has been said and reducing tension at the same time” (Parkinson,

1997: 116). Fortunately, this particular intervention was successful in that it brought about the change in focus which the mediator was seeking, as evidenced by Maria's response on line 129, "OK". It was Maria who had the practical, and emotional, 'power' in this issue as it was she who remained in the former family home, had changed the locks and thus prevented Judy from having any physical means of access, whilst also refusing to engage in any meaningful discussion about how Judy might collect her belongings. The couple then went on to work out the details of how Judy would gain access to the house, who would 'supervise' her visit and when, and a method for identifying and negotiating which belongings and personal possessions belonged to whom.

6) Summary

One chapter cannot do justice to the complexities of power in family mediation sessions. I have aimed to highlight some facets of the intricate interplay between the verbal enactment of power, and its expression through politeness, producer discourse roles, and utterances which have multiple meanings.

I believe that family mediation is of particular interest to the study of language use because it is a sort of 'half-way house' on a continuum of interaction which ranges from the informal and unstructured to the formal and structured, from the personal to the impersonal. As such it offers many insights into the concept of power: its multi-faceted nature, its expression in words, and its dynamic and shifting presence in a setting which is not clearly hierarchical.

Family mediation also raises the issue of the motivations underlying the deployment of power. As human beings we tend to ascribe positive and negative evaluations to our own, and others', behaviours. These evaluations are subjective. This is unavoidable in the sense that we are all the product of our individual, collective and cultural influences and experiences. And so it should be. Without these 'anchors' an individual would be left with no point of reference, no compass by which to negotiate the often turbulent waters of interaction with others. Taking into account all of the caveats regarding subjectivity, family mediation, at least in the UK, aims to be a 'helping' and 'child centred' service. There is the assumption, therefore, that the

exercise of power by mediators is 'benign'. On the scale of the potential uses and abuses of 'professional' or 'legitimate' power, I have no doubt that this is usually the case. However, we cannot afford to be complacent about such matters.

A final point I would wish to make is the value of mediation dialogue in drawing attention to the contextual and enmeshed nature of power and its expression. By this I mean that an individual's outward expression of power may stem from, or be motivated by, their perception that they are, in fact, powerless. Thus, an apparently aggressive or domineering style of interaction may be the result of either the perpetuation of a controlling partner's usual style of interaction, or the result of the usually passive partner finding, and exploiting, their 'voice' in the setting of mediation.

CHAPTER TEN

COMBINED ANALYSIS OF ONE INTERACTIONAL EPISODE

1) Introduction

The aim of this chapter is to bring together the concepts outlined so far. A main argument in this thesis is that the subtleties and complexities of language in use remain to be fully explored. Whilst it is doubtful that a ‘definitive’ explication of language in interaction is achievable, I nevertheless believe that language in use can be analysed on a far more dynamic and integrated level than has often been the case in the literature so far. I agree with Thomas’ assertion that “it is a mistake to adopt an approach to pragmatics which focuses on social factors to the exclusion of cognitive factors, or on cognitive factors to the exclusion of social factors or to adopt an approach which is exclusively speaker-oriented or exclusively hearer-oriented” (1995: 208). I also share her view that pragmatics is, to a certain extent, “parasitic” (Thomas, 1995: 185) on other disciplines. Thomas refers specifically to sociolinguistics in this regard, for example Hymes (1962) and Holmes (1992), but it is clear that this thesis has also drawn on the ideas of conversation analysis, for example Drew and Heritage (1992) and discourse analysis, for example Jaworski and Coupland (1999).

The next section will present a continuous sequence of dialogue, together with the context in which it takes place and brief details of the interactants. In section three there will be an analysis of discourse roles, followed by a section focussing on complex illocutionary acts. Sections five and six look at politeness and power respectively. Section seven will revisit the dialogue in relation to the multi-layered model of interaction which was introduced in Chapter 7.

2) Dialogue and Background

The following exchange took place in the fourth mediation session with a couple, Catherine and Derek, who had been married for over thirty years and had two teenaged children, Meg aged 18 and Tim aged 16. When the couple first presented, there was considerable emotional tension, and practical confusion, about whether the

husband wanted to proceed to divorce as soon as possible, or to arrange a separation pending a point in the future when both children were adults and embarked on their own independent lives at university. A theme throughout the sessions had been Catherine's pain and frustration at what she perceived as her husband's prevarication about making a decision, one way or the other. This was in addition to her pain at the very fact of her husband's desire to end the marriage. Nevertheless, immediately prior to the dialogue which follows, the couple had agreed an interim financial and practical arrangement in which they, in effect, remained in the family home for a further two years but on a separated basis. The tensions between the couple had eased considerably.

The start and end of the dialogue has been chosen on the basis that it represents a single 'episode' in the ongoing interaction. The identification of such episodes is, of course, an interesting point in itself, not least because, on a practice level, the mediator has to be sensitive to the moments at which an episode can be considered closed and the session can move on to other issues.

There were two mediators involved in all of the sessions with this couple, although only one mediator is featured in the dialogue which is to be considered. She had just concluded her summary of the new arrangements which Derek and Catherine had agreed and pointed out that, if the couple wished to return to mediation in the future, then this could be arranged by a telephone call from each of them.

- 1 **D** *What if only one of us wishes to do so?*
- 2 **M** *Er, er [funny voice]*
- 3 **D** *[mimics]*
- 4 **M** *Can't mediate with one*
- 5 **D** *No, no*
- 6 **M** *Er, we, we ...*
- 7 **C** *What do you mean? [very sharp tone] Was that a joke or ...*
- 8 **D** *Wasn't a joke*
- 9 **M** *Didn't sound like a joke*
- 10 **C** *Well I don't understand what you're getting at*
- 11 **D** *Erm, well I wasn't really getting at anything. I was just sort*

12 *of considering, you know, you know another possibility, erm ...*

13 **C** *Well I can't see the scenario*

14 **D** *Perhaps there isn't one*

15 **C** *I mean I'm not getting at you but I just don't, I just ...*

16 **D** *Alright*

17 **C** *I'm wondering what's in your mind, that made you ask that*

18 *question*

19 **D** *Nothing specific, but I, I was just saying, well ...*

20 **C** *I mean if you suddenly [?] er, if, you know, you change your*

21 *mind about wanting a divorce or something ...*

22 **D** *Er, no, I wasn't specif- specifically thinking that, but it, it does*

23 *take two to, to do this particular tango, doesn't it?*

24 **M** *Yeah [laughs]*

25 **C** *I can't, can't see what we'd - I mean counselling, yes, but I*

26 *can't see what you, we, could do in your mediation on your*

27 *own*

28 **D** *No you can't have mediation on your own so ...*

29 **M** *No, you need two, two*

30 **D** *No, OK*

31 **M** *Maybe, er, Derek was just trying to think through options*

32 **D** *Yeah*

33 **M** *I could imagine that somebody might, might think, erm, that,*

34 *erm, I want to return to mediation, or I've got some ideas I*

35 *want to try out first before discussing them. Peop- somebody*

36 *might want to think that. We, we wouldn't do it*

37 **C** *Mmm*

38 **M** *Coz we, coz we can't do it one-sided, so what we say to people,*

39 *well if you have any ideas, yes, we can air them, but it's got to*

40 *be ...*

41 **C** *Uh huh*

42 **M** *... with the two parties*

43 **D** *I suppose if, you know - alright if I can [?] bring this to a*

44 *conclusion, if, if one of us, erm, was, was keen on mediation*

45 *again, erm, soon - before spring 2007, there's no particular*

46 *reason then, erm, we would contact you, we would discuss it*
47 *and if there's no agreement about that, which is unlikely, it's*
48 *theoretical really ...*

49 **M** *Yeah*

50 **D** *It's just theoretical, then, and you would advise, when we ring*
51 *up and want – what, what's the mediation to do with this?*

52 **M** *Yeah*

53 **D** *[???] and that's the situation*

54 **M** *Yeah*

55 **D** *OK, moving on then ...*

56 **M** *Yeah, yeah*

57 **D** *Yeah, OK*

58 **M** *Is that ...?*

59 **D** *I just like talking [?]*

60 **C** *Hmmm*

61 **M** *So, well, I think also, for s some, quite often we find with*
62 *people, is that it, it, it's a kind of, er, sometimes people want a*
63 *kind, like of backstop position. They, they don't like the idea of,*
64 *sort of being out there and, oh dear, what if something else*
65 *came up, where could I go to*

66 **C** *Yeah, yeah*

67 **M** *... discuss this? And we are one of a number of agencies ...*

68 **D** *Yeah*

69 **M** *... that offer guidance and that, so it's a fair enough question*
70 *and we, we, it's not an unusual one*

71 **D** *I mean if, if it weren't appropriate for, then you would advise*
72 *us where ...*

73 **M** *Yeah*

74 **D** *Of course*

75 **M** *Yeah*

76 **D** *OK [??]*

77 **M** *OK?*

78 **D** *OK*

(vochCEDE(4): 1)

3) Analysis in Relation to Discourse Roles

Derek's opening utterance is presented in the role of spokesperson for both parties, although it carries with it an underlying meaning of 'I', a meaning which is borne out by the subsequent dialogue. Presumably he avoids phrasing the question in terms of the first person singular pronoun 'I' because he is trying to avoid contention. If this is the case the ruse is spectacularly unsuccessful, as the rest of this stretch of interaction is addressed, in various ways, to the assumption that he, and he alone, has some hidden agenda in asking the question. The mediator's secondary response on line 4 avoids the use of any personal pronoun at all, "*Can't mediate with one*", and it is difficult to attribute a reason for this, other than that she is somewhat taken aback. After some hesitation, she adopts a spokesperson role for herself, the co-mediator and the service with the use of the first person plural pronoun "*we*".

The exchanges between Catherine and Derek from lines 7 to 19 are all in the straightforward discourse role of speaker, each expressing their own thoughts. Catherine's utterances on lines 20 to 21 introduce a role which is neither clearly speaker nor reporter but could be classed as a speculative hybrid of the two. She is not reporting anything Derek has actually said, but is introducing, on his behalf, what she suspects may be in his mind. In a sense, it is an invitation for affirmation or negation of her speculative reporting of what he has **not** said.

Derek's response is equivocal and Catherine continues to oscillate between roles on lines 25 to 27, moving from the first person singular pronoun "*I*", to the first person plural pronoun "*we*", back to "*I*", then to the second person singular pronoun "*you*", back to "*we*" and concluding with the second person possessive pronoun "*your*". This perhaps reflects the uncertainty which Derek has engendered with his initial question, that is, on whose behalf did he ask it? Derek's response on line 28 is a sort of spokesperson role on behalf of an indeterminate "*you*". The use of this particular personal pronoun is an interesting one generally in that it seeks to deflect focus from the actual participants present, that is the speaker seeks to depersonalise her or his utterance by reference to some abstract addressee.

I believe it is worth noting that Derek uses both negative and politeness strategies (Brown and Levinson, 1987) to achieve the effect of deflecting responsibility for what he has said away from himself: with the use of inclusive “*us*” and impersonal “*you*” he avoids using the personal pronoun “*I*”.

The mediator copies this use of “*you*” before moving on to adopt what appears to be the speaker discourse role of spokesperson for Derek on line 31. Nevertheless, her utterance, “*Maybe, er, Derek was just trying to think through options*” is an utterance which is somewhat difficult to categorise. On the surface it appears to be a straightforward spokesperson role but also appears to go beyond this in that there is an element of advocacy. The spokesperson discourse role encompasses a person who speaks on behalf of another or others (Thomas, 2004a), without necessarily agreeing with them. An advocate, on the other hand, is “a person who publicly supports or recommends a particular cause or action” or “a person who pleads a case on someone else’s behalf” (Pearsall, 2002: 19). Whilst the mediator is not clearly ‘pleading’ Derek’s cause, this meaning is implicit in what she says. In addition, there is something of the reflector role about what the mediator says, although in this case it is feedback and summary of a participant’s motivation rather than their actual words.

On lines 33 to 37 the mediator moves through a series of discourse roles, from speaker, to a mouthpiece on behalf of a hypothetical client, “*I’ve got some ideas I want to try out*” and then on to a spokesperson role on behalf of such hypothetical clients, “*somebody might want to think that*”, before concluding in the role of spokesperson for both mediators and the service, “*we wouldn’t do it*”. The mediator continues to switch between these speaker discourse role on lines 59 to 62, 64 and 66 to 67. In terms of mediation techniques she is drawing heavily on normalising and mutualising: her intention is to simultaneously address Derek’s overt and covert questions, but in a way which reassures Catherine that what Derek is seeking from the mediators will not happen. In seeking to present Derek’s behaviour as something which routinely occurs, the mediator is also endeavouring to defuse, in an impersonal way, the tension which has been generated by his initial question and subsequent lack of clarification. It is common for couples to be anxious about speaking their minds, for a number of reasons: there may be a fear that what they say may some day ‘be used against them in court’; there may be genuine confusion and hesitation about

what should be done for the best; there is often emotional turmoil; there may, of course, be ‘game playing’ and hidden agendas of various kinds going on.

Derek continues to prevaricate with his utterances on lines 42 to 46 where he persists in ostensibly acting as a spokesperson for the couple, but prefaces the role with the utterance “*one of us*”. Whilst using plural pronouns and the notion of being hypothetical, this utterance nevertheless belies the fact that, of the “*one of us*”, it is himself to whom he is referring. The mediators cannot help but be aware that they are not the only addressees here and that, to a certain extent, they are being used to convey messages to Catherine.

4) Analysis in Relation to Complex Illocutionary Acts

Clearly, in relation to the ideas being proposed in this thesis, where there are multiple layers of meanings there are complex illocutionary acts. For the purposes of clarity, this section will identify those utterances which could be considered as CIAs, before moving on to consider the interrelation between the proposed model of multi-layered meaning, CIAs and the enactment of power and politeness.

