‘GLEANING THE GRAIN FROM THE THRESHING-FLOOR IN THE MIDST OF A STORM’ - AN
INTERPRETATIVE PHENOMENOLOGICAL ANALYSIS OF EDUCATIONAL PSYCHOLOGISTS’
EXPERIENCE OF WORKING AS EXPERT WITNESSES IN THE FAMILY COURT

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ABSTRACT

The aim of this research was to explore the lived experience of educational psychologists (EPs) working as expert witnesses in the family court and to capture some of their tacit knowledge. The research was conducted during a ‘perfect storm’ of reforms in family justice, austerity measures and following the publication of ‘The Ireland Report’ (Ireland, 2012) which was highly critical of the quality of psychological reports prepared for the family courts and captured the attention of the national media at a time when several high profile cases involving expert witness malpractice were also under scrutiny.

Adopting Interpretative Phenomenological Analysis (IPA) as the methodology, two EP expert witnesses were interviewed using in-depth conversations based around two semi-structured interview prompts. Interview transcripts were then analysed using IPA, firstly within individual interviews and cases and then across interviews and cases.

Superordinate themes emerged as five main focus points: 1) The role of being an EP and an expert witness, 2) Maintaining a phenomenological attitude, 3) Personal and professional identity, 4) The context of court and 5) The experience of the interview.

Findings indicate that the widely accepted Fallon, Woods and Rooney (2010) definition of who EPs are and what EPs do also holds in the context of the family court, with the scientist-practitioner identity being further illuminated in this milieu, especially with regard to formulation, maintaining a phenomenological attitude and reflexivity.
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1 INTRODUCTION

1.1 Background

Family courts make binding decisions that profoundly affect the lives of children and families. Expert witnesses across a range of disciplines contribute to proceedings in matters regarding children’s safety, welfare and placement, including care, supervision and adoption proceedings and in private law cases relating to contact and residence.

The psychologist’s role in court is either as a professional witness or as an expert witness. In *Psychologists as expert witnesses: Guidelines and procedure* (BPS, 2015a:2), an expert witness is defined thus: ‘a person who, through special training, study or experience, is able to furnish the Court, tribunal or oral hearing with scientific or technical information and opinion based on this which is likely to be outside the experience and knowledge of a Judge, magistrate, convenor or jury.’ The psychologist expert witness receives ‘instructions’, constituting specific questions regarding a particular child or sibling group and is required to formulate a psychological opinion to assist the court in its decision-making on the issues under consideration. The overriding duty of the expert witness is to the court and an objective, independent, well-researched and thorough opinion is expected (Wall, 2007:29). As Woods (2016:329) states ‘This area of work is highly specialised, requiring additional training and supervision in legal processes and the presentation of psychological evidence in court’. Professional witnesses (also referred to as ‘ordinary’ witnesses) differ from expert witnesses solely insofar as not being independently instructed and being employed by one represented party. The same standards are expected of both types of witnesses, with professional witnesses being minded to abide by the procedures and recommendations outlined for expert witnesses.
by way of good practice (Ireland 2008). However, unlike professional witnesses, expert witnesses stand alone and cannot make recourse to their job role.

Since 2009, Educational Psychologists (EPs) have been regulated by the Health and Care Professions Council (HCPC). The protected title of ‘Educational Psychologist’ can only be used by practitioner EPs who have met the criteria for statutory regulation with the HCPC. EPs are obliged to meet the HCPC (2015) Standards of Proficiency for Practitioner Psychologists (SOPs) and (2016) Standards of Conduct, Performance and Ethics (SCPE) and are defined by Fallon, Woods and Rooney (2010:4) as ‘scientist practitioners who utilise, for the benefit of children and young people (CYP), psychological skills, knowledge and understanding through the functions of consultation, assessment, intervention, research and training, at organisational, group and individual level across educational, care and community settings, with a variety of role partners’. Working within the family court system as an expert witness is one such context within which some EPs operate.

1.2 Rationale

Whilst the fundamentals of the EP role have indeed been ‘reasonably clearly articulated’ (Fallon et al. 2010:4), there is no research to date which has captured the constructs of EPs with experience of acting as expert witnesses about their distinctive contribution to the courts. Evidence would suggest, however, that this silence is not indicative of a lack of relevance to the EP profession, with directories for expert witnesses testifying to a number of EPs with availability to undertake court work.¹

Expert witnesses across disciplines tend to undertake expert witness work in addition to their main professional role (BPS/FJC, 2016), with this role invariably conferring a level of transferrable knowledge, skills, experience and competence. Indeed, expert witnesses might generally be viewed as refugees of sorts, as this would not be anyone’s primary role but rather that they would have elected to undertake work as an expert witness from within a different sphere (e.g. health or social care). Therefore, it can generally be assumed that EPs working as expert witnesses would have also previously delivered generic EP services and would be aware of the wider debate regarding the distinctive contribution of EPs.

The role of the EP has been widely discussed and the way in which EPs work generally has been influenced by changes in how services are commissioned, resulting in the core functions and distinctive contributions of EPs being scrutinised evermore closely. With regards to EPs providing psychological services in the unusual context of the court, it was envisaged that the temporal context within which this research was located would provide ideal conditions for reflection about the distinctive contribution of EP expert witnesses.

Given the scope of reforms and further proposed changes in family justice from 2012 especially, it was inevitable that the landscape of family court proceedings would change shape, thus affecting all involved in the system. The changes in the ‘how’ and ‘why’ of instructing expert witnesses resulted in many psychologist expert witnesses no longer offering their services in this context (McCallum, 2014; Ministry of Justice Analytical Series, 2015). As the pace of ‘modernisation’ was further accelerated by austerity measures, it was apparent that the approach to reforms in family justice was likely to be largely broad-brush and that the proverbial writing was on the wall for the future of
expert witnesses in the family court. Given the predicted loss of expertise, carefully exploring the epistemological stance and the lived experience of EPs with experience of working as expert witnesses was thought to provide a distinctive, original, relevant and timely contribution.

A preliminary study: ‘What are psychologists good for?’ An exploratory study of the contribution of (Educational) Psychologists to the Family Court (Greer, 2013) was conducted with the aim of identifying key concepts relating to when expert psychological evidence might be considered ‘necessary’ by the court and what ‘helpful’ evidence might look like, with a further motivation of informing my envisioned practice as an expert witness. It was also intended that this would serve as a ‘springboard’ for more in-depth exploration and analysis at the thesis stage. Semi-structured interviews were undertaken with an experienced barrister, specialising in the law relating to children, and a former EP and expert witness with extensive experience of providing evidence to the family court and of mentoring and training psychologist expert witnesses. Data generated were subsequently explored using Thematic Analysis (Braun and Clarke, 2006) to identify conceptual themes, which were then elucidated in the context of the wider literature. The findings from this small-scale study suggested that the areas in which psychologist expert witnesses were most likely to err, amounted to a lack of compatibility with the court system and failure to safeguard against cognitive errors, resulting in pseudoscientific practices. In contrast, where psychologists were considered to be most helpful was in the direct application of psychology and scientific thinking to complex issues relating to vulnerable children and families, resulting in evidence based, cogent and concise opinions based on transparent psychological formulations. Findings from the preliminary study suggested a strong exhortation for the expert witness psychologist to
'Be a Psychologist'. The construct of ‘Being a Psychologist’ was elucidated by participants as contrasting with a lack of objectivity, ‘wishy-washiness’ and / or procrastination which were thought to typify dissonance with the court system and considered to precipitate experts ‘coming a cropper’.

One identified limitation in the methodology for the preliminary study was that only one interview was conducted with each participant and opportunities for further probing and analysis were not built into the research design. In contrast, the aims of the present study are to ensure a deeper, closer and more nuanced exploration and analysis of the experience of participants from a position of shared expertise. As such, rather than being an extension of the preliminary study, the current research aims to encourage deeper reflection and exploration on the part of both the participants and the researcher. It is considered that the tacit knowledge cultivated from working as an expert witness is likely to have applications for other professional milieux and that a focus on the context of the family court may afford a unique perspective on the role itself.

1.3 Aims

The current research aims to explore in detail the role perceptions and self-perceptions of EPs who have experience of working as expert witnesses in the unusual context of the family courts. It also seeks to capture some of the tacit knowledge and lived experience of practitioners working in this specific context at a particular time of unprecedented changes in the family justice system. Essentially, the thesis aims to explore what it is like to be an EP in this particular context. The research question is: How do EP expert witnesses make sense of their experience in the family court?
This chapter is presented in three sections. Firstly, I discuss the role of the EP, with specific reference to some of the different contexts within which EPs find themselves. Secondly, the role of psychologists as expert witnesses is considered, including the duties, responsibilities and person specification requirements in the context of the family court. Finally, I present the context within which the research was conducted. The specific context is of particular relevance as this research was undertaken at a time in which the role of psychologist expert witnesses was under much scrutiny due to a perfect storm of developments and challenges including: reforms in family justice, the pace of modernisation being accelerated due to austerity measures and high profile negative media reports relating to poor practice amongst expert witnesses (most notably, psychologists and psychiatrists). The literature review relating to the role of the EP is essentially narrative in structure. However, I have attempted to present pertinent documents relating to the relevant developments in family law in a broadly chronological order, in an attempt to recreate a sense of the temporal context.

The literature review continues in chapter 5 as it was further influenced by the analysis of the data and is consequently interwoven in the discussion section to assist both with the flow of the narrative and in creating the whole from the parts. This approach to the literature (in terms of the order of tasks to be completed in constructing the thesis) was also adopted to aid with the process of epochē and to ensure that the discussion of the literature in relation to the data was driven by the data itself.

2 Daily Mail 13.03.12 Family courts and how incompetent (but highly paid) so-called experts are failing children;
The Telegraph 17.03.12 Doctor distorted diagnoses for local authorities and 01.04.12 The Doctor who took my baby away;
Channel 4 News: How competent are expert witnesses? 13.03.12
2.1 The Role of the EP

2.1.1 Introspection or reflective practice?

Whilst the role of the EP as an expert witness has not been discussed widely in the literature, the role and contribution of the EP more generally have been frequently debated and scrutinised (e.g. Burden 1994; Maliphant, 1997; Frederickson, 2002) to such an extent that EPs have been accused of ‘persistent introspection’, ‘professional inquisition’, ‘navel-gazing’ and of having ‘an almost perennial obsession with reflecting on their role’ (Passenger, 2013:21).

It is apparent that EPs have been afflicted by insecurity about professional identity for as long as the profession has existed (Gilham, 1978). In an apparent nod to this collective self-reflection, Maliphant (1997:109) chides: ‘The profession requires no apology or elaborate justification for its existence. It was established as a result of public recognition of need. Psychologists should accept this fact and operate accordingly.’ In an article provocatively entitled ‘Okay then: What do EPs do?’ (Wood, 1998), a Senior LEA officer (who had reportedly read over one thousand EP reports), challenged the profession to modernise itself, to provide clarity regarding both the distinctive contribution and the nature of its psychology and to become less defensive (p13). Subsequent to this challenge to the profession, a number of reviews were conducted including: DfEE (2000), Farrell, Woods, Lewis, Rooney, Squires, and O’Connor (2006) and DfE (2011).

2.1.2 What EPs actually do

The Summerfield Report (DES, 1968) concludes that the distinctive contribution of EPs is derived from their ‘specialised study of psychological science and its application to
education and to other aspects of human development’ and calls for this to be ‘the main criterion in developing their work’ (DES, 1968: xi). Cameron (2006) also highlights the psychological perspective in considering the distinctive contribution of the EP. Similarly, a review of the functions and contributions of EPs in England and Wales, (Farrell et al. 2006) found that the distinctive contribution of the EP relates to the psychological functions therein. As such, they argued that a focus on the ‘psychological contribution’ should be the driving force which determines the direction and balance of core activities (p.105).

Norwich (2000:230-231) argues that EPs ‘need to make distinctive contributions which arise from psychology and cannot simply be done by specialist teachers, other educational practitioners or other psychologists.’ In considering what is valuable and unique about the EP, Ashton and Roberts (2006) explored the perceptions of both SENCos and EPs themselves. Their findings echoed the view that the unique role of EPs was perceived to lie in the specialist knowledge of psychology. Of particular interest was the finding that, despite EPs claiming unique contributions in relation to consultation and systemic approaches, these were not deemed by the SENCos to constitute a distinctive contribution.

Lee and Woods (2017) researched the role of the EP in the context of traded services. The authors found that in a traded context, it was easier to identify the particular contribution and that the contribution that commissioners wanted and valued related to psychological understanding. This echoes the findings of Farrell et al. (2006:104) that the ‘distinctive contribution lies in their psychological skills and knowledge would suggest that agreed clarity of the EP role should be focused around the particularly psychological function within it’.
The BPS (2015b) guidance for EPs in preparing psychological advice refers to their provision of a ‘unique perspective, based on a holistic and child centred approach and rooted in psychological theory’. Fallon et al. (2010:4), by way of an anchor to the profession, evidently seek to contain, steady and affirm some of the collective deliberations, whilst also establishing a baseline beyond which the profession is enabled to proceed: ‘EPs are fundamentally scientist practitioners who utilise, for the benefit of children and young people (CYP), psychological skills, knowledge and understanding through the functions of consultation, assessment, intervention, research and training, at organisational, group and individual level across educational, care and community settings, with a variety of role partners’. This definition has been widely accepted by the profession and provides a helpful framework within which to discuss the role and functions of the EP.

2.1.3 EPs as scientist-practitioners

Like other applied psychologists, EPs are defined as scientist-practitioners. Lane and Corrie (2006:206) argue that this part of our identity ‘comes from being able to engage with the complex terrains of epistemology, science and practice in the context of multiple social systems’. Scientist-practitioner EPs utilise scientific methods including: hypothesis testing, validity checking and in-depth psychological understanding and its application to children and their contexts and are tasked with challenging assumptions and pseudoscience.

Norwich (2000:192) highlights the tensions raised by the conceptualisation of the role of the EP as scientist-practitioner ‘between being tentative and systematic on one hand, and the need to respond to the practical need for techniques and solutions on the other’. Lane
and Corrie (2006) argue that an identity as a scientist-practitioner contributes a ‘unique value’ to practice and consider the implications for psychologists of claiming such an identity whilst recognising that ‘our professional practice happens in specific social contexts and that our sense of our self ‘identity’ is generated in those contexts based on relational discourses’ (p93); that is, in ‘domains where there is no one set of universally accepted and uncontested research findings’, (Miller and Frederickson, 2006 p106). Lane and Corrie (2006:3) present four main themes relating to the skills of psychologists as modern scientist practitioners: effective thinking, reasoning, judgement, decision making and problem solving; psychological formulation; effective planning and intervention; and the use of scientific enquiry and critical thinking to guide self-evaluation. They posit that the scientist-practitioner is perhaps best understood as a ‘narrative framework in which the discipline of psychology is paramount but individualized and self-reflective’, acknowledging that contextual factors are also influential (p100).

Reasoning that identities are created from practice-based conversations, Lane and Corrie (2006) note that it is therefore incumbent on EPs to confront: the foundations of psychological theories predominantly originated by white males, the practice of the privileging of certain types of knowledge over others and the way we construct narratives about our identity as psychologists (p93). In referencing Foucault (1983), they discuss the relationship between knowledge, truth and power, proposing that the narratives employed by individuals define, not only how they assign meaning to events, but also how they act and what might be perceived as ‘legitimate or true’. (p94). The authors present the rationale for drawing upon a broader and less traditional evidence base to inform practice, including practice-based evidence (e.g. Fox, 2011; Maliphant, Cline and Frederickson, 2013; Lunt and Majors, 2000). This, Lane and Corrie (2006) argue, may in
turn draw psychologists towards more implicit / intuitive knowledge, increased creativity and ultimately to ‘defining ourselves by the stories we tell’ (p94) alongside encouraging an awareness of the influences that shape our thinking and practice.

How certain types of knowledge and evidence are articulated, prioritised, justified and defended is of particular relevance to this IPA study. Billington (2006), in considering theories in practice, illustrates how professional theory-choice can result in the creation of different narratives about children which can ultimately impact upon their lives (p91). It might, therefore, be considered fundamental for individual EPs to have critically evaluated the theoretical foundations of their practice and to be able to articulate and account for ‘the ontological and epistemological basis of our practice and the associated methodological implications’ (Moore, 2005:103). Notably, however, when Woods and Farrell (2006) surveyed 142 EPs from England and Wales on their approach to the assessment of children with learning and behavioural problems, they found that 40 percent of EP respondents did not answer the question requiring them to specify their theoretical approach to psychological assessment. Moreover, the authors report that the majority of participants who responded to the question referred to specific tools or methods rather than any particular approach. They conclude that ‘it seems likely that a significant proportion of the work that EPs carry out in relation to individual children does not constitute full psychological assessment as outlined by the national professional guidance frameworks’ (p402). This is further echoed by Burnham (2013) who highlights the ambivalence about the scientific basis of their work from most of the EP participants in his study (albeit from a small sample) who regarded the social value of their professional practice to be of greater importance than demonstrating its evidence base (p19). Burnham attributes this to a greater focus (as demonstrated in the literature) on
processes and techniques without a requirement to articulate one’s ontological and epistemological positions (p20). In referencing the traditional socialisation of EPs into the teaching profession as a requirement of their training, Miller and Frederickson (2006:103) highlight that within teacher training, ‘little premium was placed upon having a scientific mindset’. This, in turn, might be considered to be one contributing factor to the perceived ‘scientist practitioner gap’ (Lilienfield, Ammirati and David, 2012:8) discussed below.

In reference to the US situation, Lilienfield et al. (2012:8) note the ‘scientist-practitioner gap’ in school psychology and alert to the infiltration of pseudoscience and the subsequent contamination effects on practice. Pseudo-scientific practices are defined as ‘imposters of science’ (p10) and the authors highlight ten ‘warning signs of pseudoscience’ (p21) of relevance to school psychologists and ten further ‘prescriptions to encourage scientific thinking’ (p30). There is some evidence to suggest that the notion of a scientist-practitioner gap would also appear to translate to the UK situation, with Lilienfield et al.’s (2012) warning signs and prescriptions effectively complementing SOPs and professional practice guidelines (e.g. HCPC, BPS, DECP). These lists also resonate with admissibility criteria which are used by courts to evaluate the reliability of expert evidence and to ensure that expert testimony is the product of reliable principles and methods, in an attempt to guard against pseudoscience in the courtroom (see Appendix 6). The Lilienfield et al. (2012) check-lists might, therefore, be viewed as particularly useful for expert witness psychologists to encourage critical thinking, clarification of rationale and justification of methodology to ensure adequate preparation for cross-examination.

Barkham, Hardy and Mellor-Clark (2010: 330) contrast practice-based evidence (PBE) with evidence-based practice (EBP). They explain that EBP is underpinned by a ‘very clear and
defined knowledge base by the adoption of rigorous methods drawn from medicine’. PBE, in contrast, ‘encompasses a wide range of approaches that are both its strength and its vulnerability’. The principal drawback of EBP is articulated by Warner and Spandler (2012:13) as that it ‘fails to inform day to day practice with individual clients’. PBE is described by Barkham et al. (2010:329) as ‘bridging the gap between research and practice in the field of the psychological therapies’. Psychological formulation, practised in all areas of psychology, is the means by which theory and practice might be reconciled (BPS, 2011: 26). The HCPC SOPs for practitioner psychologists (2015:10) state that ‘Registered practitioner psychologists must be able to use formulations to assist multi-professional communication and understanding’ and specify that EPs should ‘be able to develop psychological formulations using the outcomes of assessment, drawing on theory, research and explanatory models’. Butler (1998:2) defines formulation as ‘the tool used by clinicians to relate theory to practice. It is the lynchpin that holds theory and practice together […]. Formulations can best be understood as hypotheses to be tested’.