Derek’s statement on line 1 raises the thorny issue of illocutionary intent and perlocutionary effect: in other words, on which basis should we allocate the pragmatic force of an utterance? Mediation is a particularly provocative arena for such a question. This is because couples arrive with a history, a history which includes the ability to ‘press each other’s buttons’ by using words/utterances which, to an outsider may seem fairly innocuous, but within the couple dynamic are ‘loaded’ in some way. Added to this dynamic, is the history which develops between the couple and the mediator over the course of a session, or series of sessions (in this case four).

Thus Derek’s seemingly straightforward question “*What if only one of us wishes to do so?*”, that is return to mediation in the future, sets alarm bells ringing for the mediator, as evidenced by her hesitant response. The mediator has become sensitised to the tension within the couple about Derek’s prevarication regarding an actual application for a divorce, as opposed to an informal separation, and Catherine’s pain, frustration and anxiety in relation to this. Furthermore, the timing of this utterance, its

contextual setting at a point when progress had seemed to be made and summarised by the mediator, is particularly unnerving for her. The mediator is aware that, “The kind of information exchanged is related to the stage in the negotiation process. The same message may carry different information at a different stage” (Roberts, 1997: 113). Had Derek raised this question in the early stages of the mediation process, it could have been incorporated as part of the ongoing negotiations. At this late stage, and whether or not Derek intended to convey multiple meanings, the mediator recognises that this utterance is likely to have a particularly distressing effect on Catherine. This proves to be the case on line 7 when Catherine asks, very sharply, “*What do you mean?*”.

The pragmatic force of the question is that, in spite of the apparent prior unison on the arrangements agreed, Derek may be having doubts about them. It is, however, at the level of interpersonal meaning that multi-targeted multivalence takes effect: whilst for the mediator it suggests that Derek thinks he may want to return to mediation and Catherine may not, for Catherine it is a highly threatening comment, suggesting that he has a hidden agenda relating to proceeding with the divorce itself. It is the mediator’s awareness of Catherine’s likely reaction that guides much of her subsequent dialogue in this episode, as well as the mediator’s wish to clarify whether Derek does indeed have a ‘hidden agenda’ which needs to be revealed. The ‘need’ here relates to both the desirability, from the perspective of effective mediation practice, of motivational honesty from each party, and the potential wish of a client to broach a topic indirectly for fear of the consequences of a more direct approach.

Catherine’s utterances from line 7 to line 21 are an example of the ‘cumulative pragmatic force’ (Thomas, 1995: 201 and personal communication) mentioned in Chapters 8 and 9, as she tries to prompt Derek to reveal what she believes to be the underlying message of his initial utterance. Her comments are, at the very least, multivalent in nature, and possibly also comprise multi-targeted multivalence. Catherine’s second utterance on line 7 “*Was that a joke or ...*” is, on the level of utterance meaning, simply a question. It belies, however, her doubt about the pragmatic force at the level of discursal intent of what Derek has said. Catherine’s statements on lines 10 and 13, “*Well I don’t understand what you’re getting at*” and “*Well I can’t see the scenario*” are multivalent on the levels of pragmatic force and

discoursal intent. Whilst these are, on the surface, simply statements, they imply criticism and a wish to control the discourse by ‘forcing’ the issue. Consider the more direct expression, which would be something along the lines of “I’m unhappy about what you’ve just said. Do you want to discuss a divorce now?”. The question of multi-targeted multivalence is an interesting one, again relating to the distinction between intent and effect. It is not uncommon in mediation for a mediator to ‘allow’ a client to ask the direct questions, or make the direct challenges, which would be seen as biased or unprofessional if they were delivered by the mediator. This tends to happen when the mediator suspects a ‘hidden agenda’ within the couple.

On the other hand, part of the attraction of mediation for clients is the security of having a third party present, someone who will stop the interaction from deteriorating to a dysfunctional, conflicted pattern of exchange, the futility of which has brought the clients to mediation in the first place. In short, the matter of whether Catherine’s utterances are simply multivalent, or are multi-targeted multivalent, depends upon the interpretations she and/or the mediator place upon them: is it intention or inference or both which constitutes the attribution?

I believe that there is a tension here, for both the mediator, and, in this example, Catherine and Derek, about the extent to which as, Maley (1995: 94) describes it, “The third party role becomes focal for dispute resolution – focal in the sense that, in one way or another, the ‘voices’ of the parties and the issues of matter are filtered through the third party”. At this stage I am not sure that there is a definitive answer. Interaction is often swift and messy, yet, as interactants, we work towards the common goal of understanding each other: we assume that such understanding includes implicit levels of meaning, the loose ends of which are often not clear on a moment by moment basis.

That there is a pragmatic force of criticism in Catherine’s utterances mentioned so far is evidenced in her comment on line 15, “*I mean I’m not getting at you but ...*”. She continues to edge towards more specificity on lines 17/18 with “*I’m wondering what’s in your mind, that made you ask that question*” before finally utilising the word “*divorce*” on line 21. Thus, the pragmatic force which she inferred from Derek’s statement on line 1, and which she avoids directly addressing for a number of turns, is

finally realised with her mention of the, from her point of view, dreaded word “*divorce*”. From the mediator’s point of view, this was almost inevitable from the outset of the episode.

Derek’s utterances throughout these exchanges are equivocal. So, on line 11 he states “*I wasn’t really getting at anything*” and makes vague references to “*another possibility*” and “*perhaps there isn’t one*” [another scenario] on lines 12 and 14. On the level of CIAs it is debatable what is going on here. Is Derek simultaneously avoiding conflict with Catherine and yet seeking some kind of endorsement of what he has said from the mediator? Is he genuinely confused? And what does the utterance “*it does take two to do this particular tango, doesn’t it?*” mean and to whom is it addressed?

Many of the mediator’s utterances in this episode are multi-targeted multivalent in nature: that is, underlying the surface utterance meaning, she is trying to convey different pragmatic forces and/or interpersonal meanings to each party. Whilst Catherine and Derek, and any other pair of clients, can **choose** to use the presence of a third party in generating multiple meanings, a mediator has little choice: whatever she or he says has to in some way encompass both parties present. In addition, the mediator has to choose words which will be deemed as fair and unbiased to both clients, **and** address the potential and actual intended and inferred meanings carried in the utterances which have gone before.

In relation to the level of discursal intent, the mediator’s continuance of the topic after Derek’s two attempts to end the subject, are multi-layered. She is simultaneously rejecting his endeavours to curtail this particular theme, whilst offering support to him, reassurance to Catherine, and exploring residual issues for both. In relation to the latter point, the mediator is also fulfilling her own aims of returning the discussion to a more productive path, but only if any ‘hidden’ issues have been aired for both clients. As such, her comments are designed to both reassure and provoke. Vuchinich (1990: 119) highlights the idea that a verbal conflict can be agreeably terminated in two main ways: “First is consensus on features of the social world. This includes agreement on matters of fact, judgement, obligation, rights, attitude, feeling and so on”. He also points out, however, that “Consensus on the speech activity can occur

independently of consensus on features of the social world. Participants can tacitly agree to disagree and move on to other speech activities”. Derek is seeking the latter form of consensual termination whilst the mediator is seeking the former. She is most likely motivated by the timing of the disagreement, coming as it does at a very late stage in the process, and its potentially serious nature. It is not unusual for these approaches to be reversed at earlier stages of mediation, when a mediator may seek to move on a discussion between parties which is becoming entrenched in disagreements about ‘facts’.

Finally, there is a series of utterances from the mediator interspersing the dialogue between the clients which, on the surface are statements, often of information about other anonymous or hypothetical clients, but which have other underlying levels of meaning. Some of these underlying levels are intended to have the same effect on both clients, and some are intended to have different effects or meanings. For example, the multi-targeted multivalent dimension of the mediator’s dialogue on lines 33-36 stems from her attempts to acknowledge the legitimacy of Derek’s being able to ask questions and make statements, whilst also being aimed at reducing the anxiety, fear and hostility which Catherine may feel upon hearing them. The multivalence stems from the intended discursual intent of conveying, to both parties, that mediation is a safe place to raise issues.

5) Analysis in Relation to Politeness

Section seven of this chapter will provide some examples of the application of my proposed model in capturing some of the highlights of the analyses made so far. At this stage, however, I wish to continue the exploration of the dialogue in question by examining the utterances of all three parties in terms of the dynamics of their expressions of politeness. To reiterate the point, it is the **dynamic, contextual and fleeting** (eg Grice, 1975, Goffman, 1979, Brown and Levinson 1987 and Thomas, 1995, 2004 and 2006) nature of interactions which this thesis attempts to capture.

I would describe the overall tone of the episode as polite: there is the sense of all parties trying to delicately pick their way through a potential minefield. The ‘mine’ in question is that of divorce and the whole of this stretch of interaction is focussed on

this subject yet only once is the word itself directly mentioned. It is Catherine who finally does so on line 21 but note the extensive use of politeness strategies which she uses to mitigate her use of this noun: “*I mean, if you suddenly [?] er, if, you know, you change your mind about wanting a divorce or something ...*”. Not only does the word appear after a number of utterances by Catherine which increase in their pragmatic force, as mentioned earlier, but the sentence in which this lexical item appears is highly hedged. Thus, Catherine adopts the conditional as her introduction, with hesitation, “*if ... if, er ...*”. The word “*divorce*” itself is mitigated by being immediately followed by the vague and indirect phrase “*or something*”. So, whilst utilising the negative politeness strategy of being direct, that is specifying what has so far, and subsequently remained, unsaid, Catherine softens the threat with the use of a pronoun which is highly generalised.

There is also her use of ellipsis, a pragmatic phenomenon which I find particularly intriguing. In this case, the ‘then’ part of Catherine’s ‘if’ construction is left unsaid and I wonder if this is some form of option provision. Several authors (eg Leech, 1983, Brown and Levinson, 1987, and Spencer-Oatey, 1992) have drawn attention to the notion of a speaker providing a hearer with options as a (culturally variable) politeness strategy. The kind of ellipsis which is illustrated in this example appears to be leaving the hearer the option of acknowledging the **implied** consequence of the preceding clause, or not. Leech (2007: 177) goes further and, in his discussion of “Interpretations of elliptical constructions relying on the Politeness Principle” argues that “because of the PP ... the default meaning is the ‘courteous’ one”.

There is an interesting tension here in relation to politeness strategies. On the one hand, Catherine appears to be following the negative strategy of avoiding coercing Derek into being specific, yet on the other hand, her use of cumulative pragmatic force, and final introduction of the particular topic, is aimed at achieving just that. In simple terms, whilst she strives not to appear too ‘pushy’, in assuming that she knows what Derek really wants, she nevertheless has a clear goal in mind and, when her indirect strategies fail, that is Derek has not ‘confessed’ to implying a wish for a divorce, she takes it upon herself to directly challenge him by using the word herself.

Derek himself appears to have developed the negative strategy of being indirect into a fine art and it is easy to understand Catherine's frustration. This point will be developed further when I move on, below, to discuss power in relation to this excerpt of dialogue. There are two direct questions from Catherine on line 7, "*What do you mean? Was that a joke or ...?*" Derek responds with rare clarity on line 8 "*Wasn't a joke*" but even this begs Catherine's initial question. So, he's not joking but offers no insight into what he is doing. His subsequent utterances do little to clear up matters, for example on lines 11 and 12, "*Erm, well I wasn't really getting at anything. I was just sort of considering, you know another possibility, erm ...*". He uses hesitations, minimizers and unspecific nouns. The theme is continued and augmented with metalinguistic markers such as "*nothing specific*" on line 19 and "*it's just theoretical really*" and "*It's just theoretical*" on lines 46 and 48.

There are two utterances by Derek which I consider to be so indirect as to be positively cryptic. On line 13 Catherine makes clear that she cannot envisage a situation in which only one of them would want to return to mediation, to which Derek replies, on line 14, "*Perhaps there isn't one*". This response not only fails to clarify the specific scenario he may or may not have in mind, but also whether he has any scenario at all. Catherine's statement is an indirect question aimed at achieving one of two answers, each along the lines of "*You're right, there is no such scenario*" or "*Well, what I actually have in mind is ...*". The second cryptic utterance has been mentioned earlier and occurs on lines 22 and 23, "*it does take two to do this particular tango, doesn't it?*" The uncertainty of the possible underlying meanings of this utterance stem from the context of the unfolding dialogue: on the surface, presumably Derek is referring to mediation, but there appear to be other potential topics in play. For example, given that Catherine has just mentioned "*divorce*", is Derek implying that he needs her compliance in obtaining one? Or is he expressing doubt about the viability of the arrangements for separation which they have just agreed? And to whom is the tag question directed and for what reason? From the mediator's point of view, this is a highly unsatisfactory state of affairs, threatening a 'showdown' of some kind.

The mediator's interventions in relation to politeness are examined next but, before moving on to that topic, I would point out that Derek's utterances towards the end of

the episode become more positive, in terms of politeness strategies. Thus, he uses the strategy of claiming common ground with Catherine with the use of inclusive “we” and “us”, for example on lines 43, 44 45 and 68. He also attempts a joke on line 57 with the utterance “*I just like talking [?]*”.

The next question to address is what the mediator is doing in terms of politeness. Her first response to Derek’s opening question is one of hesitation, expressed in a tone which is intended to convey positive politeness by the use of humour. As mentioned in Chapter 9, the use of humour is a complicated language behaviour. According to David Crystal it is an “under-researched” topic (lecture at the University of Wales, Bangor, 2003). Nevertheless, as Holmes (2006: 29) observes, “Over the past 10 years ... studies of naturally occurring humor have increased, and a number of recent studies provide analyses of spontaneous workplace humor”, for example Kotthoff (2000) and Holmes and Schnurr (2005). It is a fascinating area of study but one which, unfortunately, I do not have time to discuss in detail. In terms of the specific utterance under consideration, it appears that the mediator uses humour because she is uncertain not only about the motivation for the question, but also about Catherine’s response to it. These points are especially salient for the mediator as the question introduces just that: a question at the end of an intervention from her which was intended to achieve an agreed summary of the couple’s way forward for the next two years, taking into account Catherine’s need for some kind of stability, albeit temporary. She then moves on to the negative politeness strategy of bald-on-record directness, “*Can’t mediate with one*” on line 4, followed by more hesitation, before ‘allowing’ Catherine to explore the uncertainty which Derek has introduced. In doing this, the mediator seeks to maintain the negative politeness strategy of non-coercion, whilst, in fact, letting such ‘coercion’ be applied. Such a technique is vital for maintaining the appearance of impartiality and neutrality on the part of the mediator.

The mediator’s utterance on line 9 “*Didn’t sound like a joke*” is direct but has more than one aim which may, possibly, entail positive **and** negative politeness strategies. I would argue that, in this intervention, she is simultaneously employing the negative politeness device of directness, whilst also seeking to address the positive faces of each party in the sense of noticing and attending to the needs of them both: Derek’s need to be heard and understood, and Catherine’s need for clarification. Fraser (1990:

225), in his discussion of various approaches to politeness, and with reference to the Co-operative Principle of Grice (1975), and its development by Lakoff (1973 and 1979, and Leech, 1983) notes that, "... the CP and PP ... do not operate in isolation. Similar to Lakoff, Leech argues that they often create a tension within a speaker, who must determine, for a given speech context, what message to convey and how to convey it".

I believe there are similar conflated strategies taking place in much of the mediator's subsequent dialogue. For example, with her statement on line 31, "*Maybe, er, Derek was just trying to think through options*" the mediator is attempting to achieve a number of aims. As has been mentioned before, these multiple aims arise from the number of interactants present: that is, the mediator is not only seeking to promote politeness between herself and one or both parties, she is also seeking to promote politeness **between** them. So, with her utterance on line 31, the mediator is utilising the positive strategy of noticing and attending to the needs of both parties, and avoiding disagreement between them. At the same time, she is employing negative politeness by minimising her assumptions about Derek's wants, as verbalised in the use of "*perhaps*". The mediator makes extensive use of the negative strategies of impersonalising and generalising with utterances such as "*somebody*" lines 33 and 35 and "*people*" on lines 38, 59 and 60, along with normalising utterances such as "*quite often we find*", "*sometimes people want*", "*so it's a fair enough question*" and "*it's not an unusual one*", on lines 59, 60, 66 and 67. But underlying, or perhaps overarching, these specific techniques of negative politeness, the mediator is aiming to achieve for herself, and promote between the parties, the positive politeness strategies of noticing and attending to needs, seeking agreement and avoiding disagreement, and conveying a sense of co-operation by giving reasons for particular language behaviours.

A final point in relation to the politeness strategies of the mediator in this stretch of dialogue is its salience in terms of mediator professionalism generally. Mediators are not only engaged in maintaining politeness between themselves as speaker and another participant as hearer, they are also, at the same time, and with every utterance, seeking to maintain politeness between themselves and the **other** hearer. In addition, they respond to the utterances of each party in terms of the potential politeness effect

on the other party, and seek to anticipate and mediate these potential effects, sometimes allowing points to be ‘pushed’, whilst at other times intervening to take off the pressure or ameliorate the potentially damaging consequences of utterances. All of this, of course, is highly subjective: just what, exactly, constitutes ‘pushing’ a point? what constitutes an ameliorative intervention? who determines, and how, and what is meant, by ‘pressure’? These are questions which are thrown into relief in mediation, but which are present in many other professional, and non-professional, interactions.

6) Analysis in Relation to Power

The matter of subjectivity pertains not only to politeness, but also to power. Just how does one define the concept? Who ‘should’ determine its existence, and its source, in an interaction? I agree with Thomas (1995) when she asserts that power is present in every interaction. The nature and source of power has, and continues to be, discussed extensively in the literature: a frequent theme is the tension between the freedom of individual expression and the constraints placed upon it by societal, cultural and institutional norms (eg Mey, 1985, Thomas, 1995, van Dijk, 1998, Fairclough, 2001 and Holmes and Stubbe, 2003).

The extract under examination is taken from a series of sessions which were co-worked by two female mediators: thus, there were three women taking part in the interaction, and one man. I would mention that at no point during the series of meetings did Derek raise this as a problem for him. I provide this information simply to provide context although the possible effects of gender imbalance in mediation could provide a basis for further study. It is certainly my experience that some men perceive a societal imbalance, perpetuated by the courts and any agency involved with family matters, towards favouring women in any dispute involving children.

In relation to power, the first point to make is that, from the point of view of the relationship between Derek and Catherine, it is Derek who has ‘the power’. This is because it is he who is dissatisfied to the extent of wanting some form of separation from Catherine: it is not uncommon in mediation for this kind of imbalance of power to exist, with one party being the driving force behind the separation or divorce and the other party being in varying degrees of acceptance about the situation. With this

couple, Catherine is struggling to come to terms emotionally with the ending of the marriage and throughout the sessions expressed utterances which revealed the depth of her pain and sense of helplessness. For example, *“Oh Derek! This isn’t fair! It really isn’t fair!”*; *“And then you told him [Tim, their son] that you wanted rid of me”*; *“they [the children] don’t have to know ... the strength of your antagonism to me”*; *“Well what are the truths? In February you told me you wanted a divorce. This morning you tell me you want a separation – I don’t know what a separation means. In February you agreed we wouldn’t sell the house until the summer of 2007 – I don’t know whether that still stands or not. I don’t know what the truth is. I mean, the truth, from my point of view, is you can go where you like, do what you like”*; and *“I don’t know what to say to them [the children] other than that he’s got fed up of me, which men do, and he can’t stand the sight of me, and he can’t bear being in the same house as me”*. Whilst Catherine feels able to discuss the idea of separation, she is extremely sensitive about the thought of an actual divorce, that is the full and final legal ending of their marriage. I would class Derek’s power here as coercive, in the sense that Catherine has little choice about the fact of separation.

Derek’s power within the couple’s relationship is further augmented by his prevarication about what it is that he actually wants. There is no doubt that, in this instance, “knowledge is power” (Neumann, 1992, Kelly, 1995 and Mayer, 2000): Derek would not have this degree of control if Catherine were not so vulnerable and, to a certain extent, complicit. It never really became clear what Derek’s motivations for this uncertainty were. Did he enjoy the power play? Was he afraid to say what he really wanted because of the effect he knew it would have on Catherine? and was this motivated by concern for her, for himself or both? Or was he genuinely confused?

Whilst Catherine’s feelings for Derek cause her to ‘allow’ him to control her future, she nevertheless does exert some power herself. In this episode this is exemplified in her series of questions and statements to Derek in which she metaphorically seeks to ‘back him into a corner’ and force him to be explicit. Clearly she is frustrated about, and emotionally hurt by, his vagueness and is seeking to tackle this. Unfortunately, Derek’s utterances do little to clarify the situation and become evermore ‘woolly’. Not only is this unsatisfactory and worrying for Catherine, it is also unsatisfactory from a mediation point of view, for two reasons. On the one hand, the mediators,

along with Catherine, are left querying whether there is some ‘hidden agenda’ which is not being addressed; on the other hand, Catherine’s attempts to obtain clarity from Derek begin to border on harassment, to become an expression of coercive power. This is a moot point of course, hence my use of the phrase ‘**expression of coercive power**’. I would argue that Catherine is demonstrating power because she is asserting, over several turns, her need for clarification. A truly powerless response would be immediate acceptance of Derek’s position. Nevertheless, she does not succeed in forcing Derek to ‘go on record’ (Thomas, 1990) with what she appears to presume is his hidden agenda and, in this sense, does not have true powers of coercion.

It is this latter situation which goes to the heart of one of the many complexities of mediation practice. How can the less powerful participant be ‘guilty’ of harassment or of coercion? The ability to coerce is generally considered to ‘belong’ to those in power (eg Thomas, 1995 and Holmes and Stubbe, 2003). Whilst this is undoubtedly the case, I believe that there are occasions, to which I alluded earlier, when expressions of power, including coercive power, may stem from a sense of powerlessness. If it had been Derek who was verbally pursuing Catherine to be explicit about something she was reluctant, for whatever reason, to be explicit about, one might more clearly label such behaviour as intimidatory. A mediator, however, has to conduct the proceedings in a way which is, at least seen to be, balanced and impartial. They give an undertaking to clients that they will not sit by and allow bullying or harassment of either party to take place. Thus whilst, on a personal level a mediator may understand a client’s behaviour, and indeed identify with some of the feelings involved, in this case Catherine’s desperate need for Derek to be clear with her, she or he cannot abandon the process of mediation.

In this episode, using her legitimate power, the mediator chooses to intervene, ostensibly on behalf of Derek, with a series of utterances which begin on line 33 and which continue, on and off, to line 67. There are, however, other motivations underlying her interventions. On the one hand the mediator seeks to express acceptance of Derek’s stated intention of speaking hypothetically, whether or not she actually believes this, and on the other hand she expresses clear information which is meant to reassure Catherine that the mediation service will not be entering into future clandestine meetings with Derek alone. The mediator also uses Derek’s hypothetical

approach, and a degree of expert power, to present possible scenarios which are meant to reassure Catherine that Derek's motivations may not be as sinister as she seems to think. These interventions succeed in preventing an escalation into all out conflict though they do not resolve the question of Derek's vagueness about whether, and when, he intends to divorce Catherine.

A further point in relation to the power play which is taking place in this interaction, is the presence of collaboration which, to a certain extent, underpins many of the other forms of power. The clients collaborate with the mediator in allowing her to direct the discussion; the mediator collaborates with Catherine, as far as she is able, in Catherine's attempt to force a clear response from Derek; the mediator collaborates with Derek in his insistence that his enquiries are hypothetical in nature. It could be argued that, given the opposed needs of Catherine and Derek, Catherine for a clear answer, and Derek to remain non-committal, the mediator ultimately collaborates with Derek. This is not an unusual situation and raises the question of the conflict which arises from a need to be impartial in the face of contradictory needs on the part of clients.

Finally, in relation to power, I would point out that the above analysis is but one of several possible interpretations. The description, expression and enactment of power are highly subjective. Each individual will take into account varying factors: furthermore, within couples, and between mediators, there are often discrepancies, sometimes huge, about who has more power and in what way.

7) Analysis in Relation to the Multi-layered Model of Interaction

Line 1 of the dialogue 'sets the cat amongst the pigeons' so to speak: it sets in motion a series of exchanges which are 'loaded' with undercurrents. On the surface, it is a simple question by Derek about a possible future scenario in which only one member of the couple wishes to return to mediation. It thus, in theory, comprises only two congruent levels of meaning: it is a semantic and syntactic question, with the pragmatic force of a question, as depicted below.

S	H1	H2
UM	UM	UM
PF	PF	PF

The speaker column represents Derek. Hearer 1 represents the mediator as his eye gaze was directed towards her when he made the utterance. Hearer 2 represents Catherine.

At this simple level, the exchange would have moved directly to the mediator's response on line 4 and been completed there. This does not happen, however, and a further fifty plus lines of dialogue are generated. Why is this?

The first clue is presented in line 2 when the mediator indicates that she is somewhat thrown by the question and is uncertain about whether to take it at 'face' value, that is as having only the utterance meaning level and its congruent pragmatic force. The mediator prevaricates before giving the simple answer and continues to prevaricate: in terms of the framework, she is trying to decide whether the utterance has any, or all, of the following:-

S	H1	H2
UM	UM	UM
PF1	?PF1	?PF1
II		?II
DI	?DI	?DI
PI	?PI	?PI

The detail of the possible meanings is discussed below. If there is additional pragmatic force to Derek's utterance, it would have no interpersonal significance for the mediator, hence that cell is empty.

It is important to note that the model illustrates the perspective of the mediator at the moment of her utterance on line 2. It also aims to show that the mediator's thoughts at

this moment are taking into account the possible perceptions of Catherine. In simple terms the mediator is unsure whether this is an ‘innocent’ question or whether it is a hint that Derek may wish to proceed with divorce at some point before the agreed two year interim and is seeking ‘permission’ to do this privately with the mediator: she certainly believes that there is a distinct possibility that Catherine will interpret his utterance this way.

In many ways, the mediator’s utterances on line 2 are indicative of the dispreferred nature of disagreements in interaction (eg Pomerantz 1975 and 1984) but for two distinct reasons. On the one hand, the mediator does not want to peremptorily dismiss what may be the indirect expression of a genuine worry on the part of Derek; on the other hand, she wishes to avoid, if at all possible, a return to conflict between Derek and Catherine. I would describe the mediator’s utterances as a verbalised form of “delayed turn initiation” (Greatbatch, 1992: 273), which seek to not only preface her negative response, but also to buy time whilst she tries to work out what Derek is trying to achieve.

Catherine, on line 7, makes clear that she considers Derek’s question to contain potential multiple meanings. with her metapragmatic questions “*what do you mean?*” and “*was that a joke?*”. Her tone of voice conveys not only confusion, but also suspicion that there are other levels of meaning to the utterance. She directly challenges the utterance at the level of discoursal intent, by asking if it was merely a joke or intended as a serious introduction of a new topic. She indirectly conveys anxiety at the levels of pragmatic force and interpersonal meaning. Both the mediator and Derek attempt to clarify the discoursal intent on lines 8 and 9. Of course, this leaves open the questions in relation to pragmatic force and interpersonal meaning.

For the mediator, this means uncertainty about the levels in play in two respects: what are the intentions of Derek, and what are the intentions which Catherine is inferring. This is an important point in relation to meaning and its creation which has recurred throughout this thesis. The question is whether, in seeking to determine the meaning of an utterance, we simply analyse the intention of the speaker, or the understanding of the hearer, or a combination of both? My view is that, in reality, we grapple with all of these possibilities and design our responses to address one, two or all of them.