Deemed to be the ‘cornerstone of skilled psychological practice’ and ‘a pivotal skill of the scientist practitioner’ (Lane and Corrie, 2006: 41), formulation is described as ‘the way in which we use psychological language to construct coherent stories about the puzzles we encounter in our day to day work’ (p6). The BPS (2011) Good Practice Guidelines on the use of psychological formulation state that the main purpose of a formulation is ‘identifying the best way forward and informing the intervention’ (p8). They incorporate additional purposes including: clarification of hypotheses, prediction of outcomes, planning interventions, determining criteria, normalising problems and ‘minimising decision making biases and increasing transparency by making choices and decisions explicit’ (BPS, 2011:8).
2.1.4 Child-centred approach

The BPS (2015b) published ‘Guidance for EPs when preparing reports for children and young people following the implementation of The Children and Families Act 2014’. This guidance states that an EP’s perspective is based on a child-centred approach and notes that the EP’s priority is always to give advice which is, in their professional judgement, child-centred and in the best interests of the child or young person.

The United Nations Convention on the Rights of the Child (UNCRC, UNICEF, 1989) was adopted into international law in 1989. It is founded on four guiding principles: non-discrimination; adherence to the best interests of the child; the child’s right to life, survival and development; and the child’s right to participate (UN, 1989). Woods and Bond (2014:74) propose five priorities for EPs which they present as compatible with these principles: development of children’s literacy, reduction of the abuse and physical punishment of children, optimisation of children’s participation rights, development of children’s identity and social interaction; and the development and participation of children with disabilities. Woods (2014) adds two further priorities: support for a responsible life in a free society and, the proper care of children in the care of the local authority. Article 12 of the UNCRC states that children have the right to be heard and for their views to be given ‘due weight’. In this regard, the UNCRC is aligned with The Children Act (HMSO, 1989) with Section 1(3) stating that the court is required to have regard to ‘the ascertainable wishes and feelings of the child concerned (considered in the light of his age and understanding)’.
2.1.5 The role of the EP: Promoting social justice

The Good Practice Guidelines on the use of psychological formulation (BPS, 2011: 14) acknowledge the frequent failure of psychologists to integrate social factors (e.g. class, poverty, unemployment and power relations) into practice and promote that clinical psychologists need to have a ‘critical awareness of the wider societal context within which formulating takes place’. Whilst the guidelines are aimed primarily at clinical psychologists, the challenge is nonetheless pertinent to EPs. Indeed, Moore (2005) argues that educational psychology has ‘rather lost its way’, with practice becoming ‘narrowly prescribed and overly concerned with questions of assessment and the resource worthiness of children rather than broader and more meaningful issues regarding their development and psychological well-being’ (p103-104). He concludes that EP practice should be viewed primarily as a ‘social and ethical endeavour with a central concern for social relationships’ and proposes that it is incumbent upon applied psychologists to be mindful of the ‘ontological and epistemology basis of our practice’ (p107). Moore emphasises that the focus on relationships is particularly salient when considering those with different ontological beliefs to ourselves, which may be ‘reflected in different political, professional, religious, lifestyle, sexuality or class understandings’ (p107). Moore (2005: 107) also recognises that EP practice exists within uncertain contexts and is influenced by ‘complex and sometimes remote moral, social, political influences’.

Adopting the definition of social justice utilised by Bell (1997): ‘full and equal participation of all groups in a society that is mutually shaped to meet their needs’, Schulze, Winter, Woods and Tyldesley (2017) argue that EPs are well placed to promote social justice through their everyday practice from working with individual children to working collaboratively at a multi-agency level. They identify fairness, advocacy and non-
discriminatory practice as constituent parts of social justice, recognising that a social justice agenda can contribute to addressing inequality, biases and prejudice in society (p71). Fox (2015) highlights the four core moral principles which he sees as the foundation of such a repositioning: promoting autonomy, beneficence, non-maleficence and social justice. Crucially, the distinction between non-maleficence and beneficence is highlighted by the recognition that it is possible to do no harm without actually doing any good. He exhorts EPs to capitalise on the opportunities made manifest in the Children and Families Bill (HMSO, 2013) by repositioning ourselves and building our role around advocacy, arguing that EPs have a ‘moral imperative’ to acknowledge social inequality and to strive to address the disadvantages that some children experience.

2.1.6 The context of EP practice

Alongside the EP’s summative role in local authority statutory SEN assessments, Woods (2016) notes that EPs sometimes also act as ‘expert advisors to the courts, tribunals, other agencies or groups carrying out assessments of children/young people and sometimes their parents / carers.’ (p329)

In considering the distinctive contribution of the EP through psychological assessment, Farrell et al. (2006:401) acknowledge that ‘EPs may view their distinctive contribution differently depending on the range of methods that they employ which may in turn depend on the LA within which they work’. This suggests that the context itself determines the role. This resonates with Norwich (2000:204): ‘The goals and demands of the institutional contexts decide what psychology is generated, what is relevant to meeting individual needs in different settings for practising psychologists and what maintains academic credentials for academic psychologists.’
There is an apparent consensus that EPs work at different levels as scientist practitioners, applying psychology across a range of contexts, undertaking core activities and that they are informed by psychological theory and research, professional ethics and practice guidelines and influenced by the impact of legislative change and the social and political context of the time. The distinctive contribution of EPs is championed by McKay (2005:14) who credits the specificity of EP training, the contextualised focus of the role and the depth and breadth of knowledge.

2.1.7 Standards and expectations

The Professional Practice Guidelines (BPS, 2002) state that EPs should remain objective, factual and evidence based and should be explicit about the sources and the limitations of any assessment (p16). Accuracy and clarity in written and oral communication are therefore considered essential to guarding against misinterpretation (p17). The guidelines also state that psychologists should be competent in the forms of assessment utilised and should only use them when deemed to be in the child’s best interests. To this end, established best practice is for EPs to ensure that tools and modes of communication are the most accessible to and the least intrusive for the child (p17). A summary of the principles underpinning EP assessment is provided within the guidelines (Frederickson, Webster and Wright, 1991) which states that assessment approaches should be evidence based and selected on the basis of relevance to the presenting problem and the purpose of the assessment, with sensitivity to the background and developmental levels of the child or young person. This notion of fitting the approach to the context chimes with McKay’s (2005) reference to the contextualised focus of the role and is considered fundamental to how the role is constructed.
Since 2009, the title ‘Educational Psychologist’ in the UK has been a legally protected title and it is incumbent on all EPs to meet the duties set out in the HCPC (2015) *Standards of proficiency (SOPs) for practitioner psychologists* (HCPC, 2015), *Standards of conduct, performance and ethics* (SCPE) (HCPC, 2016) and in the *Standards of Continuing Professional Development*, (HCPC, 2014). These standards constitute the bedrock of EP practice and also provide a useful framework for a closer inspection of the EP role. The generic SCPE apply to all sixteen professions regulated by the HCPC, including practitioner psychologists, and state that registrants must: promote and protect the interests of service users and carers, communicate appropriately and effectively, work within the limits of their knowledge and skills, delegate appropriately, respect confidentiality, manage risk, report concerns about safety, be open when things go wrong, be honest and trustworthy and keep records of their work. The profession-specific SOPs (HCPC, 2015) include generic elements which apply to all seven modalities regulated by the HCPC (i.e. clinical, counselling, educational, forensic, health, occupational and sport and exercise) along with standards that apply solely to EPs. These standards not only set out the expectations required as prerequisites to maintaining registration with the HCPC but also the standards by which practitioner psychologists will be judged in the event of questions around fitness to practise. Psychologists registered with the HCPC must meet these standards including: to act in the best interests of service users, to respect confidentiality, to keep professional knowledge and skills up to date, to act within the limits of their knowledge, skills and experience, to behave with honesty and integrity and to make sure that their conduct justifies the public’s trust and confidence in the practitioner and their profession.
The BPS Code of Ethics and Conduct (BPS, 2009) sets out the standards of ethical conduct expected of BPS members, based on the four ethical principles of respect, competence, responsibility and integrity which, in essence, constitute a summary framework of the HCPC SOPs.

### 2.2 Role of the Psychologist as Expert Witness: Expectations

The Rt Hon Lord Justice Wall (2007:29) summarises the Court’s expectations of expert witnesses thus: ‘What the court expects from you is an objective, independent, well researched, thorough opinion, which takes account of all relevant information and which represents your genuine professional view on the issues submitted to you’. Notably, Crighton (2013:486) stresses that an expert witness must not act as an advocate, recognising that this may present specific challenges for psychologists in the family courts, involved in making predictions about human behaviour which is naturally ‘fraught with uncertainties’ (Bevan 1988:155).

The Honourable Mr Justice Ryder provides a checklist for psychologists acting as expert witnesses in Oldham MBC v GW [2007] 2 FLR 597 determining that ‘Once instructed, experts in their advice to the court should:

- conform to the best practice of their clinical training
- highlight factual assumptions, deductions there from and unusual features of the case
- set out contradictory or inconsistent features
- identify the range of opinion on the question to be answered, giving reasons for the opinion they hold
highlight whether a proposition is an hypothesis (in particular a controversial hypothesis) or an opinion deduced in accordance with peer reviewed and tested technique, research and experience accepted as a consensus in the scientific community.

highlight and analyse within the range of opinion an 'unknown cause', whether that be on the facts of the case (e.g. there is too little information to form a scientific opinion) or whether by reason of limited experience, lack of research, peer review or support in the field of skill and expertise that they profess.

The core attributes considered essential in the literature for psychologists acting as expert witnesses relate mainly to being suitably skilled, qualified, experienced and knowledgeable about process and content. However, the literature also captures expert witness qualities valued by the court (E.g. Melton, Petrila, Poythress and Slobogin, 1997; Brodsky, Neal, Cramer and Ziemke, 2009; Brodsky, Griffin and Cramer, 2010; Dvoskin and Guy, 2008; and Ogloff and Cronshaw, 2001) such as: confidence, transparency, integrity, likeability, credibility, trustworthiness, humility, objectivity and clarity in communication. Stuart Smith LJ\(^3\) identifies the qualities that assist the court in assessing what weight to attribute to the opinion of a witness: soundness of opinion, internal consistency, logic, precision and accuracy of thought, response to searching and informed cross examination, willingness to make concessions, flexibility of mind, willingness to modify opinions, independence of thought and lack of bias. Greer (2013 unpublished) explored the contribution of psychologists to the family court and elicited ten broad themes: competence, credibility, clarification, competent formulation, child in context, catalyst for change, compatibility with the court system, content, conduct and communication.

\(^3\) Loveday v. Renton [1990] 1 Med LR 117 at 125
These themes resonate with the HCPC and BPS ethical standards previously discussed and the joint guidance from the Family Justice Council (FJC) and the BPS for psychologists as expert witnesses in the family courts (BPS and FJC, 2016). In addition to being obliged to operate within the ethical principles and codes of conduct of the HCPC and BPS, psychologists providing expert evidence to the family courts must also adhere to the standards contained in the *Family Procedure Rules and Practice Direction 25A and B* (Ministry of Justice, 2013 and updated 2018) discussed in 2.3.1.

In an interview (Bond Solon, 2016) with the founder of Bond Solon⁴, Dr Itiel Dror, a cognitive neuroscientist, discusses the ‘Myth of the Unbiased Expert Witness’ and states: ‘Experts are supposed to be impartial and experts believe they are impartial and objective. However, in reality, experts are far from being impartial and far from being objective’. He advocates enhanced sensitivity to the risk of cognitive bias and for practitioners to take proportionate steps to limit its effects by paying due regard to the UK Forensic Science Regulator guidance document (2015): ‘Cognitive bias effects relevant to forensic science examinations’ which identifies different types of cognitive bias which could undermine expert objectivity, impartiality and credibility and suggests ‘debiasing techniques’ for reducing the risk of cognitive bias (p15). Dror (2013:82) argues that experts are particularly susceptible to cognitive errors due to ‘a whole range of cognitive mechanisms that make up expertise’ (e.g. contextual influences, heuristics and hindsight bias). It is axiomatic that with increased complexity comes increased risk of error. In essence, ‘absolute bias freeness is impossible and holding such a belief is itself an indication of bias’, (Commons, 2012:363).

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⁴ A UK based legal training and information company
Whilst Dror’s analysis refers primarily to forensic experts, the risks and potential adverse consequences are universally applicable to expert witnesses from all disciplines and the recommended countermeasures might have utility both for EP expert witnesses and in the context of generic EP practice. *The Professional Practice Guidelines* (BPS, 2002) published by the DECP set out the principles of psychological assessment and state that positive steps will be taken to avoid bias in the process of assessment. Lilienfield et al. (2012) argue that scientific thinking, despite its fallibility, is the EP’s best defence against cognitive bias. They present a checklist of safeguards designed to filter cognitive errors in school psychology, including: considering conflicting hypotheses, avoiding ‘cherry picking’, systematically testing intuitions, being sceptical of clinical wisdom and mindful of blind spots, quantifying where possible, maintaining a self-critical attitude and avoiding being overly attached to one’s theories. In many of the high profile cases where the errors of experts have been laid bare, it is apparent that these safeguards (especially avoiding being overly attached to one’s own theories) to filter against cognitive errors have not been paid due regard.

### 2.3 Context

The current research was conducted at a time when a combination of factors (a perfect storm) was continuing to impact on the specific context of the family court, resulting in unprecedented changes and a constantly shifting landscape. It is, therefore, considered congruent to provide an overview of some of the key developments and challenges (including practice directions, legislation, standards, guidance and research) deemed influential at the time in which the research is located and to reflect on the foundations for these.
2.3.1 The modernisation of family justice and guidance for expert witnesses

The Children Act (HMSO, 1989) was the catalyst for changes in substantive law (focused on the determination of rights) in relation to the principles regarding decision-making about children. Procedural law (focusing on how the substantive law can be implemented) was a couple of decades behind. Instrumental in paving the way for subsequent reforms were: *Bearing Good Witness* (Department of Health 2006) identifying concerns regarding the quality assurance of the work of expert witnesses; *Care Profiling Study* (Masson, Pearce and Bader, 2008) referring to an over-reliance on expert evidence from adult psychologists and psychiatrists and the independently chaired *Family Justice Review* (Norgrove, 2011:117) which highlighted ‘a trend towards an increasing and [...] unjustified use of expert reports with consequent delay for children’ and a culture of ‘routine acceptance’ of the need for experts in family law cases. In ‘Are we guilty of Trial by Expert?’ Fox (2008) expressed concern about the risk of the ‘proverbial tail wagging the dog’ with the increasing role of experts in the decision making in family courts.

Parliament heeded the recommendations made by the Family Justice Review (Norgrove, 2011), with Section 13 of the Children and Families Act (2014) consequently setting out provisions relating to the ‘Control of expert evidence and of assessments in children proceedings’. The legal framework for expert witnesses had been set out in *The Family Procedure Rules, 2010* (FPR) (Ministry of Justice 2011). This had primarily emphasised the expert’s ‘overriding duty to the court’, whilst also specifying the requirements of experts to provide independent opinion that conformed to ‘best practice’ of the expert’s profession, the absence of conflicts of interest and the expectation of compliance with remaining within the scope of one’s area(s) of expertise. The FPR (2010) were subsequently amended in January 2013 by FPR 25 A and B. Crucially, under the FPR (MoJ,
2010), expert evidence had been restricted to that which was ‘reasonably required’ to resolve the proceedings’ whereas in the (MoJ, 2013) amended version, the more rigid test of ‘which in the opinion of the court is ‘necessary’ to assist the court to resolve the proceedings’ was to be applied. In defining ‘necessary’, Sir James Munby, President of the Family Division, elaborates: ‘So if in doubt, do without’ (Munby, 2013). The rationale for this amendment, which would effectively reduce the number of expert witnesses in the family court, was two-fold: to minimise unnecessary delay for children and to reduce the cost to the ‘public purse’. As noted in Greer (2013:20) references to proportionality and cost effectiveness were as prevalent in the contemporaneous rhetoric about the reforms in family justice as references to unacceptable delay for children. In 2013, Sir James Munby tackled this head-on: ‘We have to realise that public finances remain in a dire state and that asking for more money, more judges, more this more that, is simply crying for the moon. Realistically, we must steel ourselves for further cuts’ (Munby, 2013).

Since 2012, family justice in the UK has been the subject of much ‘threshing’ in the form of unprecedented changes brought about by reforms, with the objective of limiting unnecessary delay, inefficiency and cost. When Lord Justice Ryder (the Judge in Charge of the Modernisation of Family Justice) announced his Proposals for the Modernisation of Family Justice (Ryder, 2012), he asserted that experts were: often misused and overused (p8-9), not always adding significant value and causing unnecessary delay and inefficiency in the system. He also stated that expert reports were often ‘disproportionately long on records and short on analysis’ (p8) and noted that psychological expert evidence often tended to duplicate evidence already before the court, referring to ‘multi-layered evidence in the social work field and in the psychological field’ (www.judiciary.gov.uk, 2012:8), raising questions about the quality of psychological formulation provided and the
distinctiveness thereof. Whilst acknowledging that there are ‘good reasons for experts’, namely to ‘fill gaps where gaps have been identified by the judge and the parties, usually on very narrow discrete issues, or more complex cases where you need to bring together the different disciplines within one report’ (p7), Lord Justice Ryder maintains that the use of experts to ‘confirm that which you already know [...] has to stop, because that is time-consuming and it is very expensive. At the end of the day you are doing that at the expense of the child’ (Judiciary.gov.uk, 2012:7).

Critics of the pace and nature of reforms raised concerns about access to justice for the most vulnerable in society, with parents potentially being disadvantaged regarding the right to care for their children or children potentially being left in situations where they would be at risk of significant harm. As previously alluded to, the timing of these proposed reforms happened to coincide with widespread criticism in the media of expert witnesses (especially psychologists and psychiatrists) working in the family court and also with the report authored by Professor Jane Ireland and commissioned and part-funded by the FJC (Ireland, 2012). This research reinforced the concerns expressed in the Family Justice Review (Norgorve, 2011) regarding the variability in the quality of the work of expert witnesses and therefore the inherent vulnerabilities in the system.

Guidelines for psychologists as expert witnesses were published by the BPS in April 2015 to supersede the 2010 publication: Psychologists as Expert Witnesses: Guidelines and Procedure for England, Wales and Northern Ireland. In tandem with these, joint guidance from the BPS and the FJC (Psychologists as expert witnesses in the Family Courts: Standards, competencies and expectations) was published in January 2016 to define best practice and quality standards for experts. In this publication, guidance is provided on regulation, codes of ethics and conduct, competencies, supervision, peer review and
quality of service. It states that ‘Psychologists giving expert input into the Family Courts must adhere to the Family Practice Regulations\(^5\) and be fully compliant with all standards set down regarding those providing expert opinion’ (p7). Experts are expected to make a statement of compliance with the practice direction in their reports. This sets out the requirements for the expert witness in relation to the absence of conflict of interest, compliance with remaining within one’s area of expertise and capacity to remain within the court directed timescale. For psychologists, familiarity with and adherence to the Family Procedure Rules are fundamental to being suitably informed regarding court processes. They also emphasise the overriding duty to help the court, building upon the principles defined in a case, known as ‘The Ikarian Reefer\(^6\), in which Mr Justice Cresswell presented his view of the duties of expert witnesses, that they should be objective, unbiased, boundaried, clear and independent.

A research project funded by the Ministry of Justice (Ministry of Justice Analytical Series, 2015) ‘The use of experts in family law’ was carried out by Coventry University. The study found that there had been a decline in the commissioning of experts and in the availability of experts (p26) which was attributed to experts not being willing to complete work in accordance with the new fee structure and / or because it ‘involved substantial risks to their reputation’, (p26).

\(^5\) In the absence of a reference, this is understood to mean the Family Procedure Rules and Practice Directions

\(^6\) National Justice Compania Naviera SA v Prudential Assurance Company Limited (The Ikarian Reefer) [1993] 2 Lloyd’s Rep 68
2.3.2 Admissibility criteria: Turner, Frye and Daubert

The primary purpose of admissibility criteria (e.g. Frye and Daubert in the US and Turner in the UK) is to evaluate the reliability of expert evidence and to guard against pseudoscience in the courtroom. In the UK, the key question for the Turner Rule focuses on helpfulness to the court\(^7\). The Frye test, also known as the ‘general acceptance rule’, became widely used in the US following Frye v. United States, 293 F.1013 (D.C. Cir. 1923). (See Appendix 6 for admissibility criteria). For evidence to meet the Daubert criteria, it must be factual, falsifiable, peer reviewed, generally accepted in the field (as per Frye) and applicable to the case in question. Dvoskin and Guy (2008:203) reduce the Daubert Standard to two simple questions: ‘Why should we believe you?’ and ‘Why should we care?’ Ireland (2008:118) argues that, unlike the Turner Rule, the Daubert principles are useful in encouraging witnesses to distinguish between scientific fact, opinion based on specialised knowledge and conjecture.