As Thomas (1995: 183) points out, there are disadvantages inherent in “the uncritical adoption of rule-governed approaches to the description of pragmatic phenomena ... of static notions of context and role relationships and a view of meaning as the ‘property’ of the speaker, as given rather than negotiated”.

In the event, Catherine makes clear that she is inferring other meanings to Derek’s utterance. She makes a metalinguistic comment on line 10, “*I don’t understand what you’re getting at*” which is directly aimed at the levels of pragmatic force and interpersonal meaning. Derek attempts to reassure her that there are no such levels to his utterance but Catherine’s response on line 13 shows that this has not worked. Her utterance “*Well I can’t see the scenario*” could be depicted as follows:-

S	H1	H2
UM	UM	UM
PF1	?PF1	?PF1
II	?II	
DI	?DI	?DI
PI	?PI	?PI

The Speaker column represents Catherine, whilst Hearer 1 represents Derek and Hearer 2 represents the mediator. The ‘?’ in the PF column indicates uncertainty and the ‘1’ indicates that there may be a pragmatic force which differs from the semantic meaning (discussed below)

Whilst, on the surface, the utterance is a simple statement, there is a potential pragmatic force of something along the lines of a questioning “what are you up to”. This is indicated by the use of the numeral ‘1’ as the model assumes that an utterance in which the semantic/syntactic meaning is the same as its pragmatic force is unmarked. At the level of interpersonal meaning there is a question mark in Derek’s column but no entry in the mediator’s column: this is because the possibility of implied criticism or suspicion, along the lines of “whatever you’re up to I’m not going to like it”, is aimed at Derek and not the mediator. The question marks at the levels of discursal intent and perlocutionary intent flow from the uncertainty of Catherine’s pragmatic force: in other words, is she seeking, indirectly, to open a new line of dialogue.

On line 15 Catherine makes her pragmatic force explicit, as interactants often do, by seeking to **deny** it “*I’m not getting at you*” and, on line 16 explicitly acknowledges that she doubts the surface transparency of Derek’s utterances when she says “*I’m wondering what’s in your mind*”. In the interim, Derek continues to try and reassure Catherine that there are no hidden levels to what he is saying. On lines 18/19, however, the inference which Catherine has been drawing is made clear when she mentions the possibility of Derek changing his mind about a divorce. The interaction between Catherine and Derek continues in this vein for another couple of turns at which point the mediator chooses to intervene.

At this point, the mediator’s previous uncertainty about the number of levels in play has been clarified by the exchanges between the couple. Whether intended or not, Catherine attributes multiple meanings to Derek’s self-professed single layered utterances. The mediator, therefore, has to try to choose words which address both versions of events, that is to “relativize the notion of ‘truth’” (Leech, 1980: 6). Whilst Leech was specifically discussing the relationship between semantics, pragmatics and the use of metalanguage, with an emphasis on the speaker of an utterance, his observation that “in the same sentence, different conceptions of what is true and false, different models of reality, may co-exist ...” can be applied to the dilemma which the mediator is facing at this juncture in the session.

On lines 31, 33-36, 38-39 and 41, the mediator makes a number of statements which endeavour to encompass all the levels of meaning which have manifested so far, and, crucially, because she is the mediator, are aimed at moving the interaction into a more productive mode. ‘Productive’ is defined, in terms of the interactional context, as an exchange which is unambivalent on all levels, and, if difficult for either party, allows for acknowledgement of this and time to discuss the difficulties.

So, on line 31, with the utterance “*maybe, er, Derek was just trying to think through options*”, the mediator is simultaneously attempting to support Derek and reassure

Catherine. On a schematic level, it might look like:-

S	H1	H2
UM	UM	UM
PF	PF1	PF2
II	II1	II2
DI	DI	DI
PI	PI	PI

The Speaker column represents the mediator, with the H1 column representing Catherine and the H2 column representing Derek.

The utterance meaning is the same for both parties, in that it is a statement about Derek's intentions. The pragmatic forces and interpersonal meanings are, arguably, different for each. On the level of pragmatic force, what the mediator says conveys to Derek, or is intended to convey, that what he has said is not unreasonable. For Catherine, the intended pragmatic force is that what he has said is not necessarily suspicious. On the other hand, the pragmatic force could be classed as the same for both parties, namely that it is one of reassurance. At the level of interpersonal meaning, the mediator is seeking to achieve two sides of the same coin: namely convey acceptance of both parties' views by not criticising either. This could be classed as conveying the same interpersonal meaning and, perhaps, it is. I have made the distinction on the basis that the two views being accepted are opposed. On the level of discursal intent, the meaning is the same for both parties, that is that it is not necessary or helpful to dwell on this particular point. The mediator is seeking to bring about an end to the conflict by the use of what Vuchinich (1990: 125) describes as a "Dominant third-party intervention", a "pattern of submission" in which "An on-going conflict involving two or more participants can be "broken up" by a third party. Usually this third party has some power over the participants. In this termination format neither of the original opponents submits to the other. Instead both submit to the third party".

In lines 36 and 41 the mediator continues in the same vein but also specifically states, in relation to seeing one party only, that "*we wouldn't do it*" and "*it's got to be ...*"

with the two parties". These statements are, again, examples of multi-targeted multivalence. For Catherine, the pragmatic force is that she does not need to worry about the possibility of the mediation service entering into a one-sided discussion with Derek. For Derek, it is a rejection of his implied request. On the interpersonal level these utterances are intended to reassure Catherine, whilst distancing Derek. On the level of discursal intent, the meaning is the same, namely that the point is not up for discussion.

On lines 42-46, Derek makes a number of statements. For the mediator, the point of them continues to be uncertain. He prefaces his main points with the utterance "*if I can [?] bring this to a conclusion*". The pragmatic force of this utterance could be the same for both the mediator and Catherine, namely that Derek has realised that it is undesirable to pursue the matter. On an interpersonal level there are two meanings: for Catherine it may be an attempt to allay her anxieties, whilst for the mediator it signals his acceptance of the mediator's information that a one-sided meeting would not take place. He goes on, in this stretch of dialogue, to emphasise the theoretical nature of his enquiries. It could be argued that, at the interpersonal level, the meaning is similar for both the mediator and Catherine, that is an intention to appease, whilst at the levels of pragmatic force and discursal intent the meanings are again similar, attempting to pace the discussion and control the topic. Derek wants to pursue the topic but only for a little while and only on a "*theoretical*" basis. He concludes on line 53 with another utterance, "*OK, moving on then*", which has a controlling discursal intent (Thomas, 1986 and 1990, and Goodwin and Goodwin, 1990).

On line 57 Derek makes a self-deprecatory comment, "*I just like talking*". At the level of utterance meaning it is a straightforward comment but it has the pragmatic force of an apology and the discursal intent of something along the lines of "*OK, I'll shut up now*". Catherine's response is less than enthusiastic and this is, perhaps, the reason that the mediator does not allow the topic to end at that point. Her utterances on lines 59-62 and 66-67, see her continuing to control the dialogue towards two ends: she is endeavouring to attend to the multi-layered and differing dynamics of the current topic for each party. As mentioned earlier, at the level of pragmatic force, and in terms of mediation techniques, the mediator is seeking to 'normalise' what Derek has been saying. At the level of interpersonal meaning there are, again, two opposing but

similar goals in mind: to defuse any hostility from Catherine whilst also avoiding dismissing Derek's questions in a peremptory manner. At the level of discursal intent, the mediator is continuing to address the topic in a way which she hopes can bring it to a satisfactory end for both parties. Catherine's non-committal response on line 58 becomes more positive on line 63, "*yeah, yeah*", as does Derek's on line 71 "*of course*". The 'episode' is then brought to a close with a series of one word affirmatives by the mediator and the discursal control marker of a questioning "OK?" (Thomas, 1990).

8) Summary

I believe that linguistic research to date attempts to address the various elements which are present whenever two or more people talk to each other, but in a largely disparate manner. It is my view that, whilst these many approaches serve to illuminate particular aspects of interaction, there has yet to be an approach which seeks to fully integrate these. This is not surprising, given the wide range of factors involved. As Holmes and Stubbe (2003: 162-163) observe, in their study of power and politeness in the workplace, "the strategies adopted to manage conflict and other kinds of problematic discourse can vary a great deal", and "almost every example of authentic discourse has several layers of meaning". Added to this is the observation that "power and politeness consistently emerge as important dimensions constraining the ways in which participants negotiate and resolve miscommunication and problematic issues at work", and the importance of "contextual information at a number of different levels [including] wider societal discourses of power".

This thesis, and in particular this chapter, are an attempt, and only that, to draw together these many influences on language choice. I believe, however, that an understanding of language as it is actually used, whether in professional or everyday settings, can only arise from an analysis of the dynamic and interactive nature, on multiple levels, of verbal interactions between people. Why does this matter? Because every one of us does it, moment by moment, every day.

CHAPTER ELEVEN

COMPARISONS AND CONTRASTS

1) Introduction

There is no doubt that the study of language as it is actually used encompasses a wide variety of approaches in relation to theoretical perspectives, methodology, aims and interactional settings as outlined by, for example, Gumperz and Hymes (1986), Drew and Heritage ((1992), Roberts and Sarangi (1999) and Jaworski and Coupland (1999) . Whilst there are distinctions and differences, there are also areas of overlap and similarity. There is also a somewhat bewildering array of terminology and ‘labels’ in relation to pragmatics, for example Levinson (1983), Mey (1994), Thomas (1995), Attardo (1998), Fairclough 2001) and Aakhus (2003). This chapter does not aim to present an exhaustive account of the contrasts and comparisons which could be made between the approach of this research and those of other researchers. Nevertheless, I believe it is helpful to ‘situate’ this work in relation to a selection of studies from other linguistic perspectives and interactional settings.

My selection is based on research which is of particular relevance to mediation, both directly and indirectly. So, in the following section I will discuss research into the nature of neutrality in other interactional settings, whilst in section three I will look at research into conflict talk. Section four considers research in relation to family/divorce mediation. In this section I also draw attention to the distinction between the ideas of neutrality and impartiality, and the fact that sometimes these are conflated in the literature. The themes of power and politeness are not specifically addressed in this chapter as they have been discussed at length in Chapter 10.

2) Neutrality in Other Interactional Settings

In this section I will examine the findings of two studies regarding the topic of neutrality (sometimes referred to as ‘neutralism’ in the literature), one based in a court-room and the other based on a television news interview.

Atkinson (1992: 199-200) researched the interactions in a small-claims court in relation to neutrality, formality and informality. In relation to formality and informality she outlines “at least three important issues which are often ignored or taken for granted: the first is the

question of just what it is about certain actions, events, and arrangements that gives rise to their being designated as ‘formal’ rather than ‘informal’; the second has to do with why it is that participants sometimes produce actions which are instantly recognisable to others as “formal”; and the third is the question of what relevance, if any, such ways of behaving have for the just and efficient conduct of cases”. She points out that these issues formed the basis of a programme of research into the language of the courtroom which was developed at the Oxford Centre for Socio-Legal Studies, and notes that the project “depended heavily on a model for the analysis of “formal” interaction which derives from the discussion by Sacks, Schegloff, and Jefferson (1974: 729) about the potential for using the approach and findings of conversation analysis to develop a ‘comparative analysis of speech exchange systems””.

The hearings which provided the data for Atkinson’s (1992) study were not typical of more formal court hearings, in that the parties concerned agreed to try and resolve their issues without legal counsel, and in the presence of an arbitrator, rather than a magistrate, and a clerk of the court. Clearly there are echoes here of mediation but, unlike mediation, these hearings were legally binding. Atkinson is concerned to identify some of the elements of interaction in these ‘informal’ hearings which distinguish them from the formality of more typical court hearings.

Atkinson (1992) directly refers to ‘neutrality’ on only two occasions (op cit: 210). She implies this attribute in her terms ‘affiliation’ and ‘disaffiliation’, the former quality being evidenced in ‘ordinary’ conversation, the latter being evidenced in the interventions of lawyers and judges; and both being avoided by arbitrators. In terms of avoiding disaffiliation, Atkinson (op cit: 207) states that, “compared to what happens in other types of court, the response of Small Claims Court arbitrators is far more ‘permissive’ when it comes to allowing speakers to initiate talk. They rarely attempt to interrupt or otherwise prevent speakers from elaborating beyond what had been projected as relevant by the previous question. And the fact that arbitrators routinely leave a gap before receipting the previous utterance suggests that their “permissiveness” extends to the point of not starting to speak until plaintiffs and defendants have had, as it were, one last chance to continue further with what they had been saying”. In terms of avoiding affiliation, Atkinson (op cit: 209) remarks that “When the Small Claims Court arbitrators’ practice of acknowledging receipt is compared with what happens at similar points in conversational sequences, it emerges that they systemically avoid a range of

responses which are not just commonplace in conversation, but which also have generally *affiliative* implications” (italics in original).

Atkinson (1992) highlights some distinctions of the arbitrators’ role from that of ordinary conversationalists and court-room professionals, and touches on characteristics which are applicable to mediation. These relate primarily to the intermediate nature of mediators’ talk, in the broadest sense, as being situated somewhere between everyday interaction and hierarchical institutional interaction. Atkinson’s summary of the distinguishing quality of arbitrator/litigant interaction, as a sequential positioning of pauses and receipts on the part of the arbitrator (op cit: 203) is fine as far as it goes but, in my opinion, only touches the surface of the complexities of language behaviour which take place in family mediation, if not most forms of mediation.

The second example of research into the subject of neutralism is that of Clayman (1992). In this study he examines Goffman’s (1979) notion of footing in the setting of televised political news interviews. Clayman (op cit: 163-164) highlights the significance of neutrality for television news interviewers: “There is one setting in which expressive caution is practiced [sic] with extraordinary consistency: the television news interview”. He makes the observation that news interviewers, like journalists from other forms of media, are professionally obliged to display a high degree of objectivity in their work. Clayman describes certain characteristics of such objectivity, for example, the need for interviewers and journalists to avoid allowing “their personal opinions to enter into the interviewing process” and to ensure that, as far as they are able, that they “remain neutral as they interact with public figures (Lewis 1984: 122-4). While neutrality is a concern for reporters generally, it is a particularly pressing issue for those who interview for broadcast media. Their work practices are commonly broadcast “live” without the benefit of editorial review, and are thus open to the immediate scrutiny of fellow journalists, government officials, social scientists, and a mass audience with diverse interests and ideological sympathies”. Whilst family mediators are not open to such public scrutiny, they nevertheless are also under pressure to ‘perform’ neutrality and, like broadcast interviewers, will be deemed to be professionally incompetent if they fail to do so.

Clayman (1992: 164) draws attention to the fact that there is a “growing body of research on the organization of news-interview discourse, research that has been concerned with a wide

range of conventional interviewing practices, including those that figure in the process by which interviewers maintain a neutral (or “neutralistic”) stance in interaction with their guests (Heritage 1985; Clayman 1988; Greatbatch 1988; Heritage and Greatbatch 1991)”. The setting of news interviews shares with mediation the interactional process of questioning to elicit information, a process which Atkinson (1992) identifies as having a distinct form of expression in the ‘informal’ small claims hearings compared to the practices of more formal court-room settings. She points out (op cit: 200) that “In the absence of legal counsel, parties were expected to present their own cases. In practice, however, evidence was usually elicited in the form of answers to questions from the arbitrator”. She goes on to highlight the distinction between the arbitrators’ form of questioning and that of judges or lawyers, in that the former typically utilise receipt markers, for example, “certainly”. These were often used in conjunction with pauses, both before acknowledging receipt, and before moving on to the next question, in order to allow the ‘plaintiffs’ the time and encouragement to say what they want to say. Clayman’s particular focus, as mentioned, is an interviewer’s use of ‘footing’ and “The end it achieves [in] the maintenance of a formally neutral or “neutralistic” posture” (op cit: 164).

Together, the interactional processes and settings outlined by Atkinson (1992) and Clayman (1992) encompass many of the constraints and expectations which are present in a mediation session. There is a ‘professional’ charged with eliciting information for a specific purpose and in a manner which does not express or reveal personal bias. Like the arbitrators in Atkinson’s study, mediators’ utterances are formulated on a point somewhere between the casualness of everyday conversation and the formality of a court-room. And like the focus and findings of Clayman’s study, mediators make extensive use of ‘footing’, or discourse roles, in the maintenance of neutrality.

In relation to ‘footing’, Clayman (1992: 164) points out that “A preliminary discussion of footing can be found in Goffman’s *Frame Analysis* (1974: 496-559), and the spirit of the concept – if not its literal application – appears much earlier in his writings (e.g. in the notion of “role distance”; see Goffman (1961b)”. He draws attention to the use of footing shifts by interviewers to place “some degree of distance between themselves, and their more overtly opinionated remarks” (op cit: 168). Such manoeuvres have been identified in the talk of mediators in this research, and, they, like news interviewers, typically utilise a third party role or footing to achieve the task of making a difficult or contentious point without engendering

personal criticism or accusations of bias. Similarly, mediators “*avoid affiliating with or disaffiliating from the statements they report*” (op cit: 173 italics in original): the views or opinions which are expressed in this manner are not accompanied by any of the utterances which could be construed as revealing personal agreement or disagreement which may be found in ‘ordinary conversation’. I would note, however, a point which has been made elsewhere in this thesis: simply by choosing what to report a speaker inevitably conveys some form of implicit affiliation or disaffiliation.

Significantly, in terms of this research, Clayman (1992) also draws attention to the interactional nature of neutrality. He asserts (op cit: 194) that his analysis “runs contrary to common-sense notions of neutrality as a trait inhering in interviewers as individuals, or an attribute of their conduct in specific situations. From an analytic perspective, the visibility of this journalistic “trait” is a joint achievement of interactants acting in concert to preserve a professional posture for interviewers. In other words, neutrality is a socially organised, or more specifically an interactionally organized phenomenon, something that parties to an interview ‘do together’”. Clayman (op cit: 194) develops this point in a number of significant ways. He acknowledges that there is the potential for interviewers to use a footing shift strategically, or to adopt a discourse role other than that of speaker, to assert their own views: in other words to express their own opinions but to couch them in terms which attribute them to another.

Clayman (1992) also points out, however, that such strategies on the part of an interviewer are not always successful, that is that they run the risk of interactional failure. The collaborative nature of neutrality includes the possibility that interviewees may notice such a subterfuge, and choose to challenge it. As he notes, (op cit: 194) “Put simply, interviewers cannot say just *anything* and get away with it, for they are necessarily constrained by the interviewees and how they choose to respond. This should provide a corrective to the viewpoint that news interviewers are inherently powerful and able to dominate their guests at will (e.g. Owsley and Scotton 1984). Such work ignores the concrete opportunities that interviewees have to participate in the interaction and fashion whatever course it eventually takes”. This interactional flexibility and potential is enshrined in the mediation tenet that mediators control the process whilst clients control the outcome.

3) Conflict Talk in Other Interactional Settings

In this section I will discuss the management of 'difficult' talk in an interaction. There is, therefore, an emphasis on what a 'professional' interactant might choose to say to retain, or impose, control over other participants and the course of the unfolding dialogue. Such control is a task with which mediators are charged and, indeed, upon which clients often rely: they choose to come to mediation because their 'uncontrolled' interactions are conflicted and unproductive.

Thomas (1990) examined data from three confrontational interactional settings, namely a 'disciplinary' interview between a chief inspector of police and a detective constable, hearings in magistrates courts, taken from Harris (1981), and an interview between a headmaster and two pupils which, again, was 'disciplinary' in nature. Thomas uses the term 'confrontational' to describe these encounters, an adjective which is apt for many interactions in mediation sessions, both overtly and covertly. She also classifies the interactions from which her data are drawn as "unequal encounters", which she defines as "interactions which take place within social institutions with a clearly-defined hierarchical structure (such as school, the police, the law courts, etc.) in which the power to discipline or punish those of lower rank is invested in holders of high rank (head teachers, inspectors, judges, etc.)" (op cit: 153).

This definition highlights the 'fuzzy' nature of mediation. On the one hand, most mediators would not align themselves with such highly authoritative figures, and do not initiate encounters, or enter the interaction with the aim of setting the agenda (as in demotion, punishment or passing sentence). On the other hand, however, they **are** there to control the proceedings and do have elements of reward power and coercive power in the sense that most clients want mediation to work, rather than face the alternatives, and therefore have a vested interest in following the mediator's lead. Mediators are not averse, when they feel it is necessary, to dangling the 'threat' of resolution through a contested court hearing if mediation is not 'successful'. A mediator also has the 'right' (as do the clients) which is clearly explained at the Intake meetings, to terminate mediation if she or he believes that it is 'not working', for whatever reason.

Thomas (1990) builds on the work of Fotion (1979) and Bunt and Rosenberg (1980) to “distinguish three different sorts of act which I shall call collectively ‘discourse control acts’” (op cit: 135), namely “discoursal indicators”, “metadiscoural comments” and “interactional controllers”. These discourse acts are defined, respectively (op cit: 136) as ways in which a dominant speaker can “define the purpose and boundaries of the discourse”, “keep the subordinate participant within these pre-defined limits” and “elicit a particular form of feedback”. Thomas makes the point that such controlling language behaviours are not confined to unequal encounters: nevertheless they do characterise some of the more ‘controlling’ aspects of mediator utterances. Boundary setting is an important task for the mediator. Whilst clients may decide what is to be discussed, the mediator has to ensure that this is done in a ‘safe’ way for both parties: in other words, the discussion will not be a ‘free for all’ opportunity for the expression of hostility and anger. Mediators also actively intervene to keep clients ‘within limits’, both in terms of topic content and manner of expression. And they are highly directive in terms of fact-finding and the exploration of perspectives.

This particular article by Thomas (1990) is of interest for a number of other reasons. It presages the analysis of utterances on a number of levels of illocution, for example the interpersonal and discoursal, ideas which are crucial to the notion of complex illocutionary acts. For example, in her discussion of the police data, Thomas (op cit: 147) points out that “The fact that the two interactants’ *social* goals are inimical (the Superintendent is going to transfer Barry [the detective constable] to uniformed duties and Barry does not want to be transferred) does not prevent Barry from exhibiting the maximum possible orientation to the Superintendent’s *interactional* goals ... In other words, although Barry’s contribution is highly relevant *interactionally* (demonstrating his attentiveness and displaying a high degree of lexical or semantic relevance and politeness), he does not orientate to the Superintendent’s *discoursal* goals” (italics in original). I would point out that Thomas (personal communication) has now replaced the terms ‘discoursal goals’ with that of ‘perlocutionary goals’, or ‘perlocutionary intent’, the latter phrase being the one which is used predominantly in this thesis.

Thomas (1990) also draws attention to the interactional nature of controlling talk. It is this sort of dynamic which is so important for the ethical practice of mediation, for the notion that control is shared between the mediator and the clients. She makes two particularly salient points in this regard: “The degree to which one interactant feels free to trespass on the

discoursal space created by another is at least partly a function of the power relationship obtaining between them” (op cit: 138) and “In an earlier article (Thomas 1985: 780-1) I have argued that the felicity conditions for the performance of a particular illocutionary act may be negotiated in discourse” (op cit: 139). A clear example in terms of mediation is the collaborative nature of neutrality, mentioned earlier in Clayman (1992). Whilst a mediator will seek to ‘perform’ this characteristic, it will not be successful if the clients perceive his or her behaviour to be biased. In other words, whilst the ideals of neutrality are theoretically enshrined in the very concept of mediation, this is no guarantee that a mediator’s particular language behaviours will live up to these. Whilst clients may be predisposed to trust the mediator, the mediator has to show that this trust is warranted with each and every utterance they make. In the setting of mediation, clients have considerable power in this regard: they may make an accusation of bias at any point in the discussions, an accusation which would have to be addressed by the mediator.

A final point I wish to make in relation to the particular article by Thomas (1990) which is under discussion, is the notion of control by omission, rather than commission. This is a concept which goes to the heart of the ‘reflector’ discourse role, outlined in Chapter 5. I would argue that the use of this discourse role is an exercise in control by mediators. Thomas uses as her starting point the discussions of Leech (1976) and Leech and Short (1981) in relation to the ‘faithfulness’ of one speaker’s report of another’s utterances. She goes on to point out that when “they speak of ‘faithfulness’ [they] are concerned principally with accurate representation of the words uttered by the original speaker or with the accurate representation of the original speaker’s intended speech act. They do not consider the faithfulness with which other, pragmatic, aspects of an utterance, namely the interpersonal and textual may be presented” (op cit: 140). In mediation, specifically in the ‘reflector’ discourse role, but also in others, practitioners routinely ‘filter out’ other levels of pragmatic meaning, in addition to selecting only certain points for further discussion. In doing so, mediators have the “prerogative of determining what is and what is not ‘discoursally relevant’, that is ‘relevant to the topic in hand’” (op cit: 144). This is essential to the mediator’s task: utterances by parties are often ‘loaded’, that is they have multiple meanings which are negative and provocative. In amongst these multiple meanings there are propositions which are germane to the discussion in hand., and others which are not. Mediators, therefore, choose to reflect utterances in a manner which not only censures discoursal intent, but also clients’ intentions on any of the other levels of multiple meaning.

The second study which I shall consider in this section is that of Greatbatch (1992). Greatbatch drew his data from a corpus of recorded news and current affairs programmes, both from the television and the radio, which were broadcast in Britain between 1978 and 1985. In this particular paper he focussed on the nature of disagreement between programme interviewees and the methods by which the programme host, or interviewer, managed these.

Greatbatch (1992) draws attention to the constraints on turn types which are present in certain institutional interactions: “Counsel, teachers, and news interviewers properly ask questions, whereas witnesses, pupils, and interviewees properly restrict themselves to responding to them” (op cit: 268). Mediation is an interactional setting which differs from those referred to in the previous quotation in that clients have much more freedom to ask questions themselves, of the mediator and each other: indeed this is part of the process of problem identification and solution generation. Nevertheless, there are also strong similarities with other types of institutional talk. Mediators are mandated to question clients, frequently on highly sensitive, personal and often contentious matters, such as the conduct of family finances, levels of assets and debts, child care practices and the exploration of criticisms about behaviour such as drunkenness, drug taking, bullying, irresponsibility and neglect. In my experience it is unusual for a client to refuse outright to answer such questions. I would argue that this has as much to do with the nature and purpose of the discussions, that is that they are confidential and legally privileged, and are aimed at resolving issues which **are** personal and contentious, as with a system of turn taking and turn types.

Other factors of constraint aside, Greatbatch’s (1992) description of the language behaviours of both interviewers and interviewees resonates strongly with those of mediators and clients in terms of the expression of conflict and its escalation and de-escalation. But before moving on to consider these there is a point I wish to make in relation to the observations of both Greatbatch (1992) and Clayman (1992) with regard to the provocative nature of news interviewer talk. Clayman (op cit: 176) notes that interviewers “animate opinion statements to generate disagreement” between interviewees, whilst Greatbatch (op cit: 271) states that “In Britain the occupational culture of broadcast journalists is one which stresses the values of immediacy, controversy, liveliness, and entertainment”. Both of these points are made in relation to the appearance of neutrality, which is of course relevant to mediator talk, but the specific point which I wish to address is that of the **ultimate goal** of such interventions. News interviewers will seek to reveal disagreement between their interviewees for the

purposes of clarifying positions and entertaining the overhearing audience. Mediators may use similar tactics, also with a view to clarifying positions, but with the ultimate aim of seeking resolution. So, whilst news interviewers will touch on 'sore points' with a view to producing a 'good' broadcast, mediators will do the same with a view to producing 'good' solutions. From a mediator's perspective, the sustainability of agreements is premised on the notion that any problems underlying the parties' original conflict have been fully explored and addressed. Put simply, a mediator is not mediating if they choose to 'skirt around' or 'skate over' difficult issues.