It is of note, however, that with the exception of a few psychological tests, many of the tests used by psychologists in family court proceedings would not, prima facie, meet the Daubert criteria for admissibility as scientific knowledge. It is also the case that the use of tests that meet admissibility criteria might, in some cases, be at odds with HCPC SOPs, SCPE and with best practice guidelines from the profession including, but not limited to, that assessment techniques should be selected on the basis of relevance to the presenting problem and the purpose of assessment and sensitivity to the background, emotional and developmental levels of the child or young person (Frederickson et al., 1991). Moreover, the requirement for known error rates and falsifiability introduces a

\(^7\) R v Turner [1975] QB 834 (CA)
bias to a more positivist paradigm and does not take into account other types of psychological knowledge.

2.3.3 ‘The Ireland Report’

‘Evaluating Expert Witness Psychological Reports: Exploring Quality’ (Ireland, 2012) involved the unprecedented scrutiny and evaluation of 126 expert witness psychological reports from three courts across the UK. This was particularly ground-breaking, not least as proceedings in family court were usually private and access to reports was restricted. The reports were evaluated using a scale incorporating the Civil Procedure Rules (CPR), (Department for Constitutional Affairs, 2010) and elements of the Daubert criteria (used to determine admissibility of expert evidence in US jurisdictions), due to the limitations of the Turner Rule (which does not allow for the weighing of scientific knowledge but rather focuses on helpfulness). In this study, all 126 reports were individually rated by researchers with regards to the quality of reporting of fact and opinion, the extent to which the methods used met the Daubert (admissibility) criteria and adhered to the CPR, the stated qualifications of the author and the extent to which they had the necessary credentials to complete the assessment and remain within their remit.

The findings revealed questions relating to: the qualifications and expertise for the instruction given and how these were presented to the court, methodology and rationale, ethics, adherence to court procedure and understanding of the role (especially requirements and limitations) of an expert witness. The study articulated serious concerns about the quality and impact of psychological assessments conducted for the family courts in the UK, implying that the lives of children and their families could be damaged by so-called ‘experts’ acting beyond the limits of their skills, qualifications or
expertise but whose flawed reports might be perceived by the courts as authoritative and informative. The report states: ‘Of those experts completing the reports, over one fifth were unqualified and were not registered either with the Health Professionals Council (HPC) or the British Psychological Society (BPS). Of the qualified psychologists, over two thirds were clinical psychologists with the remaining either educational or forensic psychologists. Just under one fifth of the sample referred to themselves as consulting psychologists. Nine tenths of experts did not report a current assessment or treatment practice with expert assessments their primary work’ (p13).

Whilst this study was a pilot and was not subjected to peer-review prior to publication on the UCLAN (University of Central Lancashire) website, it was, nonetheless, the source of considerable controversy. This was due, in part, to the extensive media response it generated in the form of a Channel 4 news item\textsuperscript{8} and an article authored by Professor Ireland herself in the Daily Mail\textsuperscript{9} which coincided with the psychiatrist, Dr George Hibbert, facing allegations in the tabloid press of being a ‘hired gun’ and intentionally misdiagnosing mental illness in mothers in a bid to collude with the agenda of the local authority commissioning his services, (Dyer, 2014). The case took over five years to reach a hearing at which Dr Hibbert was cleared of all charges. The BMJ reports: ‘Hibbert, 61 [...] said that his case showed why doctors were reluctant to undertake child protection work. The BMJ reported Hibbert’s message to other doctors in his position: ‘If you try to protect children your career is at serious risk,’ (BMJ, 2014).

\textsuperscript{8} Channel 4 News: How competent are expert witnesses? 13.03.12

\textsuperscript{9} Ireland, J. 13.03.12 Family courts and how incompetent (but highly paid) so-called experts are failing children Daily Mail.
The findings of ‘The Ireland Report’ were unpalatable to many of those working in the field at the time and provoked strong reactions from within the profession across psychological disciplines (e.g. Mason, 2012, Allam and Westmacott, 2012). Mason’s (2012) response to The Ireland Report in Seen and Heard (2012) outlines five concerns mainly relating to reliability which she claims amount to the study being fundamentally flawed. The criticisms from the field relating to premature closure (i.e. forming unsubstantiated conclusions) and overreliance on heuristics are especially poignant, given that these mirror the conclusions that Professor Ireland draws about the unfounded conclusions of expert witnesses in her study.

Professor Ireland was called to appear before the HCPC on the 25th May to 7th June 2016 for a final hearing, charged with eight counts, accused primarily of reaching conclusions that were not supported by the data presented. The fitness to practice charges against her were subsequently dismissed in June 2016 when ‘a panel found that the allegation against Professor Ireland was not well-founded, at the grounds stage.’ (Letter from the HCPC Fitness to Practise Hearings Team Manager dated 07.09.16). This study did not claim to be generalisable, was evidently limited in terms of sample size and methodology and was not published in a peer reviewed journal. However, in a response to a letter to the FJC sent by a number of expert witnesses asking questions about Professor Ireland’s study, Alex Clark, the Secretary to the FJC, whilst noting the ‘limited methodology’, wrote that the study was nonetheless deemed to be ‘a reminder that appropriate quality and validity measures must always be applied by the court to expert witness expertise, and reports, to ensure fitness for purpose in the family courts.’ The FJC also acknowledged the study as a ‘first step in a process intended to promote debate on how to improve the
quality assurance of expert evidence used in family proceedings.' In other words, the evidence of ‘poor’ practice, and indeed ‘very poor’ practice in report writing (and the potential impact of such) in such high profile work involving vulnerable children requires illumination and investigation.

2.3.4 The Children and Families Act 2014

The Family Procedure Rules (MoJ, 2013) set out changes to the way the family court could instruct expert witnesses. These were later enshrined in legislation in the Children and Families Act 2014 (Kotilaine, 2014). This set out changes relating to the timetable of proceedings and expert evidence, in addition to changes to care plans, adoption and after-adoption contact. Section 32 requires the court to adhere to a timetable of 26 weeks (maximum) from the point of application. In his President’s View (Munby, 2013), Sir James Munby insists ‘this deadline can be met, it must be met, it will be met.’ Section 13 of the Act (2014) deals with the control of expert evidence and assessments in children proceedings, setting a higher threshold for independent expert evidence to be restricted to ‘what is necessary to assist the court to resolve the proceedings justly’.

2.3.5 Experts discredited

The courts have, on occasion, fallen prey to ‘experts’ from a wide range of disciplines who, due to being ill-informed or motivated by conceit or deceit, have presented flawed testimony borne out of ignorance or ‘junk science’. Flawed evidence predicated on ‘junk science’ is laid bare in the high profile acquittals of Sally Clarke, Angela Cannings, Donna

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10 Letter to ‘Mrs Westmacott et al.’ dated 17 April 2012 from Alex Clark, Secretary to the FJC In Pink Tape A Blog from the Family Bar. FJC Distances Itself from Experts Report. http://www.pinktape.co.uk/tag/experts/
Anthony and Trupti Patel, all wrongfully convicted of the murders of their children. Professor Roy Meadow, a disgraced Paediatrician, gave evidence as an expert witness in all four trials. All women were ultimately freed on appeal. In a damning judgment, the GMC told Professor Meadow, that he had acted ‘beyond the limits of his expertise and abused his position as a doctor in giving erroneous and misleading statistical evidence’ (BMJ 2005; 331:177). Where evidence has been found to have contributed to unsafe convictions, it is inevitable that the trustworthiness and motivations of expert witnesses will be called into question.

Gene Morrison left school with no qualifications and yet, with only a bogus degree obtained online, was successful in fraudulently posing as a forensic psychologist and in providing evidence in over 700 cases of rape, unexplained deaths, death by dangerous driving and armed robbery. Whilst an extreme case of fraud, the fact that Morrison’s evidence was seemingly accepted prima facie by the courts, consequently raised serious questions about evident severe systemic failures, (Wilson, 2007).

In August 2016, it was reported in Family Law Week (Re F (A Minor) [2016] EWHC 2149 (Fam) that a consultant clinical psychologist, Dr Ben Harper, instructed by the court to provide an assessment of a mother in care proceedings, had provided evidence proven to be misleading to the court. The mother, unbeknownst to the expert witness, had covertly audio-recorded their sessions which, when transcribed, revealed the psychologist’s report to be misleading. Dr Harper was accused in court of ‘carelessness which verged towards recklessness’, abusing his position of trust as a professional, ‘false reporting’, inaccurate quoting and fabricating of conversations. During cross-examination, Dr Harper was

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https://www.theguardian.com/society/2005/jul/15/NHS.uknews1
accused of ‘lying’ by Ms Lee QC. In his judgement, Mr Justice Hayden’s ‘overall impression’ was of an expert who was ‘overreaching’ and manipulating his material and ultimately, whose ‘professional failure here compromised the fairness of the process for both Mother and children.’ He reiterated the citation from the QC who had quoted the observations of Butler-Sloss (P) in [2004] EWCA Civ 567 at para 23iv: ‘The court must always be on guard against the over-dogmatic expert, the expert whose reputation or amour-propre is at stake, or the expert who has developed a scientific prejudice.’ He concluded: ‘I do not consider that Dr Harper has developed a scientific prejudice nor that he is jealous to guard his amour-propre but I do consider that his regard for the conventional principles of professional method and analysis displays a zealotry which he should recognise as a danger to himself as a professional and, more importantly, to those who I believe he is otherwise genuinely motivated to help and whom he has plainly much to offer.’

Colman (1995:5) identifies pitfalls which might threaten the credibility of an expert witness: waffling, being afraid of expressing opinions, exaggerating, answering questions defensively, speaking inaudibly, over qualifying statements, using jargon and appearing to be partisan rather than objective. Ogloff and Cronshaw (2001:88) add: going beyond the limits of one’s expertise, dogmatism and becoming entangled in the adversarial nature of the legal system. Furthermore, Dvoskin and Guy (2008:203) attribute ‘the most egregious errors by expert witnesses’ almost exclusively to ‘narcissistic needs, including the need to be praised, to make money, to be right and to win.’ These identified failings support the view that expert witnesses need to have specialised knowledge beyond that of the court and to be qualified in court processes: ‘If a professional or expert witness is not qualified in process and is unable to present themselves and their evidence as credible, this can be
harmful to a case and the profession as a whole’ (Ireland 2008:125). Whilst the ‘failings’ identified by Colman refer primarily to oral testimony - they are also congruent with the conclusions from Ireland (2012), which rated two thirds of the written reports reviewed as ‘poor’ or ‘very poor’. Hugh Koch, writing about his experiences as an expert witness psychologist, states ‘It is for the courts to decide who is an expert and although it is now less frequent, I still come across ‘expert’ reports written by authors, including psychologists, who have strayed from their areas of training and competence, and occasionally by people with no recognisable qualification at all’ (Koch, 2013:493).

2.4 Chapter Summary

In summary, the distinctive contribution of the EP has been long contemplated. Fallon et al. (2010) established that, although the fundaments of the role are unchanging, the manifestation of the role of the EP changes according to the context, with different things being learned about the role by examining it in its different contexts. The role of the EP as an expert witness is a very particular context that has not previously been explored and prompts the question: What does the examination of the EP role in different contexts tell us about the nature of that role and its distinctive contribution within society?

This chapter has also identified the duties and expectations of the EP expert witness in the light of key developments and challenges during the time in which the research was conducted. This part of the literature review was constructed prior to data analysis being carried out and constitutes, in part, evidence of the process of attitudinal epochē as discussed in the section pertaining to use of the literature in the next chapter.
The aim of qualitative research is identified by Elliott, Fischer and Rennie (1999:216) as ‘to understand and represent the experiences and actions of people as they encounter, engage, and live through situations’.

This chapter provides a rationale for the choice of a qualitative approach using in-depth conversations for this research. Interpretative Phenomenological Analysis (IPA) (Smith, 1996) was selected as the research approach as this allows ‘rigorous explanation of idiographic subjective experiences’, (Biggerstaff and Thompson, 2008:4).

I begin this chapter by re-stating the aims and research question, followed by an overview of the methodology. In setting out the methodology, I am guided by the need for an explicit and exact account of how the research was conducted whilst remaining mindful of the need for ‘recoverability’ rather than replicability (Checkland and Holwell, 1998). This is of particular relevance when adopting an inductive approach arising from opportunistic / purposive sampling in a hitherto under-researched field.

A ‘continually reflexive attitude’ (Oxley, 2016:56) is fundamental to IPA researchers and Etherington (2004:27) refers to including the ‘researcher’s story thus making transparent the values and beliefs that are held, which almost certainly influence the research process and its outcomes’. Reflexivity is defined by Langdridge (2007; 58-59) as ‘the term for the process whereby researchers are critically aware of the ways in which their questions, methods and subject position [...] might impact on the psychological knowledge produced in a research study.’ In the interests of reflexive integrity, I have, therefore, included an account that seeks from the outset to make transparent to the reader my positionality and epistemological stance. The chapter continues with a discussion of the background
and theoretical underpinnings of IPA and a rationale for why this approach was selected for this research. The remainder of the chapter focuses on the procedures in my research, providing a detailed exploration of the research process, including ethical considerations.

3.1 Aims and Research Question

This research aims to explore in detail the lived worlds of EPs who have experience of working as expert witnesses in the specific context of the family courts and also seeks to capture some of their tacit knowledge at a particular time of unprecedented changes in the family justice system. The research question is:

*How do EP expert witnesses make sense of their experience in the family court?*

3.2 Methodological Overview

In this research I have used in-depth conversations based around two semi-structured interview prompts to explore the experiences of participants. The interview was the medium chosen which would allow participants ‘to tell their own stories, in their own words’ (Smith, Flowers and Larkin, 2009:57). The interview schedules and prompts were constructed in line with recommendations from Smith et al. (2009:59), with the primary purpose of facilitating a comfortable interaction by ensuring a consistent flow. The interviews were transcribed verbatim and analysed using IPA.

Yardley (2000:222) argues that; ‘A convincing transparency in the presentation of the analysis and empirical data can be achieved by detailing every aspect of the data collection process’.
The research broadly followed the structure below. However, as this was an iterative process, the actual order of tasks was more fluid (and untidy) than the list suggests, with reflection and revisiting interwoven throughout:

<table>
<thead>
<tr>
<th>Stage</th>
<th>Task</th>
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<tr>
<td>1</td>
<td>Ongoing familiarisation with and synthesis of the legislative context building on knowledge acquired via the preliminary study</td>
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<td>2</td>
<td>Development of research question</td>
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<td>3</td>
<td>Purposive sampling method to recruit participants</td>
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<td>4</td>
<td>Design of semi-structured interview for Interview A</td>
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<td>5</td>
<td>Data collection via first round of semi-structured interviews to explore participants’ constructs through a process of intersubjective inquiry about their contribution to the courts, with the primary purpose of making sense of their inner-worlds and their tacit knowledge acquired over time</td>
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<tr>
<td>6</td>
<td>Transcription of Interview A for each participant (see Appendix 4 for sample transcript) Reading and re-reading without and with audio to counteract my tendency to skim read and as a safeguard against ‘cherry picking’ and ascribing interpretations that might be dissonant with the participant’s meaning in context</td>
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<tr>
<td>7</td>
<td>Initial comments and the identification of subordinate themes for each participant for Interview A</td>
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<tr>
<td>8</td>
<td>The use of supervision as a space to reflect on my own perceptions and processes to help test and develop the coherence and plausibility of the emerging interpretation beyond the merely descriptive and to help to identify gaps in the narrative to inform the orientation of the follow up conversation with participants</td>
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<tr>
<td>9</td>
<td>Construction of prompt questions / areas for further exploration for Interview B</td>
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<td>10</td>
<td>Transcripts of first interview shared with participants to allow them to re-familiarise themselves with the data and prepare for the follow up conversation (Interview B)</td>
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<td>11</td>
<td>Data collection via second round of semi-structured interviews to further explore participants’ constructs through a process of intersubjective inquiry about their contribution to the courts, building on the findings from the first interview</td>
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<td>12</td>
<td>Transcription of second round of interviews Reading and re-reading with and without audio</td>
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<td>13</td>
<td>Reading and re-reading Interview A and B together for each participant</td>
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<td>Stage</td>
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<td>14</td>
<td>Identification of colour coded themes for Interview A with line numbers to evidence subordinate themes and identification of subordinate themes for Interview B</td>
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| 15    | Separately listing colour coded themes along with line numbers for comments to evidence each subordinate theme for both interviews for each participant  
Keeping a ‘miscellaneous list’ |
| 16    | The use of supervision as a space to reflect on my own perceptions and processes to help test and develop the coherence and plausibility of the emerging interpretation and to help to identify gaps in the narrative |
| 17    | Reading and re-reading of both interviews for each participant with and without audio |
| 18    | Abstraction: Identification of patterns and connections across themes within individual interviews, putting like with like and developing a new name for the cluster and subsumption (Smith et al., 2009:96-97) where an emergent theme acquires superordinate status and attracts a series of clearly related other themes |
| 19    | Identification of convergence and divergence across cases |
| 20    | Analysis and the development of a full narrative reflecting the interpretative journey |
| 21    | Presentation and discussion of research findings in the context of the literature |

### 3.3 Positionality

Ontology, epistemology and methodology are inextricably linked and, whether acknowledged by the researcher or otherwise, will permeate and influence the research. Braun and Clarke (2006:7) stress the importance of acknowledging one’s own theoretical positions and values in relation to qualitative research. Larkin, Eatough and Osborn (2011:4) summarise IPA thus: ‘IPA offers an established, systematic, and phenomenologically focused approach, which is committed to understanding the first-person perspective from the third-person position, so far as is possible, through intersubjective inquiry and analysis. It is therefore committed to situating personal
meaning in context.’ Smith et al. (2009:3) contend that people are essentially ‘sense-making creatures and therefore the accounts which participants provide will reflect their attempts to make sense of their experience.’ This reciprocity of perspectives is dependent on reflexivity on the part of the researcher to be conscious of and to reflect on their own experiences, assumptions, preconceptions and opinions. As such, preconceptions or the ‘fore-structure’ knowledge (Smith et al. 2009:25) are not at odds with an IPA framework, providing these are acknowledged, made explicit and researchers attempt to bracket these out. Congruent with this, I have endeavoured to own my perspective throughout this research and to identify and communicate my own values and preconceptions, noting that this process of reflexivity is ongoing, by no means linear and that there is a sense of these coming in and out of view. In so doing, I am mindful of the words of one of the participants, Grace, ‘We are none of us value free’ (54), which resonates with Lilienfield et al.’s (2012) assessment that ‘All of us are prone to errors in thinking’. Disclosing my own positionality is in accordance with the ‘publishability guidelines’ set out by Elliott et al. (1999:221) and also with the exhortation from Smith et al. (2009:41) to be cognisant right from the outset of the ‘third hermeneutic level’, that is, the ‘imagined reader’ of (in this case) the completed thesis who ‘performs a critical role within the hermeneutic dialogue’ (p109) and who will, in turn, be interpreting my interpretation of the participants’ own sense-making and making judgements about the trustworthiness of the research.