To return to some of the specifics of Greatbatch's (1992) findings on the language behaviours of news interviewers and their interviewees, there is a strong comparison with mediation in terms of the articulation of conflict. Of particular note are the ways in which the strength of disagreement is expressed by interviewees, which are identified as falling into two broad categories: those which adhere to the institutional constraints of the setting, and those which do not. As a preliminary to his discussion, Greatbatch (op cit: 273 and 275) refers to the work of Pomerantz (1975 and 1984a) noting that "In her research into disagreements, Pomerantz has identified a number of the procedures through which their production is systematically delayed and mitigated in conversational interaction", and summarising with "It only remains to be added to this brief consideration of the positioning and design of disagreement in conversation, that the preference features associated with their production provide a framework in terms of which disagreements can be upgraded. Since the features provide resources for the avoidance and mitigation of overt conflict, speakers can strengthen their disagreements by declining to use them".

In terms of the timing of conflictual utterances, Greatbatch (1992) observes that interviewees can elect to express these at two distinct points: "they can wait until an IR [interviewer] addresses a question to them and produce the disagreement either in their response to the question or, if this is not provided for, before or after their response, ... alternatively, they can elect not to wait for an IR to put a question to them, and produce the disagreement either interruptively or at a possible completion of the co-IE's [interviewee's] turn" (op cit: 285). In terms of the orientation of their utterances, an interviewee can either maintain the footing or discourse role of the interviewer as addressee, or "cease to maintain the IR as the *in situ* addressee of their talk" (op cit: 287). In other words, the least argumentative way of one interviewee disagreeing with another is to wait for the interviewer to invite comment and to

respond to the interviewer rather than the other interviewee. The most argumentative way to express disagreement is for an interviewee to interrupt another and assign them, rather than the interviewer, to the role of direct addressee.

Greatbatch (1992) further argues that, even in the most institutionally aberrant language behaviours on the part of interviewees, there is nevertheless a reliance, which is not present in ordinary conversation, on the interviewer's institutional task of managing the conflict engendered. In other words, "in the event of IEs entering into direct, unmediated and therefore unmitigated disagreements, the system establishes an expectation that IRs will intervene to manage an exit from them, since to do otherwise would require that they abandon their institutional role. This means that IEs can escalate their disagreements without regard to a difficulty with which they would otherwise be presented: that of subsequently negotiating an exit from them" (op cit: 299). An essential element of these observations is that talk addressed to a third party is, by definition, mitigated, thus rendering redundant the strategies used to negotiate disagreements in ordinary conversation.

The manner in which news interviewers control arguments between interviewees shares strong similarities with that of family mediators. Of particular importance is the notion of news interviewers/mediators "exercising their institutionalized right as questioners to direct the topical focus of the IEs' talk (Greatbatch 1986)" (Greatbatch 1992: 288). Both sets of practitioners may choose to change topic completely, or, where they are seeking to reduce hostilities, select less conflicted elements of the ongoing dispute for further elaboration. There is another strategy utilised by news interviewers which, I would argue, is not employed in quite the same way by family mediators. Greatbatch (1992: 289) points out "Cases in which IRs' [sic] unilaterally accomplish exits from IE-IE disagreements normally involve them enacting their institutionalized right as broadcast journalists/questioners to close a news interview down when its allotted time expires (Greatbatch 1988; Clayman 1989)". This is a strategy which mediators would try to avoid at all costs, since to peremptorily terminate a session on a point of high conflict is highly undesirable.

And yet the constraint of time is a factor to which mediators will refer openly for strategic reasons. It is very common for clients to overestimate, often to a considerable degree, the number of issues which can be addressed in one hour. In such instances mediators will typically ask clients to prioritise their agenda items, prefacing the request with a concern that

it is unlikely that all items will be covered in one session. Or, for example, despite the mediator's best efforts, clients may insist on becoming 'bogged down' in futile disputes about unverifiable 'facts'. Mention of time may be brought in along the lines of "we've spent twenty minutes discussing whether you sent a text in response to his/her text or vice versa. Do you really want to spend the rest of our time doing that?" As a final example, mediators are the participants responsible for time management in sessions and will, therefore, often point out to clients that there is 'x' amount of time left before the session ends. There are a number of reasons for this (although hasty and 'patchy' agreements is not one of them) but it is also a strategy aimed at avoiding, in medical terms, a patient's "oh by the way" as they have a hand on the door whilst leaving the doctor's surgery.

From a mediation perspective there is little doubt that Greatbatch's (1992) description of turn type and turn taking systems is descriptive of what happens in mediation sessions, in particular the behaviour of interviewees (clients) in verbally signalling an escalation in conflict. Apart from the descriptive nature of turns, Greatbatch, like Clayman (1992), includes some explanation of the dynamics of institutional interactions in terms of discourse roles, or footing. This particular article focuses on the 'problematic' nature of direct dialogue between interviewees, problematic in the sense of presenting a 'management' task for the interviewer. As such, it does not examine instances of direct dialogue between interviewees which is not 'problematic'. This is an important point and one which presents a significant 'management' question for mediators. On the one hand mediators are there to be 'used', in much the same way as news interviewers, as a focus for the expression of hostile feelings; on the other hand, mediators are aware that their participation is only temporary, and therefore they wish to encourage direct dialogue between their clients which can be productively continued without the presence of a mediating third party participant. This is, of course, a fine 'judgement call', both professionally and subjectively, and one which would undoubtedly benefit from further research.

In the next section I will discuss three studies which specifically examine the nature of interaction in mediation.

4) Perspectives on Divorce/Family Mediation

There are a number of studies into the language of divorce mediation, for example Greatbatch and Dingwall (1988, 1989 and 1998), and Dingwall and Greatbatch (1991). In this section I will examine two papers which discuss significant aspects of mediation practice: the first is the phenomenon of 'impasse' in negotiations; the second is the notion of neutralism, already discussed in relation to other interactional settings.

Aakhus (2003) studied transcripts of twenty hours of sessions held at a Los Angeles court. Such 'in-court' services also exist in the UK and are usually held in a separate room in the court building or precincts, rather than the court-room itself. The main difference between such sessions and those of services like the North Wales Family Mediation Service is that the latter typically see couples prior to the commencement of any court proceedings, and hopefully as an alternative to them. In the former case, clients have actually arrived for a scheduled hearing and may attend mediation before or after the court-room 'event' at the suggestion of either the judge or their respective lawyers. Aakhus (op cit: 265) focuses on "how dispute mediators handle moments where impasse is imminent in the re-negotiation of divorce decrees between divorced couples. In these moments the possibility that argumentation will exacerbate the conflict wax while the possibility that argumentation could solve the conflict wane. The concern here lies not so much in the disputants' arguments but in how dispute-mediators craft disputants' argumentation into a means for solving their conflict".

Aakhus (2003) correctly identifies impasse as a critical moment in mediation discussions, and moments which require particular skill and creativity on the part of practitioners. He also accurately describes the characteristics of three types of impasse with which mediators are often faced, namely "irreconcilable facts, negative collateral implications, and unwillingness to be reasonable" (2003: 271). Examples of irreconcilable facts are "claims about the other's state of mind, an unwitnessable event, or future facts" none of which can be resolved by the practitioner as "Mediations are typically constrained by lack of time or resources to gather the information necessary to solve such differences" (op cit: 271). Negative collateral implications entail accusations or claims "that bring the other disputant's moral character or competence into question (Jacobs et al., 1991; Jacobs and Jackson, 1992). This puts disputants into a position where they must defend their spoiled identity ... The consequence is

argumentation that becomes progressively less relevant to resolution (Jacobs et al., 1991; Jacobs and Jackson, 1992)” (Aakhus, 2003: 272). And finally, unwillingness to be reasonable is outlined as behaviour in which “Disputants will resist proposals that, at least on their face, are based on legitimate values and presumptively accurate facts. Parties will resist through frank unwillingness, vague counterarguments that cannot be falsified, or circular arguments and ground shifting” (op cit: 272).

In relation to the language behaviours of mediators in response to those on the part of clients described above, Aakhus (2003) concentrates on three, which he labels as “redirection, relativizing and temporizing” and which encompass a number of the mediation techniques which have been mentioned in this thesis. He draws attention to the ways in which a practitioner “redirects the focus of discussion” (op cit: 273), often through the use of questions and in ways which “not only draw out what to talk about but how to talk about it” (op cit: 275). In terms of mediation techniques this would include, for example, the use of summarising and open/closed questioning to focus on interests rather than positions, or the future rather than the past.

Temporizing occurs when a mediator “proposes that the disputants focus on developing a temporary arrangement, which shifts the activity and thus the force and direction of their arguments” (Aakhus: 278). He perceptively notes that this strategy achieves a number of mediator goals: it ignores certain elements of what has been discussed so far and, significantly, in changing the force of prior utterances made in terms of permanent arrangements, allows for complaints to be re-framed as suggestions. As Aakhus points out, (op cit: 278) “Whereas complaints require proof of culpability and intention, the burden of proof for making a suggestion is not nearly as stringent”. Temporary arrangements are less threatening to clients and may be used by mediators as a means of obtaining ‘proof’ of clients’ respective assertions. For example, if one client claims that ‘little Emily’ will not enjoy an overnight stay, and the other client claims that she will, a trial period offers both parties the opportunity to demonstrate, or not, the validity of their claims. I would point out, however, that such proposals need to be made with care: at their best they offer the chance for a genuine change in perspective by one or other parent; at their worst they provide only manipulative misery for the child or children concerned.

Finally, the notion of 'relativizing' is outlined by Aakhus (2003: 272) as a method by which mediators' interventions make take the form of taking some of the main 'facts' and assumptions which are fuelling clients' disagreements and "framing facts as points of view or by discounting the grounds for a participant's action". Aakhus makes a telling point in relation to the notion of 'facts' and their manipulation by mediators. Whilst he is using a specific example, his observation can be generalised and is summed up in his claims that "One way to help a rational discussion progress is to make valid information available to settle differences. In many circumstances, professional evaluations and opinions are used in mediation for just that purpose. In Example 3, however, the mediator's intervention into the dispute actively dismisses the use of outside information as an option for helping move the dispute towards resolution" (op cit: 280). What is of interest here is the 'double-edged' nature of the same language behaviour by a mediator. The technique of normalizing is a good example: practitioners will routinely give information which helps clients put their own, fraught, situation into context; it can also be used to provide information which reminds clients that 'responsible' parents do not have to rely upon the intervention of outside agencies to decide upon their own, or more importantly, their children's best interests.

Aakhus' (2003) research, as does this, sees the work of mediators as illuminating because it is neither informal nor formal, but somewhere in between. Moreover, he draws attention to the effect of third party intervention in interactions, and identifies many of the characteristic language behaviours which are presented by a professional or institutional third party who is constrained by the need to "defend in terms of fairness, equity, and reasonableness, the quality of the dialogue used to handle the controversy" and "who does not have the luxury of presuming that the conditions for critical discussion hold and must be actively involved in producing argumentative strategies that shape the trajectory of the dialogue while in the flow of dialogue" (op cit: 270). Whilst Aakhus' theoretical perspective is that of pragma-dialectics and models of critical discussion, he is nevertheless concerned to apply his theoretical ideas to the 'real life' situations of mediators whom he considers to be "but one example of an entire class of communication work in societies given to constructing means that regulate how argumentation proceeds" including "professional practice, communication and information technology, or the routines of organizations" (op cit: 265). Furthermore, he emphasises the collaborative and creative nature of interaction, whilst also acknowledging extra-institutional constraints on interaction such as "the motivation and ability of each participant to concede to the better argument despite the consequences for their personal goals or interests" and the

equality which may or may not exist “between discussants in terms of socio-political circumstances of the conflict” (op cit: 266).

The final piece of research which will be considered in this chapter is the work of Greatbatch and Dingwall (1999), specifically in relation to neutralism in the setting of family mediation. The authors pose three questions which have been acknowledged, if not fully addressed, in this thesis, namely: “To what extent are mediators’ actions shaped by social values which favour some outcomes rather than others? Are potential sources of bias built into the mediation process itself? Do these factors fatally undermine the principles of mediation, or can mediators adjust their interventions to take account of them?” (op cit: 271). The data used by Greatbatch and Dingwall comprised ten mediation sessions which took place in an independent agency, presumably one similar to the Service in this research, but one which did not mediate the subjects of property and finance.

The first point I wish to make in relation to this paper is the contentious, for me, use of the terms ‘impartiality’ and ‘neutrality’, or rather their implied, or indeed explicit, conflation. There are a number of ‘entanglements’ or presuppositions involved in such vagueness which are exemplified in the following: (Greatbatch and Dingwall, 1999: 273): “Both mediators and disputants display an orientation to the notion of mediator impartiality during discussion of issues about which the disputants disagree. The mediators do this by (1) refraining from the direct expression of opinions on their own or their employer’s behalf, and (2) refraining from overt affiliation with, or disaffiliation from, those expressed by disputants. Following conversation analytic research on broadcast interviews (e.g. Heritage and Greatbatch 1991; Clayman 1992; Greatbatch 1998), we shall use the terms “neutralistic” and “neutralism” to describe these patterns of conduct”. These authors, as do many of the others mentioned in this section, correctly distinguish this sort of behaviour as a performance, rather than an inherent trait in the personality of the mediator. They also highlight its collaborative nature. But there are two distinct language behaviours in play, neither one of which **automatically** entails the other, (in spite of the dictionary definition) although they may be closely allied. The UK College of Family Mediators’ Code of Practice (2000) distinguishes neutrality as pertaining to expressed views on the part of the mediator regarding the **outcome of the discussions**, whereas impartiality pertains to the **conduct of the mediation process**, which practitioners are charged with ensuring is “fair and even-handed” (op cit: 2).

Issues of definition aside, Greatbatch and Dingwall (1999) describe a number of ways in which mediators seek to maintain the appearance of professional neutrality (and/or impartiality). The main strategies outlined by these authors have already been discussed in this thesis. So, for example, Greatbatch and Dingwall (1999: 278) talk in general of the “expressive caution that is normally exercised by both mediators and disputants in relation to contentious issues”. This caution, by mediators, may be verbalised with the use of meta-pragmatic comments which classify utterances that are propositionally weighted in favour of one party as mere ‘suggestions’. Mediators may also choose to frame such comments as conveying information which is in the interests of the child, rather than either party. So it is that “At an official level she [the mediator] merely states that an option for settlement, which has been presented as “only a suggestion”, would benefit the children. She points to a positive implication of an option for settlement without explicitly identifying it as *the* option which, in her opinion, should be accepted” (op cit: 276).

Greatbatch and Dingwall (1999) also point out that, in the one example from their data of a mediator departing from their neutral stance, they continued to maintain “a considerable degree of interactional caution” (op cit: 283). In essence this interactional caution consists of the mediator delaying the introduction of a directly expressed view, which happens to align with one party and not the other, although it is not openly acknowledged as such, by prefacing it with a series of ‘factual’ utterances about the needs of children. On the other hand, mediators are much more direct and prompt in aligning themselves with positions which are jointly expressed by the clients, or which are the result of a shared perspective reached through negotiation. Greatbatch and Dingwall (op cit.: 285) argue that it is in this contrasted language behaviour that “we can discern the boundaries of mediator neutralism as they are defined within the sessions and, by the same token, the areas in which the mediators exhibit a particular sensitivity to the notion of mediator impartiality”.

Finally, Greatbatch and Dingwall (1999) describe ways in which mediators may limit or withhold utterances in order to maintain neutrality. This can often occur, but is by no means confined to, instances where clients put pressure on practitioners to ‘side’ with them. On such occasions, a practitioner typically “either remains silent or produces minimal acknowledgements” (op cit: 278). A second, and important, set of instances is outlined in the following: “The mediators generally respond to disputants’ accounts of emotional and psychological problems in neutralistic, disengaged ways. By doing this, they distance

themselves from disputants and thereby constitute their relationships with them in professional rather than personal terms. This enables them not only to reinforce their professional objectivity but also to discourage disputants from heightening the emotional intensity of their contributions” (op cit: 287). From the perspective of this research Greatbatch and Dingwall are describing utterances which, by fulfilling a number of aims, are complex in nature.

In the final section of this chapter I will summarise the main points of comparison with, and contrast to, the approach of this research and those of the studies discussed above.

5) Summary

As mentioned in the introduction to this chapter, I am not aware of any research in the linguistic literature which is directly comparable to this research, in terms of subject matter and theoretical perspective. Nevertheless, there is a great deal of related research and I have drawn on ideas which seem particularly relevant to this study and thesis.

I have also drawn attention to the somewhat bewildering array of disciplinary, interdisciplinary and sub-disciplinary labels which researchers have attached to their own particular perspective on language in use. I would describe the perspective of this research as that of ‘interactional pragmatics’, a term I will seek to clarify at the end of this chapter. I would point out, however, that I do not seek to provide a definitive demarcation between this approach and that of others.

In terms of comparisons with other studies into language use, there are themes which are fundamental to the whole idea and practice of mediation, for example neutralism, the effect of third party presence in an interaction, the nature of conflict talk and the management or control of discourse. I have, therefore, drawn on ideas from the disciplines of sociolinguistics and conversation analysis in seeking to understand and explicate the data I have collected.

I believe there is also a more attenuated comparison with ‘critical’ language research, taking as a definition Crystal’s (2000: 397) of such approaches as having the “desire to show up the connections between language, power and ideology which are often hidden beneath the form of language which people use”. I describe the comparison as more attenuated because, whilst

such issues are not the focus of this research, I have nevertheless sought, at various points in this thesis, to draw attention to the ‘manipulative’ nature of mediation, a lexical item which has negative connotations, in addition to which I have more fully addressed issues relating to the exercise of power. I have no doubt that, for many of the couples who attend mediation, the issues of “domination and oppression are real issues” (op cit: 397). The causes of such experiences are complex and, in relation to family matters, often entail an interplay of the personal and societal, a relationship which is worthy of a thesis in its own right. My point is that mediators in general see themselves as benign, helping professionals and are genuine in their wish to assist. But, in my experience, there is little reflection upon the potentially oppressive nature of their interventions. It is in relation to the latter point that I have discussed the notion of neutralism.

I believe that the main point of contrast between this research and the studies mentioned above, is the elaboration of the multiple meanings which an utterance may entail and the detailed analysis of the discourse roles which are used by interactional participants. As such there is a great emphasis on the words which participants use. Whilst this is an approach shared by other theoretical and applied perspectives, I would argue that their analyses fall far short of the depth and intricacy which is embraced in this research.

I acknowledge that the deconstruction of such intricacy can be laborious and, occasionally, confusing. I am nevertheless motivated by the fact that such deconstruction and reconstruction is precisely what we, as human beings, do, on a moment by moment basis when we engage in talk with another person. The complexity of what we are capable of conveying increases with the number of hearers present and the contextual constraints upon us, be these interpersonal, situational or societal. But human beings are remarkably creative: we can, and do, use language to reinforce constraint, reduce it, or disregard it altogether, and we can do this overtly or covertly.

To conclude this section, and the chapter, I will outline what I believe to be the defining characteristics of the theoretical perspective of this research. It is pragmatic because it studies actual language use. It is interactional because it studies language in the context of an ongoing exchange between two or more participants. As such, it assumes that, as a starting point, an utterance cannot be fully understood without reference to its immediate discoursal context, that is how it may or may not relate to what has been said before. It assumes, however, that an

understanding of 'context' also includes the situational and broader societal constraints and influences upon the language behaviours of the interactional participants. Implicit in the delineation of multiple layers of meaning is the notion of power and its enactment, negotiation or dismissal.

There is also an emphasis on the strategic use of language, not only in relation to multiple meanings, but also in relation to discourse roles. It is assumed that interactants choose their words and that these choices are motivated and goal directed.

Finally, there is an assumption that meaning is not a given of speaker intent, or hearer inference, but is a dynamic creation of the two, which is negotiated moment by moment, and utterance by utterance. The overall approach, therefore, could be described as 'bottom up', rather than 'top down'. Both perceptual torches shine light on what is happening when language is used.

I believe that it is helpful to concentrate on specific aspects of language use and this study aims to contribute to the insights which have so far been achieved. I am in no doubt, however, that a full understanding of language use requires a synthesis of many perspectives. Whether an individual is determined by her or his society, or whether their society is determined by its individuals, is a moot point. I suspect, as do many others, that the answer lies somewhere in between the two. But our humanity is primarily expressed through our uniquely (as far as we know) ability to talk to each other. This ability embodies both our individual creativity and our cultural conditioning. I believe that the focus of interactional pragmatics, as described above, offers the potential to explore and analyse both.

CHAPTER TWELVE
SUMMARY AND FUTURE DIRECTIONS

1) Introduction

The idea for this research had its origins in my observations as an undergraduate that the pragmatics discussed by Jenny Thomas (2004 and 2006) seemed to have relevance for my work as a family mediator. I was keen to explore these ideas further and have enjoyed the opportunity to do so very much. As I discussed in Chapter 1, my aims have been two-fold: that is to contribute to the development of pragmatic theory, and to apply these findings to the language behaviours of family mediators and their clients.

This chapter will review the main aims, observations and findings of the research as it pertains to two separate themes, firstly in relation to pragmatic theory, and secondly in relation to mediation theory and practice. This is simply for organisational coherence: as is to be expected, there are many areas of overlap. In sections two and three I will examine the research in relation to the insights it has to offer regarding linguistic theory, (specifically pragmatics) and mediation theory and practice, respectively. In sections four and five I will do the same, but in relation to possible future research directions.

2) Main Aims and Findings in Relation to Pragmatic Theory

The ideas and analyses put forward in this thesis have aimed to discuss and develop the concepts outlined by Thomas (2004 and 2006) in relation to complex illocutionary acts and discourse roles. Her ideas, in turn, have built on the works of other linguists in the field of pragmatics and related areas of study, especially those of Austin (1975), Goffman (1981) and Levinson (1981 and 1988).

Whilst Thomas (2004 and 2006) has posited a number of complex illocutionary acts, this research has focussed on just two, namely bivalent and multi-targeted multivalent complex illocutionary acts. In essence, these concepts relate to the observation that

utterances can have more than one meaning for more than one hearer. She has also identified a number of speaker and hearer (or producer and recipient) discourse roles. Because Thomas is a pragmatacist her interest is not confined to the description of language behaviours, but to an understanding of the motivation underlying their use. Critical to this understanding is the importance of context and the notion that meaning is not given, but is created between speakers and hearers as an interaction unfolds.

In addition to examining the particular ideas of Thomas (2004 and 2006), this research has aimed to do so in a 'real life' setting, that of family mediation in the United Kingdom, specifically in the North Wales Family Mediation Service. As such, I have followed in the footsteps, and drawn on the ideas of many other researchers who have studied language in workplace or institutional settings (eg Drew and Heritage, 1992, Greatbatch and Dingwall 1999, and Holmes and Stubbe, 2003).

I have also focussed on issues in relation to power and politeness. As I have mentioned at various points in this thesis, I believe that power and politeness, as they are verbally manifested by mediators and clients in the setting of family mediation, are of particular interest in terms of their complexity and interrelation. This is because family mediation is not a *clearly* hierarchical interactional setting, in contrast to, say, doctor and patient interactions, courtroom exchanges or workplace interactions. It is also a setting which combines intensely personal matters with the 'business' of law and the courts. As Milne, Folberg and Salem (2004:1) observe, "Making divorce easier legally does not make it easier emotionally. Divorce entwines legal considerations with emotional dynamics; family dissolution is a matter of the heart as well as the law (Gold, 1992). The field of mediation is unique in its recognition of both the emotional and legal dimensions of family dissolution". As such, mediation provides a particularly challenging, and therefore illuminating, arena for the study of the language choices which are made by the participants.

The first point which I wish to make in relation to the findings of this research concerns the concepts of discourse roles as outlined by Thomas (2004 and 2006). The nature of

mediation means that it was not possible, or necessary, to examine her categories of bystander and eavesdropper/overhearer recipient roles: all other producer and recipient roles were represented in the data, however. The findings support Thomas' categorisations and their immense versatility. By this I mean the numerous shifts in footing which can occur within one participant's turn in an interaction. On the whole, shifts from the speaker role are motivated by the desire to augment or diminish the expression of power, but to do so in a way which maintains some semblance of politeness and cooperation.

The analysis of the data also identified utterances which did not fit easily into any of the producer categories posited by Thomas (2004 and 2006). This has led to the identification of an additional producer discourse role, in discussion with Thomas, that of 'reflector', which was discussed in detail in Chapter 5. In essence, this role entails the passing back of information rather than the passing on of information. This will be discussed in more detail later in this chapter.

The data also raised questions for me regarding the classification of utterances which are reports of direct speech. Thomas' (2004 and 2006) characterises such utterances as being typical of the producer role of 'mouthpiece' but in the sense of the words of a 'higher authority' being passed on, usually as a means of distancing the speaker from any face threat. Whilst it is acknowledged that we are dealing with fuzzy categories, I nevertheless believe that the widely varying use of reported direct speech, both recalled, projected and imaginary, which occurred in these data, requires further consideration in terms of categorisation.

The analysis of mediator and client talk which was undertaken in this research has supported Thomas' (2004 and 2006) arguments in relation to the nature of multiple meanings which may exist in an utterance, and which takes account of the number of hearers who are present in an interaction. During the course of this research, an additional layer of meaning has been added, that of perlocutionary intent. It is my view that this

framework is a powerful analytical tool for separating out the main elements in many of the particularly complex interactions which occur within the data.

There has also been an amendment to Thomas' (2004 and 2006) original terminology in relation to one category of complex illocutionary acts. In order to make clear the distinction between multiple speaker meanings aimed at one hearer, and multiple speaker meanings aimed at more than one hearer, the term 'multivalence', rather than 'bivalence', has been adopted, along with multi-targeted multivalence.

I have developed Thomas' (2004 and 2006) ideas in relation to the nature of the multiple meanings which may be present in an utterance into a schematic model of interaction. At this stage the model is not finalised but does, I believe, show considerable promise. My ideas were discussed in detail in Chapter 7. Its aim is to show, in a simplified diagrammatic form, the 'points of interest' in a complex utterance, and only those complex utterances which are of particular interest (an idea which will be discussed further in the section on the application of these findings to mediation). I agree with Leech (1983: 33) when he observes that "All illocutions are 'indirect' in that their force is derived by implicature. There is, however, a great deal of variation in their degree of indirectness": I believe that the ideas of Thomas, and the development of this model, seek to illuminate not so much the **degrees** of indirectness which an utterance may contain, but the **kinds** of indirectness, and their underlying motivations, which may be intended.