Langdridge (2007:61) reflects on how researchers might demonstrate reflexivity to the readers of their research and advocates making ‘much greater effort to involve the reader in the reflexive process’ by informing the reader of the particular positionality of the researcher in relation to the specific topic being researched. He stresses that this information should be presented prior to the findings in order to allow the reader to ‘tune
into’ the position of the reader and to consider how this might have influenced the findings. Richards (2011) goes further and argues in favour of promoting reader reflexivity, advocating explicitly prompting the reader to recognise the lenses through which they are likely to be reading the research. She suggests that authors should specifically prescribe how they wish the work to be approached by the reader to the extent of stating that for contentious texts: ‘The reader should first cultivate peace of mind in order that they are able to engage with the text as is rather than through a lens of extra-text emotion and associated cognitions’ (p906). I stop short of presuming to prescribe how another might choose to approach this work but in the following section, I attempt to make transparent to the reader my positionality from the outset of my own journey, that is, from the starting point on a hermeneutic circle. In presenting this, I am mindful that ‘the exposure of self...has to be essential to the argument, not a decorative flourish, not exposure for its own sake’ (Behar, 1996:14 in Etherington, 2004:31). The exposure of my construction of a narrative of thoughts, feelings and knowledge and how these came to be, has several intentions: Firstly, it aims to convey how my own thoughts, feelings, experiences, contexts, history and values have informed the research, (Etherington, 2004:32). Secondly, it seeks to evidence internal coherence by demonstrating my reflections and the motivation for this research. Finally, in sharing this account, I aim to provide a snapshot (bearing in mind that we know, think and feel more than we can articulate, cf. Polanyi, 1966) of some of the thinking which precipitated my adopting an attitudinal approach to epoché (referred to in Section, 3.7), a fundamental concept in IPA research. It is my intention that including this account in the Methodology chapter serves as an accountability and ‘tuning in’ (cf. Langdridge, 2007) mechanism which endeavours to enable the reader to weigh up the trustworthiness of the interpretation.
3.4 At the Start of the Hermeneutic Circle: A Reflexive Account

In keeping with Reynolds, (2016) and intending to come from an anti-oppressive stance, I begin with ‘an honest reckoning with privilege’. As a white, heterosexual female, I recognise that acknowledging key domains of power is the starting point for ensuring that my actions are in line with my ethics, both personally and professionally. This inevitably requires constant maintenance to guard against unintentional oppression.

The first in my family to go to university, my first degree was in Modern Languages. Reflecting on Heidegger’s famous quote that ‘language is the house of being’ (Heidegger, 1978), although not subscribing to it to the extent that the lifeworld should be reduced to language (Langdridge, 2007:104), I acknowledge that my interest in the use of language and communication has influenced my research approach. After teaching languages for a few years, I completed a MEd in Educational Psychology and worked as an Advisory Teacher for Children in Care (CiC). During this time, I completed the first year of the Diploma in Person Centred Counselling before completing a MSc. in Educational Psychology in 2004. I have been a practising EP since 2004; firstly as a generic EP and then in a Local Authority specialist role as an EP for CiC, before setting up in private practice in 2012.

I initially became interested in expert witness work whilst working as an EP for CiC. I recall being directed by my manager at the time to undertake an assessment of five siblings that would be submitted to the family court in lieu of an expert witness report; I was advised that I should expect to be called on to give evidence in court. Conscious that I did not have the necessary experience to undertake this piece of work, I requested specialist supervision and additional training as prerequisites to my involvement. By way
of a rationale, I cited my ‘unconscious incompetence’, believing the essential skills for working as an expert witness to be more specific than generic. Mindful that ‘the crucial decisions made by family courts on issues such as the custody of children, domestic violence and sexual violence have life changing consequences’ (Ireland, 2012), it was my stance that ‘having a go’ would be unethical, given the potentially extreme consequences for the children, their family, the EP Service and also in terms of my own professional and personal liability. My manager did not share my perspective and expressed the view that my concerns amounted to ‘overthinking’ and a lack of confidence in my own abilities. As neither training nor specialist supervision would be made available to me, it was agreed that this particular piece of work would be commissioned externally.

I subsequently (and, in part, consequently) elected to set up in private practice which I utilised as an opportunity for targeted professional development. Concurrent with (and in order to support) my doctoral studies, I prioritised developing my knowledge and understanding of the role of the EP working as an expert witness and, to this end, completed an Introduction to Expert Witness Work in Family Law (Bugden, 2012), training in Expert Witness Skills at the University of Central Lancashire (2012) and undertook the Manchester Child Attachment Story Test (MCAST) training (2012) and In my Shoes training (Calam, Cox, Glasgow, Jimmieson & Groth-Larsen, 2012). I made connections with, and actively sought opportunities to be ‘mentored’ by, professionals with experience of working as expert witnesses. Through such contacts, I was invited to participate in a peer supervision group comprising of practitioner psychologists engaged in expert witness work. At the time, I reflected on my intensive learning journey thus far, whilst noticing that I still felt underprepared. With hindsight, I would conceptualise this as a shift from unconscious towards conscious incompetence.
The timing of these developments in my ‘journey’ happened to coincide with changes in the family justice system and with many expert witnesses objecting to the proposed changes and consequently choosing to terminate their work as expert witnesses. I watched and listened as expert witnesses I knew talked about leaving, whilst cautioning me against entering the field. I had previously adopted the analogy of ‘dipping my toe in the water’. This metaphor now evolved in my thinking to perceiving my ‘mentors’ as experienced sailors retreating from a ‘storm’ (i.e. the rapid changes within the family justice system and in how experts were to be instructed and under what terms (for example, caps on hourly payment rates and a generic limit on the number of hours to be allocated to cases) and warning others, especially those less experienced sailors (such as myself), to venture no further in such a turbulent climate.

At one peer supervision meeting, an expert witness shared how she and her family had been repeatedly threatened by a client over a period of months and about how she had felt personally vulnerable. This, along with the changes in the system, had caused her to question her future as an expert witness. Other members of the group shared similar anecdotes. This further impressed on me the high stakes (not only for clients but also for practitioners and their families), the weight of responsibility and the unpredictable and solitary nature of working as an expert witness. As a parent of two young children, I recall that I was especially susceptible at the time to narratives regarding the potential vulnerability of family members and was minded of 3.4 of the SOPs (HCPC, 2015), that practitioners will ‘be able to manage the physical, psychological and emotional impact of their practice’.

At another meeting, the group bemoaned the changes and voiced their collective regret that they had not hitherto ‘written up’ their work, suggesting that they had often talked
about this over the years but had never actioned it and had thus missed the opportunity
to contribute to a body of practice-based evidence on the role of EPs as expert witnesses.
There was an apparent shared resignation that this would probably now never be
realised. I recall a sense of impending loss and meaninglessness which, in part, prompted
and galvanised me to focus on this topic for my thesis in a bid to gather ‘the roses’
(‘Cueillez dés aujourd’huy les roses de la vie’)12, or glean the grain, whilst still able to do
so.

I reflected on the benefits of focusing on this area and contemplated where such work
might sit within the wider body of knowledge and indeed, to which body of knowledge it
might pertain. Discussions with my university supervisor, who also had experience of
working as an expert witness, were invaluable at this juncture and encouraged me to
focus on the distinctive contribution of the EP.

In 2012-2013, it became apparent from speaking to a number of expert witnesses leaving
the field (who were still passionate about the work, but deeply concerned about the
potential impact of the reforms) that there was a significant risk that much of the
expertise honed over time would be lost to the courts and ‘the children’. I heeded their

12 Ronsard, Sonnets pour Hélène, 1587

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<th>Quand vous serez bien vieille, au soir, à la chandelle [...]</th>
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<tr>
<td>Je seray sous la terre et fantaume sans os :</td>
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<tr>
<td>Par les ombres myrteux je prendray mon repos:</td>
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<tr>
<td>Vous serez au fouver une vieille accroupie,</td>
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<tr>
<td>Regrettant mon amour et vostre fier desdain.</td>
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<tr>
<td>Vivez, si m’en croyez, n’attendez à demain:</td>
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<td>Cueillez dés aujourd’hui les roses de la vie.</td>
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<tr>
<td>When you are really old, at evening, by candlelight [...] I will be under the earth and ghost</td>
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<tr>
<td>without bone, By the myrtles’ shadows I will take my rest, You will be at the hearth an old</td>
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<tr>
<td>decrepit woman, Regretting my love and your proud disdain, Live, if you believe me, do</td>
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<tr>
<td>not wait for tomorrow, Gather, while you may, the roses of life.</td>
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warnings and decided to delay my own foray into this field until such a time when there might be more ‘knowns’ in the system. Reflecting on there being ‘nothing new under the sun’, I was minded to visualise a time when things might potentially return full circle, by which time, the worth of what had been lost to the system and, indeed, the profession, might never even be contemplated, let alone mourned:

“What has been will be again, what has been done will be done again; there is nothing new under the sun. Is there anything of which one can say, “Look! This is something new”? It was here already, long ago; it was here before our time. No one remembers the former generations, and even those yet to come will not be remembered by those who follow them ... I have seen all the things that are done under the sun; all of them are meaningless, a chasing after the wind.”  Ecclesiastes 1: 9-14, NIV Study Bible

A further motivation for pursuing this study, then, was that this potential ‘meaninglessness’ resonated at a personal level in terms of the cost (financial, time and opportunity) of my preparations to embark on a journey (i.e. expert witness work) from which I would ultimately retreat. I therefore resolved to harness these experiences in an attempt to derive some meaning from them and to subsequently channel this meaning-making into research that might, in some small way, make a contribution to the wider body of knowledge relating to the role of the EP.

This research is focused on understanding more about the role of the EP by looking at the individual experiences of EPs working as expert witnesses, especially so as the ‘expert’ role is diametrically opposed to a consultative model of delivery. That is, for the expert witness EP, the challenge to be a psychologist and to explicitly state and defend one’s psychological opinion for the court inevitably carries higher stakes than when working
within other contexts. In the light of court proceedings, the distinctive contribution of the EP is therefore laid bare and placed into sharper focus. It was for this reason that IPA was adopted as the research approach due to the philosophical kernel inherent in the research question pertaining to what it is to ‘be’ (i.e. the lived experience of being) an EP in this particular context which would lend itself to a more exploratory and inductive approach than, for example, thematic analysis might proffer.

3.5 The Title

Feedback from the Thesis Panel at the point of proposal was largely positive, with the exception of one of the panel members expressing the view that the title was obscure, if not pretentious. I have wrestled with this feedback as the metaphors encapsulated in the title are fundamental to the distinctive features of the study and have been present in my thinking since the inception of the research.

I have a tendency to use metaphor in my thinking and in my communication with others and am aware that I have also utilised metaphor throughout this study. I am mindful that the use of metaphor and representations of ideas from, for example, literature, religion, linguistics, may elicit assumptions on the part of the reader regarding my motivations for choosing to / needing to sometimes express my thoughts and feelings in a particular way. Despite my justification for the use of metaphor, I am conscious of this being a stylistic preference that might not appeal to all readers and might even be perceived as diversionary, particularly when viewed through the lens of another discipline such as law or forensic psychology. Interestingly, the use of metaphor in psychological reports for the court is branded unscientific in the research conducted by Ireland (2012), herself a forensic psychologist. She refers to ‘comments that seem more in keeping with a fictional
narrative’ in reference to a psychologist’s use of metaphor and ‘unusual writing style and observations’ (p29) when referring to the use of analogy. I am conscious of examples in my own practice where I might be inclined to illustrate my psychological formulation and supplement my advice with the (albeit judicious) use of literary devices (e.g. analogy, metaphor), with the purpose of communicating (sometimes complex) ideas in a more universally accessible form or to capture or sustain the attention of the listener / reader by demystifying and avoiding subject specific jargon. Ultimately, I would argue that the judicious use of metaphor can be both defensible and helpful in communicating psychological understanding to an often diverse audience of non-psychologists.

Metaphors and images can be used as symbolisation, an aid to memory and an expression of thought (Etherington, 2004). They have been described as a ‘magic wand’ to communicate a pattern (Williams, 1999:20 in Etherington, 2004) and a ‘bridge’ between cognition, feelings and sensory processes that connect us with ourselves and others (Etherington, 2004:135). In an endeavour to explicate everything that might be explicated in the interests of authenticity and reflexive integrity, I have reflected on my rationale for this particular device in my thinking and writing. Stainbrook (1994) in Etherington (2004:152) has some resonance: ‘As we reach inside to find words and form, we begin to express our thoughts and feelings through language, rhythm, metaphor, sound and imagery [...]. It allows us to feel our thoughts and to imagine and think our feelings.’ Furthermore, the discourse on interdisciplinarity and, in particular, the principle of ‘borrowing’ (Bromme, 2000) also has some utility in illuminating my rationale for the use of metaphor as this is ‘one of the fundamental cognitive mechanisms on the basis of which novel insights are produced in interdisciplinary communication’ (p129). In light of these deliberations, changing the title would therefore feel inauthentic and incongruent
with endeavours to maintain reflexive integrity. I therefore elected to preserve the title and to aim to explicitly translate the metaphors utilised to reduce the risk of misinterpretation, to ensure accountability and transparency and to attempt to counter assumptions of unnecessary, impenetrable or ‘pretentious’ flourishes:

‘Gleaning the grain’ refers to the endeavour to capture the specific learning, knowledge and practice based evidence acquired over time in a particular context. The notion of the ‘threshing-floor’ symbolises the risk of the ‘grain’ being discarded along with the ‘chaff’ and incorporates the ephemeral nature of the opportunity to secure that which might be of value (albeit at another time and place and even in another form) and the timeliness with which this must be executed. The chaff might be seen to relate to the poor practice identified in the Ireland Report and the malpractice in high profile cases identified in the media. The ‘storm’, along with the act of threshing, denotes the scope, speed and risks associated with the changes in family justice and threats to the role of the EP.

3.6 Interpretative Phenomenological Analysis: An Overview

IPA is an inductive approach which avoids a priori assumptions and hypothesis-testing. It is an increasingly prevalent qualitative research approach which was developed as a ‘specifically psychological experiential research methodology’ (Smith and Osborn, 2015:25). Despite the growing popularity of IPA across applied psychologies, Hefferon and Gil-Rodriguez (2011:756) refer to the ‘conspicuous absence’ of peer reviewed educational psychology articles using IPA. IPA aims to capture and explore ‘personal meaning and lived experience’ (Smith and Osborn 2015:25). Pistrang and Barker (2010:74) recognise the ‘overlap’ between the phenomenological approach and the assumptions and approaches of Person Centred and existential therapy and counselling
where ‘empathizing with the client’s idiosyncratic world-view is central to the therapeutic enterprise’. Smith and Osborn (2015:28) suggest that IPA is especially useful when the researcher is presented with complexity, process or novelty, as it facilitates the flexible and detailed exploration of a topic. As there is no single prescribed way to do IPA, this allows a degree of flexibility. Indeed, Smith (2004:40) actively cautions against viewing his suggestions as a definitive recipe, explaining that they were provided with the intention that they would be adapted and developed.

3.7 Theoretical Underpinnings of IPA

IPA is influenced by three areas of the philosophy of knowledge: Phenomenology, Hermeneutics and Idiography. This section provides the reader with a synthesis of the main features of all three areas as it is considered that the philosophical foundations of IPA are inextricably linked to this research and an understanding of all three is necessary to ensure internal coherence, congruence and fidelity to the approach.

3.7.1 Phenomenology

IPA is essentially phenomenological, focusing on the detailed examination of the specific qualities of the participant’s lived world. Smith et al. (2009:11) define Phenomenology as ‘a philosophical approach to the study of experience’ and McConnell-Henry, Chapman and Francis (2009:8) define it as ‘the study of phenomena’, whilst defining a phenomenon as ‘anything that presents itself’. The etymological derivations (from the Greek ‘phainomenon’ meaning ‘that which appears’ and ‘logos’ meaning ‘discourse, reason and judgement’) constitute Heidegger’s definition of Phenomenology: ‘to let that which shows itself be seen from itself in the very way in which it shows itself from itself’ (Heidegger, 1927:58).
Husserl (1859-1938) is considered to be the founding figure of contemporary Phenomenology. His primary concern relates to his quest for a universal foundation and a science of human consciousness. He argues that we should focus on the particular and ‘Zu den Sachen selbst!’ ‘Go back to the things themselves’ (Husserl 1900: 168 in Smith and Osborn 2015:25) in a bid to set aside questions of the natural world (and perhaps implicit in this, also to guard against cognitive errors e.g. heuristic bias). For Husserl, Descartes had not been sufficiently radical in his doubt or suspended judgement as typified in ‘Cogito, ergo sum’ and, in returning to Cartesian foundations, he seeks to further develop the idea of the transcendental-self (Holmes, 2015). In so doing, he returns to the notion of ‘epochē’ from the Greek Sceptics. Whilst the Greeks considered ‘epochē’ in terms of the suspending of judgement, Husserl, (perhaps, somewhat ironically), influenced by his experiences of being a mathematician, refers to bracketing in the mathematical sense - that is the dealing separately with the contents of the brackets within equations and putting out of play all preconceptions. To this end, the particulars (e.g. constructs, theories, and interpretations) are considered as a ‘screen from experience per se’ (Smith et al. 2009:15) and in order to attain the ‘I know’ of pre-theoretical consciousness (Holmes, 2015), that is the tabula rasa.

For Husserl, all knowledge is self-referential; without the knower, there is no knowing. He argues that any investigation should begin with what is experienced by the individual and the phenomenological method is grounded on the intentionality of consciousness. In the Husserlian sense, intentionality relates to consciousness being constantly directed towards an object - thus highlighting the pivotal role of reflection:

‘Focusing our experiencing gaze on our own psychic life necessarily takes place as reflection, as a turning about of a glance which had previously been directed elsewhere.'
Every experience can be subject to such reflection, as can indeed every manner in which we occupy ourselves with any real or ideal objects - for instance, thinking, or in the modes of feeling and will, valuing and striving. So when we are fully engaged in conscious activity, we focus exclusively on the specific thing, thoughts, values, goals, or means involved but not on the psychical experience as such, in which these things are known as such. Only reflection reveals this to us. Through reflection, instead of grasping simply the matter straight-out- the values, goals and instrumentalities - we grasp the corresponding subjective experiences in which we become ‘conscious’ of them, in which (in the broadest sense) they ‘appear’. (Husserl, 1927 cited in Smith et al. 2009:12)

Heidegger, a former student of Husserl, distances himself from his former professor at the point of bracketing; ultimately believing that ridding oneself of all preconceptions is an impossible endeavour. Heidegger opens his magnum opus, ‘Sein und Zeit’/ ‘Being and Time’ (Heidegger, 1927), with the now famous quote: ‘We are ourselves the entities to be analysed’. Moving away from Transcendental Phenomenology, Heidegger lays the foundations for Hermeneutic and Existential Phenomenology and strives for a phenomenological description of the ‘dasein’ (being in the world) as the very nature of human existence. For Heidegger, the dasein is the means by which one approaches the nothing (‘das nichts’) and understanding, as an expression of intentionality in the Husserlian sense is, in itself, a mode of dasein. As Smith et al. (2009:17) expound: Heidegger’s view of the person is ‘always and indelibly a worldly person in context’.

Ostensibly reminiscent of Sartre’s (1946) ‘...man is condemned to be free: condemned, because he did not create himself, yet nonetheless free, because once cast into the world, he is responsible for everything he does’, Heidegger also refers to the idea of ‘thrownness’ (gerworfenheit), stating that we are already in the world. However, he postulates that
one can dispense with the condition of *gerworfenheit* by confronting our finitude (‘being-towards-death’), believing this to be fundamental to attaining ‘eigentlichkeit’ (authenticity) as distinct from ‘ineigentlichkeit’ (inauthenticity) (Critchley, 2009).

### 3.7.2 Hermeneutics

Another major influence on IPA is Hermeneutics: the theory of interpretation. Hermeneutic theorists include Schleiermacher, Heidegger and Gadamer. ‘Hermeneutics’ comes from the Ancient Greek ‘*hermeneuein*’, (meaning to utter; to explain; to translate) and was associated by the Greeks with the task of understanding written or verbal communication. Hermeneutic Phenomenology acknowledges that all understanding is context specific and that the researcher’s views of the world are central to the interpretation of the participant’s experiences. Hermeneutic philosophers are interested in understanding and how understanding happens (Zimmermann, 2015:7) that is, in ‘understanding understanding’ (Schwandt, 1999).

Heidegger believed hermeneutics to be at the very heart of ‘dasein’: ‘*The circle in understanding belongs to the structures of meaning and the latter phenomenon is rooted in the existential constitution of Dasein - that is, in the understanding which interprets. An entity for which, as Being-in-the-world, its Being is itself an issue, has ontologically a circular structure*’ (Heidegger 1962/2004: 195 in Eatough and Smith, 2008:181).