In terms of politeness, I have argued that many mediation techniques can be categorised in terms of Brown and Levinson's (1987) positive and negative politeness strategies. The point I wish to make in this section is that there are frequent instances of language behaviours on the part of mediators which may be more accurately described as politeness on behalf of clients, rather than directly between speaker/producer and hearer/recipient. I have termed these behaviours as 'politeness by proxy' and would argue that they are an example of the effect of third parties which, again as mentioned previously, Brown and Levinson (1987) themselves acknowledged as an oversight in

their original work. Furthermore, my reading of background literature so far has not revealed any systematic study of this kind of language behaviour.

3) Main Aims and Findings in Relation to Family Mediation

From the outset, I was concerned that any findings from this research in relation to linguistic theory should also be of use to 'real life' mediation, both in terms of theory and practice. I have drawn attention to the fact that family mediation is a relatively new and developing profession which "has developed from the juncture of law, counselling, and social work" (Milne, Folberg and Salem, 2004: 1). As such it has drawn on the theoretical frameworks and research from such disciplines, but with little focus on the research of linguists. Given that mediation is a language based profession, that is "In very simple terms ... mediation is about getting the parties to talk to one another again". I believe that it is now time for mediation practitioners and theorists to adopt a much more thorough and rigorous approach to the uses of language by both mediators and their clients.

This is, of course, a two way street: I believe that language researchers need to make their ideas accessible on a practical level, to be able to answer clearly a question such as 'This is all very interesting but how can I use it in my work?' One of my aims, therefore, is to devise a training programme based on the findings of this research which will be piloted with the North Wales Family Mediation Service. This is discussed in more detail in section five of this chapter.

One of the main findings of the research which I have undertaken, in relation to mediation practice, is that practitioners make strategic use of discourse roles in order to maintain at least the appearance of neutrality, and impartiality, in their work with clients. Whilst I have sought to demonstrate that this use is routine, it is not a phenomenon which is explicitly recognised, in practice or theory, as a strategic *linguistic* tool for *verbally enacting* two of the fundamental components of professional mediation.

The research has also demonstrated that there is strategic use of discourse roles by clients to achieve a number of ends. Very often these are used by clients who, as I noted in Chapter 2, “have thought a great deal about how to convince [the mediator] that they are right and the others are wrong” and who often have “quite different versions of the nature and history of the dispute” (Haynes and Charlesworth, 1996: 9).

Of particular note has been the myriad manifestations of discourse roles which are deployed by both mediators and their clients to convey the ‘voice of the child’.

Another key concept in mediation is the notion of the ‘hidden agenda’ and Thomas’ (2004 and 2006) complex illocutionary acts offer descriptive and analytic power in relation to this kind of language behaviour on the part of clients. By definition, an agenda which is ‘hidden’ is not placed directly on the table but its presence is ‘somehow’ communicated: complex illocutionary acts specifically reveal the linguistic workings of the ‘somehow’.

I have drawn attention to the fuzziness in reality of the theoretical mediation tenet which clearly draws distinctions between the practitioner’s control of the process of mediation, and the clients’ control of the outcome. As Boulle and Nesic (2006: 21) point out, “Observation studies of actual mediations have led some commentators to the view that the process/content distinction is difficult, if not impossible, to maintain. The distinction has been referred to as illusory and dangerous. However, even where it is accepted that the process/content distinction is not watertight, there is still uncertainty as to the permissible nature and extent of the mediator’s interventions”. I believe that the analytical framework of discourse roles and complex illocutionary acts has much to offer in terms of understanding how mediators seek to manage this tension, and to evaluate the extent to which they succeed or fail.

Finally, this research has shown, I believe, the usefulness of a pragmatic approach to the language of family mediation in terms of contributing to the understanding of the themes of power and politeness. A clear example is the use of the reflector discourse role which is closely associated with the mediation technique of summarising. It is role which can

simultaneously contain both positive and negative politeness strategies, which may carry differential intent for each party, and act as a means of control: as Holmes and Stubbe (2003: 54) observe, “by summing up at strategic points throughout a discussion, and especially at the end, a person can very effectively impose their perspective or ‘take’ on what has been decided”. It is precisely their ‘take’ which mediators seek to impose but it is important to note that this is not done simply to exercise authority. Very often the practitioner is seeking to ‘filter out’ interpersonal criticism or hostility, or discursal irrelevancies, so as to help the couple focus on possible solutions to their problems.

4) Future Directions in Relation to Pragmatic Theory

There are a number of topics which, in my opinion, would benefit from further research. The first point I wish to make is to reiterate the value which I believe the language of mediation has to offer in terms of understanding ‘real life’ language use. There are often differing goals on the part of the participants and yet an ostensible set of shared goals which overarch the encounter. In addition, there are often high levels of emotion and interpersonal ‘history’ between the clients, factors which have to be addressed by the mediator, in one way or another. Furthermore, the interactional ethos is neither entirely formal nor entirely informal. In such a setting there are some extremely complex and creative uses of language.

The huge variety in the expression of power is a subject which is worthy of much more study. There are questions to be explored in relation to the way in which cultural and societal norms inform, and are perpetuated or challenged by, the language behaviours of mediators and their clients. Family mediation, in particular, sits at a nexus between the personal and private, and the legal and public. It also shares, with other language based professions such as counselling, social work and family therapy, the aim of ‘helping’ individuals by intervening in their lives. I believe that the concepts of discourse roles and complex illocutionary acts can considerably enhance the work which has already been undertaken in relation to family mediation in terms of, for example, ‘empowerment or

enforcement' (Dingwall, 1988), 'selective facilitation' (Greatbatch and Dingwall, 1989) and 'talk and identity' (Greatbatch and Dingwall, 1998).

There is a further dimension to the presence and exercise of power which is given little consideration in the linguistic literature, either in relation to mediation specifically, or to interactional power in general, and that is the notion of 'emotional' power. I have referred to this at various points in the thesis and believe that is a salient psychological factor in many interactions, including those which are institutional in nature. Parkinson (1997) draws attention to the many facets of this type of power: I would argue that it is an aspect of controlling behaviour which is worth categorising in its own right. Whilst it may be present in other expressions of power, for example reward, coercive or referent (eg Spencer-Oatey, 1992, Thomas, 1995 and Holmes and Stubbe, 2003), it can also be the dominant form of power between interactants who are closely associated, whether on a personal or professional level.

In terms of Thomas' (2004 and 2006) current framework for categorising discourse roles, I have raised a question about the use of reported, or purportedly reported, direct speech utterances by participants and how these should be classified. In my view this research has only touched the surface of the highly creative ways in which a speaker may quote the words of another, and the wide variety of motivations underlying this use. I believe that further research into this aspect of language behaviour alone has considerable potential, not only in terms of their categorisation, but also in terms of furthering our understanding of language as it is actually used.

The schematic model of dynamic interaction which I have described has arisen out of the data and Thomas' (2004 and 2006) ideas in relation to layers of meaning. It is in its early stages but does, I believe, hold promise. Complex utterances often require lengthy analysis and, for me at least, the idea of being able to capture some of these intricacies in visual form is highly appealing. Certainly I have found the ideas encapsulated in the model to be extremely helpful in my efforts to 'unpick' many of the nuances present in some of the language behaviours of mediators and their clients.

In relation to the above, and to notions of power, I wonder if there is the need for an additional layer of implicit meaning to the model, one which relates specifically to those utterances which convey assumptions about cultural norms and societal values. Again, this research has only touched upon the issue and, in my view, it would benefit from further study and analysis.

In terms of Thomas' (2004 and 2006) ideas I have acknowledged that the nature of family mediation precludes a study of some of her recipient/hearer discourse roles. I have also acknowledged that this research has not addressed two of her proposed categories of complex illocutionary acts, namely 'preparatory' and 'conditional' illocutionary acts. There is, therefore, scope for research from the existing data, into these two forms of utterance.

Finally, there is the obvious potential for research into the application of Thomas' (2004 and 2006) ideas, and the findings of this research, into other interactional settings, both institutional and personal.

5) Future Directions in Relation to Family Mediation

The analysis of this research has been extremely detailed in relation to some of the words which are used by both clients and mediators. I believe that such selective detail is necessary if practitioners are to fully understand what is actually going on in sessions. I believe that this research, along with the findings of other linguistic research already mentioned in this chapter and thesis, can contribute to the development of both mediation theory and its practice

My analysis of the data has revealed that one of the primary linguistic tools which mediators use to maintain the appearance of neutrality and impartiality is that of discourse roles. These findings echo those of, for example, Clayman (1992) whose research examined the concept of footing and neutrality in the setting of news interviews.

These are insights which should be shared with, and used by, mediators. The research has also shown the inevitable limitations of any aspirations to absolute neutrality and impartiality.

The notions of neutrality and impartiality are concepts which are often used together, or interchangeably, as if they mean the same thing. I have noted that the UK College of Family Mediators distinguishes neutrality as pertaining to outcome, and impartiality as pertaining to process. Of course, I have just drawn attention to the fact that the distinction between process and outcome is somewhat arbitrary, so it is perhaps understandable that the distinctions between neutrality and impartiality are often blurred. These are all issues which are fundamental to mediation and, I believe, would benefit from far more linguistic research.

As a starting point, whilst the data have illustrated the fuzzy nature of the thorny issue of who is responsible for what in mediation, and the somewhat chimerical character of the tenet that it is mediators who control the process, whilst clients control the outcome, the concepts of complex illocutionary acts, along with those of discourse roles, have helped to illuminate why and how these artificial boundaries are, in reality, far more blurred.

Furthermore, I believe that greater clarity would be achieved if it were acknowledged that, whilst there are ideals of mediator and client control at either end of the spectrum, in reality there are also many areas of overlap in between. In relation to neutrality and impartiality, I believe that the separation in relation to outcome and process is helpful, as far as it goes. I would argue, therefore, that discussions of neutrality should be routinely used in conjunction with outcome, and impartiality in conjunction with process, at least until further research provides better clarification of the interrelationships between these four concepts.

I have touched upon a number of mediator skills and techniques in this thesis but by no means all of them. I believe that a systematic and thorough linguistic analysis, in particular a pragmatic analysis, is long overdue. There are many, many instances I could

use from the mediation literature which I have cited in this thesis (eg Haynes and Charlesworth 1996, Roberts, 1997 and Boulle and Nestic, 2006) of discussions of mediator techniques or language use which could benefit from much clearer explication. I shall confine myself to just two examples, one from Mayer (2004), and one from Parkinson (1997), which should suffice to make the point.

Mayer (2004: 44-45) provides an excellent, if somewhat brief, description of the challenge to mediators in relation to 'hidden agendas' (a topic which, in itself, is also worth further linguistic research). He makes a number of points regarding the identification of issues and interests, noting that these "are likely to emerge throughout the mediation" and which requires the practitioner to "frame these issues in a genuine, meaningful, and constructive manner, and to find a formulation of the issues that all parties can accept". He further observes that "The facilitative mediator does not necessarily sit back, listen to the discussion, and produce a beautifully reframed issue formulation that the parties gratefully accept. Reframing is an interactive, iterative, and sometimes messy process that evolves throughout the mediation". This is an eloquent description of the ethos and process of reframing but contains numerous 'woolly' words. There is so much scope for the application of discourse roles, complex illocutionary acts and other linguistic and pragmatic concepts to bring out the 'nuts and bolts' language enactment of Mayer's observations.

Mayer (2004: 44-45), makes a number of further points in relation to the level of 'appropriate' intervention by a mediator regarding hidden agendas. He notes that "The mediator is always listening for the interests or needs that are motivating parties and seeking to put these on the table in a constructive way. Here mediators contend with two potential dangers: They can fail to probe deeply enough, or they can go too deep". Mayer further observes that "As with reframing, eliciting reasons for a particular interest is not something that the mediator sits back and decides alone, but rather does so in partnership with the parties to the mediation" and concludes that the potential requirement for "very active involvement of the mediator ... involves what Cloke (2001) calls 'mediating dangerously'". Again, whilst this captures the spirit of one of the dilemmas facing

mediators, there is a great deal of subjectivity in the words used. In addition, I am interested in just what kinds of utterances from the parties lead a mediator to recognise that there is such a dilemma in the first place, before one even goes on to examine how, linguistically, they deal with it.

Moving on to Parkinson (1997), she provides regular examples of actual utterances, which are helpful as far as they go. But even with such specificity, there is also vagueness. Take, for example, in her discussion of question types which a mediator might use, her assertion (op cit: 109) that ‘why’ questions “encourage blaming and self-justifying answers”. This may well be the case, but a more detailed pragmatic analysis can help to reveal just why this is so. In her discussion of hypothetical questions, Parkinson (ibid) observes that “Suggestions from the mediator may be ‘embedded’ in a question, provided they are not put forward as recommended solutions”. Once again, there is a great deal of fuzziness in the words used which, in my view, need much clearer analysis.

Finally, with regard to the potential future research directions of these findings in relation to mediation practice, I have mentioned elsewhere that I intend to use them to provide a training course for the mediators of the North Wales Family Mediation Service. This will, of course, be a pilot project and therefore subject to revision and amendment in the light of feedback. I then intend to seek its inclusion as a part of the basic family mediator training which is recognised by the UK College of Family Mediators.

6) Conclusion

This research has been an education for me both as a linguist and as a family mediator. It has been fascinating to study in detail the ‘real’ words of mediators and clients and, most importantly, the interactive nature of the motivations underlying their choice.

To use a nautical metaphor, as a mediator, I intuitively enter every session with the sense of embarking on a voyage of discovery, a voyage which will encounter many turbulent,

and occasionally treacherous, waters and which will require the co-ordinated effort of all concerned if we are to navigate them 'successfully'.

There are so many, many factors underlying our choice of words, the potential for myriad forms of power and control, and incredible complexity in some of the most ostensibly simple of utterances.

I believe that there is so much more to be described and analysed in terms of what, as speakers and hearers, we so intuitively and swiftly do in our interactions with each other. I hope to have demonstrated in this thesis that the ideas put forward by Thomas (2004 and 2006) offer a powerful guide with which to understand the connection between our intuitions and our words.

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