Heidegger called for ‘*a special hermeneutic of empathy*’ which is echoed by Smith et al. (2009: 36) who argue for a ‘hermeneutics of empathy’ ‘along with a ‘hermeneutics of questioning’’. In explicating this, they advocate adopting an ‘insider’s perspective’ (Conrad, 1987 in Smith et al. 2009:36) to see what something is like for someone whilst simultaneously ‘analysing, illuminating and making sense of something’.
The hermeneutic circle is a key feature of IPA and refers to the dynamic relationship between particulars and the whole. As such, Smith et al. (2009) posit that the hermeneutic circle provides the IPA researcher with a useful conceptual model for approaching analysis which, although often presented as a linear process, is invariably iterative.

The ‘double hermeneutic’ is fundamental in IPA whereby the participant and the researcher are both interpreting. IPA researchers acknowledge that they will be unaware of all of their preconceptions in advance and therefore rely on the ‘hermeneutic circle’ of the research process. Smith (2007:6 in Smith, 2009:35) attempts to explicate his own lived experience of the complex dynamic process, which constitutes a hermeneutic circle as an IPA researcher, from conception ‘at one point on the circle, caught up in my concerns, influenced by my preconceptions, shaped by my experience and expertise’ through to the process of bracketing or acknowledging one’s own preconceptions, before meeting with a research participant ‘at the other side of the circle’. He develops this further by explaining how he is ‘irretrievably changed because of the encounter’, thus continuing his ‘journey round the circle’, back to where he started.

Schleiermacher views interpretation as an art relying on intuition. His dual focus on grammatical and psychological interpretation provides ‘a holistic view of the interpretative process’ (Smith et al. 2009:22). Schleiermacher views hermeneutics as the art of avoiding misunderstanding. He contends that a comprehensive analysis can result in the researcher arriving at ‘an understanding of the utterer better than he understands himself’ (Schleiermacher 1998:266 in Smith et al. 2009:22). Gadamer takes issue with this grand claim, insisting instead that understanding the meaning of the text and understanding the person are distinct. He proposes dialogue as the means by which two
subjectivities / ‘horizons’ can ultimately fuse. He argues that the reader brings their preconceptions to the text and that, and that as dialogue ensues with the author, their understanding is modified, with the two horizons becoming closer to each other and beginning to merge. This notion of the fusion of horizons is alluded to in Smith’s reference about the hermeneutic circle (Smith et al. 2009:35) where he surfaces being transformed by an intersubjective encounter.

3.7.3 Idiography

Idiography refers to the study of the individual and particular, specific situations or events in their lives (Larkin, Watts and Clifton, 2006:103): ‘Concern with lived experience is the raison d’être of IPA’ (Smith, 2011:14) and it requires an intensive analysis of personal accounts. IPA researchers are specifically interested in what happens when the ‘everyday flow of lived experience takes on a particular significance for people’ (Smith et al. 2009:3) and, as such, facilitates a close exploration of the particulars of the individual’s ‘lebenswelt’ (lived world). In-depth analysis of fewer participants, even single case studies, are seen as in keeping with IPA’s commitment to idiography. In keeping with this, I have presented findings firstly in terms of the particular experiences of the individual participants before looking to identify patterns.

3.8 Rationale for selecting IPA

Despite my decision not to pursue work as an expert witness at this stage in my career, I have nonetheless maintained a particular interest in this area of work and hold the view that EPs have a distinct contribution to make that cannot be substituted by other professionals within the system. Whilst the principal determinant in the choice of method relates to the notion of ‘best fit’ with the research question(s) to be answered,
the choice of qualitative method is undoubtedly influenced by a combination of scientific, practical and personal factors, (Pistrang and Barker 2010:78). Having decided that I wanted to explore ‘what it was really like’ to be an EP expert witness, I was intuitively attracted to IPA’s focus on subjective lived experience.

Aside from personal preferences, natural inclinations towards and more experience of having previously used qualitative methods, my choice of methodological approach was also influenced by the need to reconcile the challenges presented by my epistemological stance:

- I held preconceptions (both known and unknown)
- I had developed an understanding (‘inside knowledge’) of this area and had followed the thread of debates pertaining to reforms in family justice.
- I had much to learn about this field and was operating from a position of conscious incompetence
- I had participated in several peer supervision meetings with a small group of expert witness psychologists and had an established rapport with the proposed participants.

I discussed these challenges in supervision and concluded that IPA would not only be sufficiently robust to manage all of these issues but was also an approach that was psychologically oriented, concerned with emotions, cognitions and focused on the individual’s sense making. I was also attracted to the opportunity to ‘give voice’ (Larkin, Watts, Clifton, 2006) to these particular participants about their particular experiences of this particular phenomenon at this particular time whilst mindful that, ‘even in ‘giving voice’, IPA researchers are necessarily balancing representation against interpretation and contextualization’ (Larkin et al. 2006:113).
At this stage, it occurred to me that it was not incumbent on me to ‘become’ (i.e. convert to) an epistemological position from which I must not waiver, but rather that I needed to merely adopt a ‘best-fit’ position that I could articulate and defend and that was congruent with the aims of this research. For this research, I have adopted an epistemological position based on social constructionism, recognising that I am interpreting the worldview of participants and that my interpretation is therefore offered as a construction of how participants are making sense of and articulating their particular experience at a particular point in time. As clarified by Smith et al (2009: 196) and Eatough and Smith (2008:184), IPA is entirely compatible with social constructionism, albeit ‘at the light end of the social constructionist continuum’, recognising that subjective realities and lived experiences cannot be reduced to language (Langdridge, 2007:104). Oxley (2016:57), however, takes a critical realist epistemological position in her IPA research, recognising both the ‘filtration’ of the double hermeneutic and that the participant’s perceptions are actually ‘linked to the reality of the experience’. For the reflexive scientist-practitioner who applies critical thinking to guide self-evaluation, interpretation is not incompatible with objectivity as ‘it is apparent that what is objective and what is subjective cannot be teased apart in any simple fashion’, (Larkin, Watts and Clifton, 2006:109). Larkin et al. (2006: 116) refer to Michael’s ‘new paradigm in psychology’, distinguished by ‘epistemological eclecticism’ (Michael, 1999:58) encompassing the ‘real and the constructed’. This is endorsed by Norwich (2000: 205): ‘In addressing different ideas about psychology as a science, I followed those who see no opposition between social constructionism and a form of realism. This is not a belief in an external reality based on absolute foundations, nor does it keep out values and interests from the field. It is a belief that if we are to make sense of communication and
knowledge, we must assume an external reality, which is something we cope with, rather than something we copy into our knowledge’.

Having acknowledged that my epistemological stance based on social constructionism is a best-fit position, I would emphasise that, this is by no means, a perfect fit and Norwich’s concept of ‘epistemological co-existence’ (p219) resonates in the context of this research.

IPA studies are typically conducted on small sample sizes and the researcher’s own preconceptions are a requisite part of the process in order to make sense of that other personal world. It is generally more commonplace for academic research to be written up in the third person (e.g. referring to oneself as ‘the researcher’ or ‘the author’) and in the exclusive use of the passive voice. These are linguistic devices primarily designed to convey objectivity which effectively create a distance from both the research and the reader. For the purposes of this research, utilising the first-person narrative is considered to be more coherent with the research methodology and feels more congruent with both the intersubjective meaning making and my endeavours to be reflexive throughout. In providing a hypothetical but typical example of poor research practice in relation to owning one’s perspective, Elliott et al. (1999:221) refer to fictitious authors who report a grounded theory investigation of the process of recovering from child sexual abuse, devoid of any indication of their perspective or positionality. They argue that their failure to use the first person is a deliberate attempt to ‘enhance the ‘apparent’ objectivity of their research’, thus forcing the reader / reviewer to ‘read between the lines in order to detect the author’s presuppositions’. It is also my view that writing in the first person stimulates resonance with readers (Elliott et al. 1999: 224) and facilitates their engagement with the double hermeneutic, thus enabling a further layer of interpretation, that is, the aforementioned ‘third hermeneutic level’.
3.9 Procedures

This section documents the practical aspects of the research including the selection of participants, data collection and analysis and considerations pertaining to quality assurance and ethics.

3.9.1 Participants

Within an IPA framework, (Smith, 1996) and employing an opportunistic sampling method (i.e. participants recruited through professional contacts), semi-structured interviews were conducted with three key informants (‘Grace’, ‘Clara’ and ‘Anna’), with follow up interviews being completed with Grace and Clara. Participants selected were all independent EPs and members of a peer support group for expert witnesses. The peer support group comprised of Clinical Psychologists and Educational Psychologists. As the thesis would focus on EPs, all of the EPs in the group were invited to participate in the research. Three EP members of the group expressed an interest in participating and it was felt that they would be able to offer a meaningful perspective on the topic of interest due to them having extensive experience of working in the family courts. I knew Grace and Clara (via the peer supervision group) to be forthcoming, analytical and articulate. This was considered particularly important as IPA is largely reliant on the participant’s capacity to articulate their thoughts, feelings and experiences. I also wondered about the extent to which participants had been considered by the court to be ‘effective’ and considered effectiveness, in addition to ‘experienced’, as a criterion for participant recruitment. However, as effectiveness would be difficult to evidence as triangulation (e.g. tracking all cases, interviewing judges and barristers) would not be possible, I
resolved to focus on experience. All three participants are white, British, female and over the age of 55 years.

Consonant with Kelly’s triadic elicitation (i.e. considering three elements at a time and identifying convergences and divergences) and guided by the recommendations of IPA protagonists (e.g. Smith, Flowers and Larkin, 2009), I considered that limiting the sample to three participants would ensure a deeper, more nuanced, idiographic and hermeneutic approach.

Participants were provided with a participant information sheet (see Appendix 1) which laid out the aims of the research, requirements, practical arrangements and the approach to data collection and analysis. It also detailed issues pertaining to confidentiality and anonymity along with providing assurances regarding ethical approval and contact details for the Research Governance and Integrity Team in the case of concern or complaint. Reporting would be anonymous and data would be stored securely and would remain confidential.

3.9.2 Data collection

In The Tacit Dimension, Polanyi (1966:4) writes: ‘I shall reconsider human knowledge by starting from the fact that we can know more than we can tell’. Eliciting the constructs and views of others in an attempt to arrive at something of a shared understanding is a core function of psychologists of all disciplines.

Semi-structured interviews were used to explore the constructs of participants through a process of intersubjective inquiry about their contribution to the courts and their perceptions of recent changes in the system, with the primary purpose of making sense of
their world and the tacit knowledge acquired over time. Interviews were held in the participant’s choice of venue (i.e. their home or my home) and were digitally recorded and transcribed verbatim to facilitate in-depth analysis.

For the purposes of this research it was considered that semi-structured interviews with time, space and no interruptions would provide the optimum conditions for an informal, conversational approach based on rapport. This would provide a structure for the main research question to be explored. However, as suggested by Smith (2009:58), it would also allow for flexibility to explore issues raised by the interviewee: ‘It is generally assumed, however, that the interview will in part be led by the participants’ concerns, and that the interviewer will follow up matters arising, even if they are not on the schedule, so long as they might be relevant to the research question’ (Smith et al., 2009, p.58). Clarifying the participant’s freedom to set the pace and direct the focus of the interview was considered fundamental to countering any perceived power issues and to establishing rapport within the context of the interview. Eatough and Smith (2008:188) reference a metaphor for the IPA researcher as a traveller who: ‘wanders along with local inhabitants, asks questions that lead the subjects to tell their own stories of their lived world and converses with them in the original Latin meaning of conversation as ‘wandering together with’, (Kvale, 1996:4). I consciously adopted this guiding metaphor.

Hefferon and Gil-Rodriguez, (2011:757) refer to the difficulties encountered by students when developing a good quality semi-structured interview schedule: ‘Students tend to produce schedules that are too long, overly extensive and detailed and therefore constraining’. They advise that when collecting data for IPA, a careful balance should be sought between ‘guiding and being led’, recommending ‘short schedules starting with broad general questions that allow the participant to set the parameters of the topic, not
the other way around’. Mindful of these recommendations, I designed an interview prompt which identified the broad area to be discussed and which started with scene setting and drawing the participant into the interview with the opportunity to tell their story before ‘funnelling’ (Smith et al., 2009 p61). For example: ‘Please could you tell me about your role as an expert witness and what this entails?’ and ‘Please could you tell me what drew you to this area of work?’ Participants were provided with an interview prompt ahead of time to assist with their general preparations (see Appendix 3).

The effectiveness of semi-structured interviews depends largely on the skills of the interviewer to build rapport with the interviewee. Having established a previous connection with two of the three participants (Grace and Clara) facilitated the rapport building. It was envisaged that open-ended questions would allow informants the freedom to express their views at length and in depth and would also provide me with scope to clarify emergent constructs.

It was originally proposed that methods derived from Personal Construct Psychology (PCP) (Kelly 1955/1991; Fransella and Dalton, 2000; and Fransella, 2005) such as: laddering / arrowing down, repertory grids, triadic elicitation and pyramiding, would be used explicitly, within an overarching methodological framework guided by the philosophical principles underpinning IPA. The application of Kelly’s triadic elicitation, that is, considering three elements at a time and identifying convergences and divergences, both during data collection and throughout data analysis was believed to constitute a research strategy that would complement my core values and skill-base. However, during the first round of interviews, it became apparent that the overt use of psychological techniques such as laddering and repertory grids with Grace and Clara might hamper authentic engagement, thus jeopardising the fluid elicitation of meaning at
a deeper level. Indeed, fidelity to one model (i.e. PCP) felt overly contrived (certainly for the two more responsive and analytical participants) and would not be sufficiently flexible to accommodate a more nuanced analysis.

I had first met Anna briefly whilst I was a trainee EP on placement in the same local authority. We met again over ten years later when I attended the peer supervision group for expert witnesses. Although Anna had retired from court work and had referred to the ‘cathartic experience’ of burning files no longer required, she had continued to attend the peer supervision group. I shared some reservations with my supervisor about Anna’s distance from the work and whether this might impact on the data but, for pragmatic reasons\(^\text{13}\), proceeded with the first interview. The (first and only) interview was held at my home, by Anna’s request and lasted 53 minutes. Anna had not worked as an expert witness for some months and, during the first interview, seemed somewhat distant and unreflective. After some reflection and discussion with my supervisor, I concluded that Anna’s phenomenology, if amenable, had not been amenable to me at that time.

However, by the time of the second interviews, Anna had effectively withdrawn from the research without giving a reason, resulting in a move to limit the study to the two remaining participants. As it was mainly for Anna that the explicit use of PCP tools and techniques had been considered pertinent, this cemented my decision to deviate from the original plan of using triadic elicitation and laddering. I subsequently elected not to remain exclusively faithful to one overarching approach in constructing my questions or, indeed, in conducting the interviews and envisaged that this would clear the way for a more congruent interaction and evaluation. I was also influenced by the ‘central goal of

\(^{13}\) Pragmatic reasons included being the only other EP in the group at the time of the research and two other potential leads of EPs (in practice) from outside the group who I was keen to include were unable to assist.
phenomenology’, in the Heideggerian sense, of aiming to reveal the subject-matter ‘on its own terms’ (i.e. not according to the imposition of any preconceived set of assumptions and expectations’) (Larkin, 2006: 108).

Despite dispensing with the overt procedures such as grids and triads, the skills developed from PCP were nonetheless valuable and supported my ‘way of being’ in the context of the research. Fransella and Dalton (2000) outline some of the skills necessary in Personal Construct Counselling / Psychology which include the ability to: subsume a client’s construing system, suspend one’s own construing of events, listen credulously, observe and be creative. These skills were fundamental to the data collection strategy, especially the process of subsuming as defined by Fransella and Dalton (2000):

‘the ability to put oneself in the client’s shoes and see the world through the client’s eyes. However, subsuming is more than seeing the other person’s point of view and having some experience of what the client is experiencing: it is more than empathy. You actually strive to move along those inner pathways of the other’s experience for short periods of time’ (p19-20).

This resonates with Hultgren (1993:27) who defines methodology as ‘a way of being in our inquiry’, rather than ‘a technique or procedure we merely apply’. Guided by Rogerian core constructs, I endeavoured to focus on the process and rely on my ‘way of being’ in the interview situation rather than risk being encumbered by an over-reliance on tools and techniques that might convey to participants a more task oriented approach.

Feedback from participants during and following the interview, especially in terms of the ‘therapeutic’ / ‘cathartic’ quality of the interview suggested that this served as an effective strategy. With the purpose of ‘understanding understanding’ (Schwandt, 1999)
via intersubjective inquiry, I endeavoured to formulate questions that were open and exploratory. I was keen to convey the principles of active listening by being attuned to the rhythm and pace of the participant and showing genuine curiosity in their subjective reality, whilst ensuring that I did not interrogate in a manner that might inadvertently cause participants to feel exposed or cross-examined.

My style of questioning in terms of my ‘way of being’ was broadly consistent across and between interviews. However, in Interview B, there was an additional dimension of wishing to further clarify understanding from Interview A. Mindful that the participant is the ‘experiential expert’ (Smith, Flowers and Larkin, 2009: 64), I was keen to avoid setting an agenda or guiding participants. I therefore endeavoured to weave relevant questions into the natural flow of the conversation and to attempt to avoid ‘why’ questions. Noting Smith et al’s (2009:65) invitation for researchers to ‘throw ourselves into the unknown’ and ‘accept, and indeed relish, the fact that the course and content of an interview cannot be laid down in advance’, I sought to strike a balance between spontaneously probing and ensuring that my questions were grounded in wanting to ‘find out more about the participant’s lifeworld - rather than learn more about our own’ (Smith et al., 2009: 65).

3.10 Process of Data Analysis

Data analysis using an IPA approach is described as an ‘iterative and inductive process, beginning with several close detailed readings to provide a holistic perspective, noting points of interest and significance’ (Eatough and Smith, 2008:187). Smith et al. (2009:79) outline a range of strategies to generate this process which I have incorporated into the 21 stage structure outlined in 3.2.
Smith (2011) emphasises the importance of both the quality of the data in IPA and the rigorous interpretative analysis thereof. I found that the most organic approach was to start with detailed analysis, writing memos to prompt further analysis at a later stage and then to use subordinate themes as containers for text, before identifying superordinate themes.

Larkin et al. (2006:104) acknowledge that a genuinely first person account is unattainable, as the account is always co-constructed by the participant and the researcher. Rather, the objective is initially to produce ‘a coherent third person and psychologically informed description which tries to get as close to the participant’s view as possible’ and then to develop a ‘more overtly interpretative analysis which positions the initial ‘description’ in relation to a wider social, cultural, and perhaps even theoretical context.’

For an interpretation to meet the standards set out by Smith (2011), the author needs to make sense of the parts by means of narrating a coherent whole, recognising that there is subjective intentionality on the part of both the reader and the writer. As there is no such thing as an infallible interpreter, however, it is acknowledged that the interpretation will constitute an interpretative depiction rather than an exact representation.

Given the volume of data, even from the first interviews, I immediately realised that working exclusively by hand might introduce a margin of error in terms of a loss of context. It was suggested to me by my supervisor that NVivo might be of use in organising and keeping track of the data. Prominent phenomenologists (e.g. van Manen, 2014) have argued that QDAS (Qualitative Data Analysis Software) is not an appropriate tool for phenomenologists. In defence of a ‘careful reconciliation’ of phenomenology and qualitative data analysis software (QDAS), however, Sohn (2017 [34]) acknowledges the
potential problem with traditional approaches of losing the context of the coded segment of text and argues that, with the assistance of QDAS, this can be avoided with ‘a click’. I initially resolved to employ QDAS pragmatically, tentatively and partially, alongside a more traditional (albeit longer-winded route). This choice was governed by a certain anxiety about using the software for the first time and galvanised by an initial novice’s error early on when using NVivo, resulting from my unconscious incompetence, which had led to the loss of both inputted analysis and researcher confidence. Mindful that the reliability of findings ‘depends on the skill of the user in both executing method and using software’ and that ‘The danger for novices using a sophisticated tool is that they can mess up without realizing they have done so’ (Gilbert, 2002 in Bazeley and Jackson, 2013:6), I resolved to remain in the ‘shallow-end’ of employing QDAS in order to ensure rigour, (albeit whilst harbouring a certain level of dissonance about the possible sacrifice of opportunity for an unrealised more efficient and thorough analysis due to the inevitable challenges of limited researcher capacity to digest and retain information necessary to do justice to analysis).

Having transcribed interviews in Microsoft Word and familiarised myself with the content of each, I pseudonymised participants’ names and imported the transcripts as NVivo sources, before annotating the transcripts and linking ‘child nodes’ (subordinate themes) and then ‘parent nodes’ to the text. I had several mishaps due to a lack of fluency with the use of the software and at the point where I realised that my contemporaneous memos had not been saved, I lost confidence and started to rely on operating a paper-based approach alongside the software. Feeling over-faced with the volume of new learning, scope for error and the simultaneous running of two systems whilst maintaining reflexivity, I ultimately (albeit somewhat hesitatively) abandoned my use of NVivo
software, in preference for an approach which allowed me not only to work with the data more spontaneously and iteratively, but which also allowed me to better trace (and re-trace) my steps and maintain my flow.

3.11 Ensuring Credibility and Trustworthiness

Smith (2009), Hefferon and Gil-Rodriguez (2011) signal the need for agreed criteria for evaluating quality in IPA research projects and point to Yardley (2000, 2008) and Elliott et al. (1999) as useful guidelines to evaluate and demonstrate the validity of their research. Yardley (2008:260) argues that qualitative researchers need to be able to demonstrate that their research stands up to scrutiny in terms of soundness and rigour and also that it ‘yields findings that are as valuable as those from quantitative research’.

Smith (2011) presents the results of a review of 293 papers presenting empirical IPA studies where papers were judged to be acceptable, unacceptable or good and outlines a set of criteria for evaluating IPA research and provides a summary of the core features of high-quality IPA work. Smith (2011), Elliott et al. (1999) and Yardley (2000 and 2008) have provided me with a helpful conceptual quality assurance framework against which to moderate my own work and to encourage reflexivity and self-critique at all stages.

Elliott et al. (1999) provides a set of ‘evolving guidelines’ considered pertinent to qualitative research psychology and related social sciences. The authors elicited feedback from established qualitative and quantitative research and developed two sets of evaluation criteria: publishability guidelines shared by both qualitative and quantitative approaches and publishability guidelines especially pertinent to qualitative research. The seven evaluation criteria addressing aspects of good research practice shared by both quantitative and qualitative researchers include issues pertaining to methodological
appropriateness, informed consent and ethical research conduct, specification of methods, clarity of writing and contribution to knowledge (p220). The guidelines pertinent to qualitative researchers in particular include owning one’s own perspective, situating the sample, providing credibility checks, coherence, accomplishing general versus specific research tasks, and resonating with readers.

Yardley (2000:219) recognises the incompatibility of traditional, fixed, universal procedures and standards for evaluating the quality of qualitative research and articulates the need for criteria ‘that are themselves open to flexible interpretation’. She highlights four essential qualities of good qualitative research: sensitivity to context, commitment and rigour, transparency and coherence and impact and importance and considers how validity might be promoted within the framework of qualitative methodologies. In terms of sensitivity to the context of a qualitative study, she includes the context of theory and an awareness of prior interpretations within relevant literature, recognising that these can profoundly influence the interpretation. Sensitivity to the socio-cultural context is also emphasised, recognising ‘the normative, ideological, historical, linguistic and socioeconomic influences on the beliefs, objectives, expectations and talk of all participants’ (p220). In relation to commitment, Yardley reiterates the generic expectations regarding competence, skill in the methods adopted and immersion in the data. Rigour is explained in terms of not only the adequacy of the sample in the sense of its capacity to be mined for a comprehensive analysis, but also the ‘completeness’ of the interpretation in terms of depth and breadth. Notably, research that has been poorly reported does not always mean that it has been poorly done. Yardley interprets transparency and coherence in presenting research as ‘clarity and cogency-and hence the rhetorical power or persuasiveness - of the description and
argumentation’ (p222). She defines transparency in research as ‘the degree to which all relevant aspects of the research process are disclosed’ and discusses the value of reflexive disclosures. Finally Yardley discusses the utility, impact and influence of research.

Both Yardley (2000) and Elliott et al. (1999) stress that guidelines for evaluating qualitative research are evolving and that they are not intended to be applied rigidly. Critiques of guidelines are acknowledged, including the risk of ‘imposing a dangerous methodolatry which may stifle a rich, emerging research tradition’ (Elliott, 1999:225). However, such risks are considered to be outweighed by the necessity for researchers to demonstrate validity and rigour and to attract wider recognition, acceptability (and funding) for qualitative research. It is also proposed that risks are mitigated by the exhortation to researchers to refrain from adhering rigidly to any set of guidelines.

Mindful of the potential costs and benefits, I resolved to employ the guidelines as a framework for reflection, rather than a rigid checklist and adopted a similar approach to that of expert witnesses preparing for cross-examination, in visualising the hypothetical judge or, indeed, viva voce panel.

Lilienfield et al. (2012:7) caution that school psychologists are not immune to errors in thinking and highlight a number of unintentional reasoning errors which are important to identify and evade. Many of the cognitive errors identified by them (p15) are inevitably predicated on preconceptions and equally applicable to researchers. Those resonating with me as potential pitfalls for this IPA study included: bias blind spot, confirmation bias, naïve realism, premature closure, belief perseverance, hindsight bias, overreliance on heuristics, availability heuristic, anchoring heuristic, affect heuristic and representativeness heuristic.
In reflecting on potential pitfalls for myself, firstly as an EP, then as a researcher and then again as an EP involved in research, I was also conscious that the participants might also be susceptible to these same cognitive errors and that deeper levels of interpretation may be required to draw them out. Conversations with my supervisor were invaluable in terms of credibility checking and encouraging me to own my perspective.

3.12 Supervision

As this research was my first foray into using IPA, I resolved to adhere closely to the advice set out by Smith et al. (2009) and to ensure regular supervision as a crucial part of an iterative process of reflection. Supervision proved invaluable in providing layers of challenge and critique throughout the process. It also served as a space to rehearse, triangulate and test the triple hermeneutic in terms of witness and resonance validity. Furthermore, it afforded me the opportunity to demonstrate validity by the creation of an ‘audit trail’ via ‘a series of ongoing mini-audits’ (Shinebourne, 2011: 28) at different stages of the research process. This audit trail included subjecting to scrutiny every stage of the process, from discussions about the proposal, schedules, transcripts and analysis to in-depth discussions about reflexivity and epochē, namely how my subject position, assumptions, influences and intentions might impact on the research. Supervision that has embodied the characteristics of good qualitative research, as identified by Yardley (2000:219), including but not limited to: commitment, rigour, transparency and coherence, has resulted in a confidence in the robustness, authenticity and validity of the resulting analysis.

As an EP, I view myself as a reflective and reflexive practitioner and place a high value on quality supervision as an opportunity to ‘provide a meta-analytic, superordinate
framework to help professionals become reflectively critical about their own practice and about the context in which they work’ (Jennings, 1996:21). Prior experiences (positive and less so) of work-based supervision and mentoring at different stages of my practice and study have informed my awareness of my ‘own subjective self’ (Jennings, 1996: 21). This learning, in turn, informed the supervisory process for this research and determined my request for a specific supervisor who I knew to hold a unique combination of specific knowledge and experience which was highly relevant to this research. That is, as a highly reflective practitioner and researcher, with many years of experience as a practising EP and as an expert witness in family court who also, more crucially, consistently maintains a phenomenological attitude. As I had first been taught by my supervisor on the MEd course and the MSc course, a degree of familiarity and inherent shared points of reference over time aided the dynamics and flow of the supervisory process, allowing for more fluent, authentic and congruent communication and, for my part, increased confidence and security in the process. I have found this approach to be especially influential, non-intimidating and empowering, enabling me to formulate questions and to develop my critical thinking and reflexivity in a safe space. I also feel that it has allowed me the scope and capacity for greater creativity, resulting from the freedom of being explicitly encouraged to collaboratively explore more divergent trains of thought to see where they might lead. In retrospectively reviewing the supervisory experience as an integral part of the research, I am able to identify specific skills and techniques within the supervisory approach that have combined to foster a secure base. I also acknowledge the impact of these having been (consciously or otherwise) modelled to me in terms of their influence on how I aspire to practice as an EP and my intended way of being as a researcher. Furthermore, I consider the quality of supervision I have received and the impact of this on my ‘own subjective self’ (Jennings, 1996) to go some way towards
contradicting the misconceived criticism (as reported by Larkin et al. 2006:103) of IPA as being a ‘simply descriptive’ methodology that requires the ‘least amount of supervision’.

\subsection{3.13 Use of the Literature}

The literature review was compiled over time, in keeping with the chosen IPA methodology. Indeed, the preliminary study (Greer, 2013) provided the foundations in terms of the substantive literature pertinent to the current research and contributed to the fore-structure knowledge (Smith et al. 2009:25).

In her lecture ‘The Inner Nature of Phenomenological Research’, Lee Bach, (2014), advocates a guided imagery approach for phenomenological researchers (essentially focused on the notion of a tabula rasa) to assist with epochê (bracketing out). Through this, the individual (researcher) is invited to: visualise writing on a chalkboard all of one’s knowledge, feelings and attitudes about the subject which they wish to approach with ‘fresh eyes’; stand back and read through all experiential knowledge; before finally erasing everything that was once known. In an acknowledgement that knowing, feeling and thinking more than we could ever articulate renders perfect epochê merely aspirational, Bach talks about the ‘attitudinal’ bracketing out of perceptions and assumptions and a dynamic approach to using epochê. This involves researchers maintaining a constantly reflexive attitude and applying epochê whenever they become aware that they are looking for something in particular or wanting something specific to be present in the analysis. This approach to epochê seemed more authentic and congruent with my overall positionality. In the interests of integrity, transparency and fidelity to a phenomenological approach, my approach to the literature would also need to be subjected to the epochê process, not least in order to demonstrate internal
coherence in terms of my intention to dynamically (i.e. noticing and adjusting) bracket out the preconceptions, assumptions, opinions and other sources of potential influence which might impact on the data. In compiling the literature review and my reflexive account prior to conducting the analysis, I have endeavoured to maintain and demonstrate a demarcation between the fore-structure of my knowledge and the literature relevant to the data.

The reflexive account (see 3.4) and the literature review in this chapter thus provided an opportunity to (pseudo-cathartically) lay bare, contain and provide a composite narrative (as if capturing my thoughts, feelings, experiences and knowledge on the metaphorical chalk-board referred to by Bach to be erased prior to data collection and analysis).

Given the scope of the thesis, I decided to structure the literature review into three broad sections: the role of the EP in different contexts, the role of the psychologist as expert witness and a chronological account of some of the key developments and challenges affecting the context within which expert witnesses operate. Literature searches were conducted both prior to data collection (to ensure researcher sensitivity to themes) and at different stages during the research in the interests of touchpoint and revisionary validity (Fischer 2011: xvii).

As themes are not predefined within IPA, it was therefore possible, and in keeping with the principles of the approach, to conduct further reviews of the literature in response to the themes emerging from the analysis. As such, what might essentially constitute the second half of the literature review was directed by the findings and interwoven with the discussion chapter to ensure a more fluid and coherent narrative.
3.14 Ethical Considerations

Smith et al. (2009:53) highlight that ethical research practice should not be confined to passing the scrutiny of institutional ethics committees but rather that it requires ongoing reflection and review throughout data collection and analysis. As such, mindfulness of ethics throughout this research was built into the overall design.

This research focused on a small number of EPs reviewing their practice in a particular field, (i.e. expert witness work). It did not involve direct work with children or parents and was deemed to be ‘low risk’. It was conducted in line with the British Psychological Society’s Code of Human Research Ethics (2014) the University of Manchester’s School of Education: Ethical Practice Policy and Guidance (2011-2012), the Standards of Proficiency for Practitioner Psychologists (HCPC, 2015) and Standards of conduct, performance and ethics (HCPC, 2016). Ethical approval was received in May 2014 from the School Research Integrity Committee prior to any formal contact with participants.

Participants were provided with information about the purpose of the research along with the invitation to contribute and of their right to withdraw. Signed consent was sought from the individual participants to allow the audio-recording of the session (see Appendix 2), with the express purpose of facilitating accurate transcription. At the time of interviews, participants were reminded that full transcripts would be made available to them for member-checking and were assured that audio recordings would be transcribed, analysed and deleted. Participants were sent the complete transcripts of the interviews. Participants then confirmed the accuracy and authenticity of the transcripts. At this point, they were given the opportunity to ‘censor’ any other details (e.g. case specific information) that might present ethical concerns. Anonymity was assured throughout
and maintained by the selecting of quotes that would not identify individuals.

Participants were thanked for their commitment to the research and for their generosity in sharing their time and expertise.

As an EP, my awareness of ethical issues has been developed through initial training, ongoing supervised practice, continued professional development, maintaining a ‘continually reflexive attitude’ (Oxley, 2016:56) and through familiarisation and compliance with the ethical codes already referred to in the literature review. In the role of researcher, I am bound by codes of ethics in relation to competence, responsibility, integrity and respect.

Familiar with the NSPCC (2013) review of the research literature on ‘Vicarious trauma: the consequences of working with abuse’, I was aware of the implications for professionals of adopting a position of empathy when working with traumatised children and families. Prior to the interviews, I was mindful that some of the cases that might be shared (or indeed recalled but then suppressed), might risk re-awakening vicarious or secondary trauma in participants, due to not only prompting reflection on the volume, range and outcomes of distressing cases but also reflecting on their contribution to such cases and their thoughts and feelings relating to such. I endeavoured to be vigilant during interviews and to allow for breaks if necessary. Throughout the interviews, I contemporaneously identified several instances of participants reflecting on difficult cases, decisions and the potential thoughts and feelings associated with such. Mindful of the effective use of problem-free talk in Solution-Focused Brief Therapy (originally developed by Steve de Shazer and Insoo Kim Berg) to provide clients with an effective de-brief from having recalled what might have been highly charged events, I initiated some planned, but ostensibly spontaneous, problem-free talk at the end of each session in an
attempt to induce some assuagement by facilitating a smooth transition away from the intensity of the issues discussed.

I acknowledge that obtaining ethical approval does not eradicate the risk of unintended outcomes. For example, having previously experienced being a participant in research about the role of the EP, I was aware that probing questions about practice in such high stakes work might, at some level, challenge the participant’s sense of competence and that challenge might cause a degree of cognitive dissonance, defensiveness or even a sense of regret. I had resolved to be sensitive to subtle changes in communication and to check throughout the interview that participants felt emotionally safe. I was conscious of gauging the timing of more searching questions and aware of the need to allow for personal emotional space.

I was also mindful of ethical considerations in writing up the analysis and wished to write about the participants’ experiences in a way that would be considered acceptable, fair and authentic to them, whilst ensuring coherence in the phenomenology.
4 INDIVIDUAL CASE FINDINGS

4.1 Chapter Overview

Qualitative research has been defined as an ‘intriguing blend of art and science’ which requires the researcher to transcend beyond the ‘mechanical aspects of the research to see the central ideas behind the words and to represent them to the readers and consumers of the research’ (Pistrang and Barker, 2010:85). Buchanan (1992:133) argues that the quality of qualitative research ‘lies in the power of its language to display a picture of the world in which we discover something about ourselves and our common humanity’. As such, this chapter presents the idiographic findings from the two participants: ‘Clara’ and ‘Grace’ from the first and second interviews, my analysis thereof and my reflections on the interviews and analytic process. Whereas the following chapter considers convergent and divergent findings across cases, this chapter focuses on the particular - that is, an analysis of this particular individual who shares this particular relationship to this particular phenomenon in this particular and unique context. Corresponding with Heidegger’s view of the ‘person-in-context’, I have sought to provide the reader with some insight into the participant’s relatedness to the topic of interest (Larkin et al., 2006:111) by way of a ‘mini-biography’ (Langdridge, 2007: 90) for both participants. This also contributes towards the demonstration of trustworthiness, especially witness validity, (Fischer 2011: xvii), that is, whether readers might form similar impressions from the same raw data.

Where possible to do so, within each theme, participant quotes are intentionally presented prior to my analysis to enable unfettered sense-making on the part of the reader / reviewer to facilitate the triple hermeneutic and in an endeavour to maintain
fidelity to the ‘raison d’être of IPA’ (Smith, 2011:14): concern with the lebenswelt. This is congruent with Husserl’s call to start with the ‘I’, the knower, whilst also capturing Heidegger’s notion of letting ‘that which shows itself be seen from itself in the very way it shows itself from itself’ (Heidegger, 1927:58). The transcripts for each participant from the first round of interviews were analysed prior to completing the second round of interviews and some tentative superordinate themes were identified. This decision was founded upon my lack of certainty about how I intended to approach the analysis and the presentation of the findings from the second round of interviews. I discarded the idea of combining my analyses of first and second interviews, as this would not have acknowledged the fact that participants had received the transcripts of the first interviews when they agreed to a second interview and had potentially engaged in a period of reflection between interviews. I therefore resolved to present my analysis in the order in which it took place, with the aim of capturing a sense of the analysis as it emerged and thus allowing the reader to re-trace my steps. The promise of a second interview with participants addressed the disadvantages of one-off interviews as a means of collecting data with individual participants. During analysis of the first interviews, I identified missed opportunities to seek clarification or probe and lapses in interview technique. This first stage analysis helped to shape my interview prompt for the second interviews. Further analysis of the first interviews was subsequently completed alongside the second interview.

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14 such as ‘interviewer anxieties’ relating to ‘self-presentation in terms of the demands of establishing rapport very quickly’ and ‘the cognitive load of remembering what the participant has said in order to probe and funnel for more information (as there is no chance to review the participant, seek clarification or compensation for attentional or memory lapses’ (Flowers, 2008:25).
Whilst the reflections on the interviews and the analytic process could have been presented in the Methodology chapter, I have chosen to present them in the current chapter for several reasons. I deemed that this would reflect a better sense of the sequence of how the research was conducted, acknowledging that reflections on Interview A are, in themselves, findings and helped to inform how I conducted Interview B. Secondly, this would provide the reader with an account of my reflections that would be as close to a contemporaneous presentation as possible. Finally, I was keen to maintain closeness to the data and not pre-empt partial findings or analysis in the Methodology section before the reader had ‘met’ the participants in the context of the research.

4.2 Grace: Person-in-context and Analysis of Interview A

This section opens with an introduction to Grace by way of contextualising her in relation to the research. I then present my analysis of the first interview (A) with Grace, followed by my reflections on both the interview and the analytic process. Next, I include my analysis of the second interview (B) with Grace, along with a reflective account of the interview and the analytic process for this.

Grace: Person-in-context

Grace is female, white, British and over 55 years old. I first met Grace when I attended the peer supervision group for psychologist (Clinical and Educational) expert witnesses. She initially trained as an EP but until recently, had never actually worked in a local authority, having worked in a therapeutic capacity in the voluntary sector alongside her expert witness work and then exclusively as an expert witness. In recent months, she had ceased to practise as an expert witness and had started work as an Associate EP with a
number of local authorities. Both interviews took place at Grace’s choice of venue, her home, lasting 103 minutes (Interview A) and 66 minutes (Interview B).

**Grace: Thematic Map Interviews A and B**

The following thematic map is presented as a reference point for the reader.

![Thematic Map](image)

**Figure A - Grace: Thematic Map Interviews A and B**

**Grace: Analysis of Interview A**

Having repeatedly read the transcript of the interview with Grace, both with and without the audio and made comments alongside the narrative, I subsequently organised these comments into themes with the use of coloured highlighters and mind-maps (along with line numbers to ensure that the parts were not decontextualized from the whole)\(^\text{15}\). I

\(^{15}\) As discussed in 3.10, I had previously conducted this process using NVivo but had lost my metaphorical ‘thread’, some of my completed analysis and my confidence regarding the extent to which this had been sufficiently rigorous. I therefore resorted to printing out parent and child nodes and checking my handwritten analysis against the analysis completed using NVivo.
identified eight themes from the comments and resolved not to complete further analysis until I was at the same stage of analysis for the second interview. Themes emerging from the first interview were: *Maintaining a Person Centred stance, Being a Psychologist, Being a Scientist Practitioner, Being a Reflexive and Reflective Practitioner, Considering the Child in Context, Safeguarding, Emotional Labour and High Stakes*. Each of these themes is discussed, in turn, with numbers in brackets referring to line reference numbers in the transcript.

**4.2.1 Grace: Superordinate theme 1a: Maintaining a Person Centred stance**

Following the careful application of IPA, I recorded a number of comments referencing genuineness / being real, respect, acceptance / understanding, building rapport and trust, congruence, empathy, being non-judgemental, being compassionate and being person-centred. These qualities, which are referenced both implicitly and explicitly by Grace, were instantly recognisable to me as the fundaments of a Person Centred approach, resonant with the core conditions of Rogerian Person Centred Counselling, but with notable differences. Being person-centred was, in itself, an emergent theme which acquired superordinate status as it brought together a number of related themes which were subsequently subsumed under the superordinate theme ‘*Maintaining a Person Centred stance*’. Whilst Grace herself does not explicitly define herself in these terms during the course of either interview, she makes frequent references to the various core conditions and I am therefore confident that she would have owned this descriptor had she been specifically asked about this. However, I was also conscious that these same themes might equally well be subsumed under a heading relating to anti-oppressive or anti-discriminatory practice. I deliberated over the respective merits of the various headings before settling with *Maintaining a Person Centred stance*, as this seems to
resonate more with the overall narrative, perhaps best summarised by: ‘I think carefully about my manner and style of interacting’ (116-117).

The concept of maintaining a Person Centred stance, rather than, for example, ‘being’ or ‘adopting’ also seeks to convey a sense of an ongoing dynamic process rather than a discrete static task. Maintaining a Person Centred stance requires constant mindful effort consistently applied and a commitment to reflexivity as a continual process. Grace is conscious of her humanity and fallibility and sees reflexivity as a safeguard against her own inherent bias. In essence, there is evidence that Grace consciously struggles to maintain a position where she aims to understand the world-view of the client by maintaining a subjective shift that brackets out her own natural judgements, preconceptions and personal beliefs and which seeks to accept the client’s perspective in its own right.

4.2.1.1 Building rapport

Building rapport and trust is a powerful theme in the interview with Grace to which she refers early on in the interview as being ‘worth its weight in gold’ (line 104). She also acknowledges the pragmatics of taking time to do this as it ‘saves considerable time at later stages in the assessment’ (105).

4.2.1.2 Respect

‘I try and be very fair to all parties, even if (...) my personal view, because we’re none of us value free, we do make judgements about what the people in our cases say and do’ (53-56).
From the outset, in response to a question about her experience of being an expert witness, Grace alludes to her way of being in terms of bracketing out her own value base and being ‘fair’ (52): She balances the universal human experience of holding preconceptions and prejudices with her endeavours to empathise, that is, to ‘try and see the situation through the eyes of the...usually the parent or parents that are involved in the case’ (57-59). She strategically manages her approach to counter any potential for sounding ‘condemning or critical or judgemental’ (66) even in the more extreme cases: ‘...one has to be careful not to...look like you’re giving a character assassination especially as I was concluding that I thought he’d abused his child’ (798-800).

She revisits this theme of respect later on in the interview when she refers to: ‘balancing the needs of the children...because that’s what we have to put as paramount, but not condemning or demonising parents,’ (900- 903). Grace refers to consciously reminding herself to maintain an empathic, non-judgemental approach:

‘I just think, I try and remind myself when I’m doing it that some of these people have had no other influences or experiences or opportunities to behave in ways that are more conducive to secure, happy children and ... I try hard to sort of get that balance,’ (895- 903).

Indeed, balancing her endeavours to prioritise the needs of the children whilst maintaining compassion for people who have themselves been disadvantaged is a central theme in Grace’s phenomenology. Similarly, conveying respect to children and parents alike and seeking not to disempower parents are referred to (157-162), with Grace providing examples of how she would request permission from parents when the child invited her to see their bedroom or toys and would attempt to redress the power
imbalance by maintaining a sense of ‘this is your child, you’re the person who’s got parental responsibility and is in charge here’ (160-162) and also by endeavouring to ‘give people an opportunity to feel that they are fully part of this process, which of course they are, that their information is central to the views I form…’ (175-178).

4.2.1.3 Genuineness and Congruence

Grace makes several references to an authentic approach:

‘So I think (...) yeah, making people feel you are actually not just going through the motions as well, that you are interested, this is a real person with real life issues and real struggles in their life that many people are fortunate enough not to have experienced (...) that you’re not just going through a box-ticking exercise, you are experiencing them as a real person’ (199-206).

Here, Grace uses repetition of the word ‘real’, as a linguistic device to denote emphasis and speaks with conviction and purpose when alerting to the high stakes work involving real people with real issues requiring a genuine, ‘not-just-going-through-the-motions’, approach from the professional. Her use of the pronoun ‘you’ adds to the sense of this being an important message that she has already learned but which she perhaps wishes to convey to others. She speaks about the ways in which she tries to ‘give a very approachable sort of aura’ (186-7), with various examples of how she might endeavour to put people at ease, manage perceptions, attempt to break down barriers and / or use gentle humour to ‘relax them a bit’ (196). She shares some of the various strategies employed to convey interest in the child as a person, such as problem-free talk and drawing on ‘a few set pieces’ (117) including an ‘all about you quiz’ (125) in an attempt to reduce tension (120) or to encourage participation from particularly quiet children who
'may have been silenced by one of the adults' (121-122). Grace believes that conveying an interest in their lives encourages children to share more ‘because they think ‘Oh, this person’s interested in me as a person’ (152-153). Similarly, she gives a specific example of a script employed to convey to children that they are the ‘experts’ about themselves (123-124). Grace further demonstrates her attempts to create a meaningful transaction and develop trust in her dealings with clients: ‘I quite often say to people ‘if there’s anything that you want to ask me, if I know the answer, I will tell you. If I don’t know, I will say I don’t know’, (169-171) and advocates ‘transparency wherever possible’ (871). There is evidence of conflict here for Grace between the intense empathy she experiences and the role of the expert which requires her to provide the court with her objective opinion. There is a sense that in her strivings to develop trust, ensure transparency and convey a non-judgemental stance, she is attempting to assuage or even compensate for the dissonance created by this dilemma.

4.2.2 Grace: Superordinate theme 2a: Being a Scientist-Practitioner

There are multiple references to thinking carefully (80, 89), checking, weighing up (1071), holding thoughts (1045, 1051), judgement, reasoning, decision-making (82, 1060), problem solving, planning, intervention and formulation throughout Grace’s interview. These subordinate themes naturally attached themselves to another sub-ordinate theme of ‘Being a Scientist Practitioner’ which therefore acquired superordinate status. Similarly the importance of self-evaluation, psychological formulation and maintaining a reflexive and reflective approach to guard against bias emerged as themes that could also be subsumed by this theme.
Grace discusses the need to counteract cognitive bias by: using triangulation (70), avoiding closed questions (72) and hearing the story from the first person perspective: ‘to allow people to tell me their experience from their perspective rather than me asking it from how it might seem from what I’ve read and what I’ve learnt at that stage’ (73-76).

She also highlights the need to ensure that the assessment (process and content) and the choice of theory (1129-1185) are fit for purpose, recognising that this ‘varies from case to case’ (92, 1129): ‘I think one of the things that I’m very careful to do in these cases is never rely too heavily on one questionnaire or one assessment process because actually…I think one on its own could be biased, could be flawed…you could catch a child on a bad day, I think it’s important to look in the round at the holistic information that the whole assessment process produces for the child’ (1156).

It is her conviction that one’s theories and formulations are, and indeed should be, subjected to the closest scrutiny and reflexive critique. As such, acknowledging the sheer ‘magnitude of decisions’ (1070), the volume of information (15), her own fallibility (833) and a strong motivation to get it right, Grace explains her painstaking (e.g. ‘I spend a huge amount of time weighing up every option’, 1071), systematic (1031), and rigorous (1045) attempts to systematically control for bias by ‘pedantically’ (1099) constructing formulations that are balanced and evidence based. For example:

‘I think it was one of the tightest reports I’ve probably managed to produce, the actual report I still think is…it provides good reasons and…information and evidence to support my opinion. I was asked specifically in that letter of instruction whether I thought that child had been abused and then the next question was: if he had been abused, who did I think it was most likely he’d been abused by? So my conclusions were that I thought it most likely that he had been abused and concluded if that was the case, then the person
who he was most likely to have been abused by was his father because that is the father he has named to me. So that’s the way in which I’d presented my views... with lots of information... about the ways in which sexual abuse affects children and their functioning, their emotional behaviour, their sense of security...’ (753-770).

Interestingly, Grace utilises the metaphor of digestion in relation to her approach to formulation, explaining the process in terms of ‘digesting and absorbing the information’ (1017), ‘not being quite satisfied’ (1021) until a certain point and feeling uncomfortable or ‘troubled’ (1024) until she reaches that point of obtaining a deeper understanding of the situation. This rich metaphor alludes to an embodied experience where emotions, thoughts and bodily functions are viewed as inextricably connected. There is a sense of the extent to which the pursuit of understanding a case produces in her a sense of feeling physically, mentally and emotionally unsettled until she is able to think: ‘right, I understand it now’. She refers to a sense of rigour and her own self-imposed checks and balances in protecting against bias by making herself ‘look at every option’ even those which she might have previously discarded for emotional or intellectual reasons (1113-1119).

4.2.3 Grace: Superordinate Theme 3a: ‘Being a Psychologist’

This theme encompasses a number of concepts that have already been discussed with regard to other themes. However, the notion of applying psychology and what it is ‘to be’ a psychologist is considered by Grace throughout and therefore merits its own exploration and analysis. Themes relating to the knowledge (including ethical codes), skills (including tools and approaches) and experience were subsumed by this superordinate theme.
Grace makes multiple references to ethical issues which demonstrate how an awareness of ethics and anti-oppressive practice are interwoven with her practice as an EP and as an expert witness. These include paying due regard to best interests (68), children’s rights and needs (900, 902), the voice of the child (1261) and power issues (157-162) including the need to be ‘fair’ and ‘even’. For example: ‘usually if you put it in a very even manner, most parents can accept and feel that you’ve been fair to them, at least, that you haven’t tricked them. I think it’s not fair to sort of…trick people…or…use …use their vulnerabilities against them, that I think…life isn’t always fair and lots of families we see repeating patterns of things…[...]. I try hard to sort of get that balance’ (887-899).

She also talks about the need for transparency and openness (870), a recognition of her own limitations, boundaries and remit (823) and making explicit one’s evidence base (767).

The importance of clear communication is emphasised on a number of levels. Firstly, in terms of the ethical requirement of ensuring that information is clearly communicated and understood:

‘I think feeding back your information to parents and others in a way that they’re able to digest it, not sort of blinding them with too much science or research…but actually being able to present it in a way…that helps them understand in a day to day sense what you mean, what are you actually saying here this child needs? And being able to perhaps give concrete examples of that’ (916-923).

Secondly, Grace believes that being ‘a good communicator’ (864-865) is an essential quality as it is this very skill that lays the foundations for rapport building (866) and
winning over people’s trust (867). Thirdly, recognising her role as a helper to the court, she also talks about persuasion as a form of communication and the need to be able to communicate psychology to non-psychologists to assist the court in ‘getting to the heart of the issues’ (484-485). This sometimes results in being at odds with others in the system and it is therefore essential to remain ‘steady to what you believe is really going on there’ (505-506). In one particular case, Grace recalls: ‘I failed in cross-examination to persuade that judge, I failed to make a compelling enough case on cross-examination’ (700-703) and ‘to me it seemed obvious but of course sometimes I think we have to remember that a lot of the things we’re observing we have to actually spell it out because it’s not obvious to everybody and it’s not obvious to judges’ (841-846). Grace holds the view that what is evident to psychologists is not necessarily evident to others and that other professionals in the system may erroneously use ‘psychological’ language without having recourse to the necessary theoretical foundations that a trained and experienced psychologist might be assumed to hold. An example of this would be social workers who might mistake a ‘trauma bond for a secure attachment in a child’ (438-439).

Grace talks about needing to hold lots of things in mind simultaneously and absorb and metabolise lots of information at the same time. She uses the metaphor of a sponge to illustrate this:

‘You’ve got to be able to...sort of multi-task really in terms of...administering assessments, but observing lots of other emotional stuff at the same time. So observing behaviours at the same time that you’re maybe assessing cognitive ability, for example, being able to pick up whatever information is available to you, almost got to soak it up like a sponge really’ (906-913).
Grace relies on an in-depth knowledge of children (134-136, 862-863, 1173-1177, 1191, 1271, 1340 and 1354-1372), both in terms of knowing what is a typical development trajectory and when a child does not fit a typical pattern. She also highlights the importance of good observation skills (e.g. 853, 309, 781, 810, 844, and 909):

‘And of course that’s not even just about questionnaire results and number crunching, it’s about observing the child, what the child’s body language is telling me, you know, you might do a Bene Anthony Family Relations Test and you might find the child is very defensive, the child might overuse the Mr Nobody box and of course everything contributes something to our understanding about that child’ (1153-1161).

Many of the tools, skills and approaches referenced by Grace are underpinned by a Person Centred approach encompassing authentic warmth, respect, acceptance, congruence and empathy. It is Grace’s experience that ice-breaking, problem-free talk (128-141) and breaking down barriers not only serve to open up the assessment and encourage people to engage but primarily ‘does kind of put them at their ease and relax them a bit’ (195-196). This is also an example of Grace’s awareness of the anxiety related to high stakes for families who are subjected to court directed assessment.

Grace describes a contact dispute which had become entrenched involving two children who had not seen their father for several years and whose mother was ‘determined to keep him away from the children’ (596), to the extent that she had even changed their first names by deed poll. The father had brought the proceedings as he wanted to have some contact with his children. The children were completely opposed to contact as they were ‘absolutely terrified of him. He had been built up as this figure of...terror and fear
and…they were quite paranoid about …that he was going to be looking for them, that he’d find them and they’d changed their name so he couldn’t’ (603-607). After working with the children for some time, a breakthrough was achieved when Grace renamed ‘contact’ as ‘a meeting’ and wondered aloud: ‘I wonder if it would be helpful to have a meeting with your dad, where you have the chance to ask a couple of questions and I will be there and if at any point you don’t feel safe, we will…I will end the meeting’ (613-617). Grace refers to ‘reframing’ (660), ‘unpicking fear and prejudice’ (651-652) and uses the analogy of ‘moving the goalposts’ (649). She talks about needing to think about ‘reconstructing a relationship in a different way… on a different footing’ (654-655), and ‘rebuilding something, so we had to kind of knock down the old beliefs which is contact was bad and fearful and just…start again with something new really’ (655-658). In reflecting on this case, Grace explains how the order and pace of intervention had to be carefully orchestrated and timed: ‘had to orchestrate it very carefully because I had to decide…I had to time it exactly because I didn’t want the children meeting him in the stairwell or the lift’ (619-622).

Grace talks about meeting people where they are, as a baseline, and making recommendations from this point both in terms of ‘small steps’ (1313 and 1296-1387) and recognising that ‘some children have just lived with it for so long that it becomes a way of life for them and those children are very, very hard to change’, (1298-1299). She identifies ‘the skill in …private law is recognising…where people are up to and what the tiny steps are that could lead towards a bigger change’ (1308-1311).
4.2.4 Grace: Superordinate Theme 4a: Being a Reflective and Reflexive Practitioner

Although this theme might have been subsumed by the ‘Being a Scientist Practitioner’ theme, I felt it was more congruent with the overall phenomenology to present this within its own context at this stage.

Grace acknowledges the potential for bias in her work and aims to guard against this with critical thinking and reflexivity. She openly acknowledges that ‘we’re none of us value free, we make judgements about what the people in our cases say and do’ (54-55) and, throughout the interview, her repeated emphasis on ‘trying’ (not necessarily always succeeding), signals an acknowledgement of her own fallibility and her efforts to maintain a constantly critical approach to her work.

In referring to a ‘sobering’ incident where the judge had been derogatory about her contribution, Grace chooses to reflect on this as a ‘helpful’ reminder ‘that you’re not always right and not everybody will always agree with everything you say and that we can’t be complacent and we have to work very hard at how we present information’ (829-833).

Her references to failure and self-blame indicate a profound sense of soul-searching and there are a number of references to her having reflected over time on completed casework, without always being able to resolve her thinking and move on. In fact, Grace reflects on her performance in one case and admits that, despite her acknowledgement of fallibility, she is not sure how she could have ‘done it differently’ (833). After some deliberation, she concludes that perhaps what had seemed ‘obvious’ to her was not obvious to others (839-864). Similarly, Grace demonstrates her ongoing attempts to
sense-make and articulate aspects of a case that still apparently causes her to weigh up the different perspectives of others to try to understand:

‘I don’t know for sure, I don’t know...but that was an example of when I think social workers had thought ‘well, there’s nothing wrong with that little girl, she’s attached to him, she’s a good girl, she does everything she’s asked’ and yet it was not appropriate, it was...there was something that felt...that was wrong in her functioning, the way she behaved that was not commensurate with...I think she was...I think she was eight and...it just didn’t feel right for an eight year old to be doing that’ (466-475).

There is a sense here of Grace weighing up her theories, actively surveying the evidence and re-processing her thoughts and feelings.

Grace acknowledges her own subjectivity: ‘I feel that...probably I didn’t give good verbal evidence on the day perhaps, but that’s quite hard for me to be too objective about that, I’m not...I can’t be that sure how I could have improved on that either and I felt that the judge had made his mind up’. (767-772)

A further example of Grace’s reflexive self-evaluation and ability to learn from criticism is when, almost at the opening of the interview, she acknowledges a previous mistake:

‘And the very first case I ever did, I was criticised for not answering the questions properly in the letter of instruction and that’s the kind of mistake you only make once. When you’re pulled up in court for not having done something as you were supposed to, you make sure then thereafter you do’ (24-30).
Even during the interview, Grace demonstrates a metacognitive self-awareness of her participation in the interview process, conveying a conscientious approach and a motivation to be present and helpful:

‘Yes, I mean I think...yeah, there are two cases that...when you ask that question and I think probably I shouldn’t think about it too much, I should just answer with the ones that first pop into my head and there’s two that pop into my head straight away’ (265-269).

As previously referenced, her use of the powerful metaphor of digesting and absorbing and only reaching a point of satisfaction when she feels ‘I understand it now, I’ve got it. I understand what’s going on here’ (1018-1019) suggest a yearning to sense-make. This resonates with her earlier comments about seeking to convey to the individual that she is ‘not just going through the motions’ (200), emphasised by her choice of words relating to ‘experiencing them as a real person’ (205-206). This concept and choice of verb of experiencing a person is far removed from an expert who might position themselves as detached and possibly even different from or superior to the ‘subject’ of one’s assessment.

4.2.5 Grace: Superordinate Theme 5a: Considering the Child in Context

Grace shares that the role has not changed in the time that she has been an expert witness and that her approach to new cases invariably involves her first seeking to understand the background of the case: ‘I always start off by drawing a spider diagram first to help me understand complex family units or complex relationships.’ (19-22) followed by meeting all the parties. She explains that each case is ‘entirely individual’, ‘all different’, and ‘a fresh case’ and as such, advises that ‘you check and you start with the
story and start with the letter of instruction’ (11-15). The theme of story is important to Grace, who also refers to ‘taking the story’ (73), in the sense of understanding another’s perspective.

In response to the question about the distinctiveness of the role of the EP, she refers to knowledge of children across different contexts:

‘I think that’s where child psychologists can offer something unique and different because of the way in which we are trained and experienced in looking at children across different settings. We know them in school and we know them in their families and we see them across different settings which I think helps enormously’ (366-373).

Getting to know the child outside of the context of the letter of instruction is fundamental to rapport building. Grace bases the order of her assessment on her understanding of the various dynamics, as represented in the bundle, explaining that decisions about who she sees first and whether she will see them alone will be governed by factors such as whether Grace perceives that a child might be subject to manipulation or influence (82-93). She comments that she typically (although not always) opts to meet the child and parent together at home where she avoids the issues in the letter of instruction and is explicit about her purpose of seeing them ‘at home together and getting to know a little bit about them’ (98). Grace essentially describes a thematic approach to formulation which takes into account the various aspects of the child’s context and different attachments with different people (1039). On two occasions, she refers to ‘looking in the round’: ‘But I do think we look in the round at all the other factors that might be brought to bear in considering a child’s functioning and behaviour in different settings’ (420-423);
and ‘I think it’s important to look in the round at the holistic information that the whole assessment process produces for the child’ (1154-1156).

In asserting that ‘all children respond differently in different environments’ (375-376), Grace expresses the view that EPs ‘have a unique perspective on...what we might expect of a child of a particular age and how children typically respond behaviourally and emotionally in different settings’ (406-409), along with ‘the other issues that are brought to bear in how a child might behave’ (413-435). She cites an awareness of child development, attachment and an understanding of a complex network of reciprocal factors including: personality, the extent to which they might have been influenced by the adults around them, birth order, responses to different people in different settings (e.g. formal or informal), whether there are boundaries in place and the impact of this on the individual child’s presentation.

Grace also displays a strong awareness of the child’s voice and refers to encouraging the resident parent to adopt a metacognitive stance: ‘to take a step back and become an observer’ (1259) and ‘to not be part of this’ (1260), instead considering ‘What’s this like for their child? How is it through their eyes?’ (1262-1263).

4.2.6 Grace: Superordinate Theme 6a: Child Protection and Safeguarding

Grace does not mention child protection and safeguarding explicitly but she alludes to these throughout her narrative, making several references to children who have been abused or neglected and to promoting the needs and the best interests of the child and deciding ‘what is best for the future of that child’ (182), which she refers to as ‘usually the ...central kernel of what the court is trying to determine’ (181-182).
Grace provides a narrative account about a case which begins with her recollection of a visit to the family home of four children who were living with their step-father, after their mother had left the family home due to drug and alcohol difficulties. Grace sets the scene of her initial observations, conveying not only the context but also a commentary of her sense-making at the time of the assessment, including a comment about feeling personally vulnerable. She mentions feeling ‘several things that raised alarm bells’ (301), feeling ‘deeply concerned’ (293), and a sense of ‘just knowing’ (305) that ‘something’ was ‘not right’ (306):

‘and…I just knew there’s something in this house that’s not right...everything...and it isn’t just gut feeling and it isn’t just intuition I don’t believe in that, I think what we call gut feeling is when you’ve observed something and you might only be observing it subliminally, but I knew I was seeing something there that was more than just the mother had left that home’ (305-309).

As if applying critical awareness to her own thinking mid-sentence, Grace elucidates on the ‘just knowing’ by dismissing any potential rationale of simple ‘gut feeling’ or ‘intuition’ and seeks a more robust analysis of her observations; thus grounding herself in the context of her epistemological stance as an empiricist and demonstrating a fundamental world-view that gut feeling and intuition cannot be accounted for in an evidence-based way.

Three of the children subsequently made disclosures to Grace that they were being sexually abused by their step-father, which resulted in Grace needing ‘to…raise, obviously, all the concerns from a child protection point of view’, culminating in the children being separated from their siblings in two separate foster placements. Grace reflects on the
trauma and loss experienced by these children who had already lost their mother and had now lost their step-father, perceived by the children as a primary care giver and attachment figure. Grace completed further assessments and addendum reports and was able to follow up the cases for some time and directly observe positive outcomes in the demeanour and presentation of the children. She recalls: ‘so that was one where I felt the outcome for the children was very positive…yeah, that was a case that felt something good happen’ (357-359). Moreover, she recalls that her unique contribution to safeguarding, as an EP, was considered pivotal to this positive outcome: ‘it was quite nice as well that the independent social worker actually came to me after the case and said ‘I missed that, what was going on there’ (360-362). Her rationale for this has been discussed in section 4.2.5. In summary, this amounted to: training from an interactionist perspective (looking at the child in context) and experience of working with children across different settings and an understanding of child development. She also comments on being good at picking up what is unusual and noticing atypical interactions (280-311).

4.2.7 Grace: Superordinate Theme 7a: High Stakes

A recurrent theme throughout this interview relates to Grace’s references to the high stakes involved, in terms of the gravitas of decisions and their impact on children’s futures (568), and as a professional within the system who stands alone and yet contributes to such significant outcomes. There is, consequently, a deep sense of responsibility and a strong desire to not be wrong and to do the ‘right thing’. There is also a profound awareness of the impact of binding, ‘irrevocable’ (571) decisions made by courts and that, as previously discussed in the context of authentic practice, this work is about real people ‘with real life issues and real struggles in their lives’ (201-202). Grace accepts that, although she does not enjoy pressure and scrutiny under cross-examination
'at its fiercest' (561), the rigorous questioning of everybody who has expressed a view about a child’s future is ‘absolutely right’ (567).

Although there is just one reference to feeling personally vulnerable rather than professionally vulnerable, it is nonetheless worthy of note in terms of risks taken by Grace. She talks about the ‘one and only time’ she did a home visit alone during which the step-father of the children locked the door after she had entered the house and put the key in his pocket, suggesting that she felt uncomfortable and at risk (296-301).

Grace discusses in detail (666-849) a case that still plays on her mind which not only conveys the emotional toll of the work but also the long-term impact of decision-making in this arena:

‘I can think of a case...a case that troubles me to this day actually, very hard...very hard case...’ (666); ‘...it’s the case of all of them that troubles me more than anything because I think...who is that man abusing now? It troubles me a lot’ (750-753).

The case to which she refers involved a little boy whose mother had severe mental health difficulties and had separated from the boy’s father due to domestic violence. The boy had disclosed to his mother that he had been sexually abused by his father during contact and it was Grace’s impression that this young child’s presentation was consistent with this disclosure. Grace provides evidence for this assertion by giving examples of the boy’s behaviour during observation and referring to having triangulated her observations with information from staff who had known the boy for a longer period of time. Moreover, during assessment, the boy had also disclosed to Grace that his father had sexually
abused him. Grace had included the details of this assessment in her court report and was asked to give evidence in court.

Grace conveys that the judge had, in her opinion, demonstrated bias during proceedings and ‘said he could not accept that this fine upstanding man in court wearing a suit could possibly have abused this little boy’ (697-700). She refers to this case as ‘one of the most shocking experiences, one of the most memorable experiences of doing court work’ (700-702) and ‘reluctantly’ concludes that ‘I failed in cross examination to persuade that judge. I failed to make a compelling enough case on cross-examination. I think I made a very compelling case in my report but I probably didn’t give my best cross examination performance, but it wasn’t terrible and the judge just would not accept it’ (703-706). The notion of self-blame and failure are strong motifs in the narrative, with these signalling not only the emotional toll on the individual expert witness but also, more crucially, the high stakes and weighty personal responsibility to predict future outcomes (which are essentially unknowable), linked to safeguarding and the best interests of the child in the wider sense.
Standing alone

Grace shares a case with me where she had been thanked by the judge for ‘the assistance I had brought to the court in getting to the heart of the issues’ (484-485). In this case, she had been the first person to identify that, what social workers had misinterpreted as secure attachment, was actually a trauma bond (440-442). In this case, the judge had acknowledged that it had been ‘difficult to stand up’ (494), be ‘a lone voice’ (495) and ‘the only one’ (499). It is evident to me, that far from sharing this positive feedback as a celebration of her success, she uses it to demonstrate that working as an expert witness can indeed be an ‘isolating experience’ (505), standing alone and without advocacy or representation (501). As previously discussed in relation to the theme of ‘High Stakes’, she also refers to the uncomfortable position of sometimes being at odds with other professionals in the system (323-325, 348, 440, 469-478, and 717). For example, ‘So that put me in a very difficult position because I was saying something counter to the independent social worker’ (323-325) and ‘However, I think the judge was wrong’ (718).

Always there

‘I live them when I’m working them. Absolutely…I do carry them around in the back of my mind, yeah. I can’t…yeah, I don’t have a day off when I’ve got a case in my head, in my thinking, they’re always there. I will think about them all sorts of times’ (1012-1016).

This quote summarises the emotional involvement experienced by Grace and of the omnipresent nature of cases before the court, which repetitively invade her personal life
in the form of intrusive thoughts. There is a sense of ‘carrying them around’ like a burden and not being able to ‘switch off’. Grace also describes the experience of giving evidence in court as being ‘nerve wracking’ (515), ‘exhausting’ (538) ‘intimidating’ (519), and refers to being ‘under the pressure and spotlight’ (566), conveying that this is something that she does not enjoy. Grace refers several times to a sense of feeling ‘troubled’ by cases which stick in her mind (295, 666, 750, and 753).

As previously discussed in relation to her approach to psychological formulation, Grace’s use of the digestion metaphor conveys a sense of feeling ill-at-ease and unsettled, until she is able to metabolise the information. She also expresses a need to cathartically eliminate a case from one’s being - in terms of ‘ridding yourself of them before you start the next one’ (941-942).

**Responsibility**

Themes relating to intensity and weight add to a sense of cases being all-consuming. Grace refers explicitly to the heavy toll (947) on psychologists due to the ‘emotionally very demanding’ (949) and ‘emotionally distressing’ (950) nature of some of the work and alludes to the risk of vicarious trauma for some psychologists who ‘haven’t already developed strategies for dealing with …what you’re hearing’ (951-954). She contemplates the relationship between power, responsibility and influence and acknowledges the burden that this generates:

‘It’s that huge sense of responsibility and power actually, and power and I shy away from that, I don’t…I don’t like to think about it in that way for some reason. I’m not quite sure why, but…I think you do have a lot of power, you have a lot of influence, I think that, you don’t have the power, the judge has the power, you
have a lot of influence and a lot of judges are very influenced by what the child psychologist says’ (520-531).

Effective judgement, meticulous planning, rigorous formulation and careful thinking have all been discussed in the context of ‘Being a scientist practitioner’. However, there is a sense of mental gymnastics akin to rumination and going over (and over) decisions, reflecting on where she might have done things differently and feeling ‘troubled’ about long term outcomes, never forgetting the ‘magnitude of those kind of decisions’ (1070) and the personal significance to children and families but never actually seeing the legacy (720-849):

‘I’m not sure how I could have done it differently. Maybe I could have said a bit more about…the attachments and…you know, which would have perhaps convinced him that the CAFCAS officer had been more mistaken in her assessment that they had a strong attachment’ (837-842).

‘…Well, I think the only thing I can…the only way I can make sense of it is…is to say somehow I failed to present it in a way that communicated how strongly…I felt…that that little boy had…had been abused…so I think I probably do blame myself a bit…’(720-725).

Given the strong theme of emotional labour inherent in Grace’s phenomenology, it is apparent that there would need to be a sufficiently strong motivation to balance, if not outweigh, the stress, pressure and emotional toll. It is my impression from the interview that Grace’s primary motivation is aligned with contributing to doing the right thing (353) in the right way for children who are often ‘distressed’ (288), ‘sad, distraught’ (340), traumatised (342), used as ‘weapons or ammunition’ (1197), ‘almost torn apart by the
competing wishes’ (of parents at war, 1198), children who are ‘stuck right in the middle of it’ (1206) and children who have been ‘influenced over such a huge period of time’ (1226).

Grace thinks about her experience of being cross-examined and acknowledges the role of experience in facilitating her understanding of the need for the adversarial nature of proceedings:

‘and it’s only through experience I think I’ve seen this, having been through so many of them. I think it’s part of a process for the parents who are losing their child, that I think they need to see and hear why people have reached the decisions and opinions that they have and that it helps them come to terms with understanding what’s happened. And it also helps them to see that somebody, their barrister, fought to try and keep that child. Rarely in those cases, I think, do the parents keep that child, rarely. Usually the information is very compelling and I still think, much as I don’t like being there in the dock, I actually think it’s right and I think those parents need it and I think they deserve it. It would be wrong if everything was easy and children could so easily be removed from their birth family. So in a way, although I don’t like it, I think it should happen’ (568-585).

4.3 Grace: Reflections on Interview A and Analytic Process

Prior to the interview, there was already an established rapport with Grace due to having both worked as associates in the same authority and having both attended the same peer supervision group. Grace had been interested in learning about my experience of working as a local authority EP (as this was a relatively new venture for her) and I was interested in her experience of working as an expert witness so our initial connection was of mutual benefit. Grace was especially generous with her time and seemed genuinely
interested in participating in the research. She also conveyed a sense of authentic warmth in the way she spoke about children and families and I identified her as someone whose practice I admired.

I was conscious of initially feeling nervous for the first part of the interview, concerned that my questions might not elicit the necessary information or adequately capture the nature of the research. I was also conscious that Grace was anxious, as she was keen to be helpful. As one who endeavours to be an analytic observer with a highly developed intersubjective stance and a keenly developed conscience, Grace conveyed an acute awareness of the wide reach of the work of an expert witness, whilst revealing something of her anxiety related to not being able to see the legacy.

On retrospectively examining the interview, I frustratingly identified several missed opportunities to seek clarification or probe and lapses in my interview technique. During the interview itself, I was aware in ‘real time’ of some of these opportunities eluding me but felt unable to spontaneously articulate the right follow up questions without further contemplation and was conscious of potential pitfalls that might compromise my approach. Despite the flaws outlined, the interview flowed and the conversation was spontaneous and free. This influenced my decision to abandon the idea of a more structured follow-up interview using PCP techniques, opting instead for a more relaxed and gentle exploration of themes post initial analysis.

During the interview, I was aware of Grace’s natural inclination to be metacognitive and I wondered to what extent her experience of the interview might have been affected by her attempt to see things through my eyes, almost as if the double hermeneutic was being mirrored by the participant, with me interpreting her sense-making of a
phenomenon and her interpreting my interpretation of her own interpretation. I discussed this at length with my supervisor and resolved to ask specific questions in a follow up conversation related to her experience of the interview, the extent to which she felt she had been able to be frank and whether she felt it was somewhat different speaking to someone who was a fellow psychologist.

During analysis, I was frequently aware of how findings resonated with themes from the preliminary study (Greer, 2013) and with other literature. During analysis of the interview with Grace, Lane and Corrie’s four main themes (2006:3), referred to in section 2.1.3, relating to the skills of psychologists as modern scientist-practitioners surfaced frequently and I wrestled with how I might reconcile my sense-making activity (and that of Grace), both naturally informed by knowledge of theory and research, with the need to bracket out the fore-structure knowledge. I will discuss this further in Chapter 5. I was also struck by how Grace’s approach to formulation reflected my own practice, as both a practising EP and as a researcher. In particular, the digestion metaphor resonates strongly with my experience of analysing the interview.

4.4 Grace: Analysis of Interview B

Following Interview A, I was keen to explore the interpretations from my initial analysis. Given the success of the ‘gentle exploration’ approach for the first interview, I abandoned the idea of a more structured approach, opting instead for the opportunity to explore interpretations from Interview A. Guided by my preliminary analysis of Interview A, I constructed a prompt sheet of questions and points for further exploration (see Appendix 5). Participants were sent the transcript of their interview to redress any perceived power issues and I also provided them with an overview of my prompts. I briefly
considered embarking on cross case analysis prior to Interview B but decided against this, concluding that this would amount to prematurely mixing phenomenologies. Rather, I resolved to focus on the exposition of the individual in its entirety before comparing their phenomenological accounts with each other. I followed the same analytic procedure for Interview B as for Interview A: repeatedly reading the transcript (both with and without the audio), making comments alongside the narrative and organising comments into themes with the use of coloured highlighters and mind-maps. Eight themes emerged from the comments, with four of these matching themes from the previous interview. Themes emerging from the analysis of Interview B which echoed themes from the analysis of Interview A were: Being Person Centred, Being a Scientist Practitioner, Emotional Labour and High Stakes. A further four themes were identified: Role shaped by context, Motivators / influences, Child-Centredness and The experience of the interview. These themes are discussed in turn, with the numbers in brackets denoting line reference numbers in the transcript.

4.4.1 Grace: Superordinate theme 1b: Being Person Centred

Compassion, empathy and genuineness are prevalent themes throughout this interview and cumulatively resonate with the theme of Being Person Centred, a dominant theme in my analysis of Interview A.

Grace’s starting point in seeking to understand is a general acceptance that: ‘Life isn’t fair’ (509-510). She has a strong sense of empathy which is demonstrated not least in her use of language describing cases in terms of emotionally charged adjectives ‘tragic’ (623), ‘troubled’ (609) ‘saddest’ (586), ‘depressing’ (591) and she speaks with authentic compassion about children and families at the centre of ‘sad and difficult’
cases (803). However, she is realistic about the limitations of her empathy, acknowledging that we can never presume ‘to know exactly’ what another person thinks, feels or experiences ‘until we’ve walked a few miles in somebody else’s shoes’ (510-511). Grace is mindful that certain risk factors including social disadvantage (512) predispose some people to being more likely to require involvement from the family court and holds the potentially incompatible views that ‘we all have choices in life...but I do try and be as non-judgemental as possible’ (515). Interested to see how she might resolve this internal conflict / cognitive dissonance, I asked if she could have ever been a client. She reflects on my question and, as if anchoring herself with ‘a bit of humility goes a long way in this work’ (562), she acknowledges ‘I haven’t really been there’ (561) and ‘I can’t honestly say what it must feel like to be completely down and out, to have your children removed from you...to be dependent on drugs or alcohol or to have...to be in a broken relationship where I can’t have contact with my children or my children don’t want to have contact with me. I haven’t been there and so it’s quite hard to speculate on...how that might feel’ (562-569). Grace’s strong sense of empathy enables her to perspective take and ‘imagine’ (571).

4.4.2 Grace: Superordinate theme 2b: Being a Scientist Practitioner

Grace talks about weighing up, balancing (186) and applying painstaking diligence (192), ‘really pedantically’ (195, 237) engaging in the ‘pretty monumental task’ (199) of weighing up all the various options and consequences of each possibility. She refers to looking at the evidence (70, 352) and triangulating this with the voice of the child, reviewing outcomes and engaging in self-evaluation (116).
Grace refers to playing ‘devil’s advocate’ (229-230) with herself, acknowledging this as one of the reasons she found the work stressful. In using the example of separating siblings she talks me through the various stages of decision making and the multiple permutations elicited from ‘pedantically’ setting out options and needs, weighing up advantages and disadvantages and considering the child when they reach adulthood and ‘what sense they would make of how the decision was made’ (242-244):

‘So often I would write my report bearing in mind that some of these children would look back on that because they may want to understand why these major changes to their lives were made when they were too young to have a very real say in it’ (245-250).

Here she conveys a strong sense of accountability not only to the court, but also to the child and to the child who will one day be an adult reflecting on decisions that changed their life for better or worse. Grace talks about the wondering about and the not knowing the longer term outcomes for many of the children she assessed:

‘Of course, in terms of long term outcomes, how some of those children that I saw, I don’t know, ten or twelve years ago, that will be adults now. I don’t know and I would love to know and there is always a wondering about the longer term outcomes’ (123-128).

Grace also acknowledges the limitations of her knowledge and the high risk involved when making decisions for the future based only on information from the past and present.
Despite her use of the somewhat self-deprecating adverb ‘pedantically’, Grace’s elaboration (192-220) of this, including but not limited to acknowledging the primary needs of each of the multiple siblings in the context of each of their relationships and attachments, different personalities and competing needs, along with considering ‘all the consequences for and against each of the options available for each of the children’ belies any notion of pedantry. However, it does indicate a clear understanding of the court’s requirements in terms of being able to demonstrate specification and qualification in her formulation.

Grace talks about formulation in school work and compares this with formulation in court work: ‘Now in terms of formulation in school work…I feel…grossly ill equipped to do that compared to the way in which I did it in court work’ (395-396). She cites less time with parents and the absence, in most cases, of a home visit in ‘school work’ and less detail of information as contributory factors. Crucially she talks about the child in context:

‘...so I think I don’t have that detail of information available to me and I don’t have quite the same confidence that I’ve grasped what’s going on for the child across all contexts and I think it’s the contextual stuff [...] and I think we touched on this before...that the child will behave differently in all contexts as, you know, all children...respond to their environment and who they’re with and where they are, but in these situations where there has been either a sudden change...or something...adverse has happened to the child, then it’s much more important to understand that and I think I just don’t have that information available to me’ (402-413).
Understanding the child across contexts is fundamental, not only to Grace’s approach to psychological formulation in terms of triangulating her findings as a scientist-practitioner, but also to her child-centred practice.

Grace’s awareness of the triple hermeneutic and the test of time is evident when she talks about the consideration of the longer term outcomes and how the child (as an adult) might reflect on life changing decisions made (245). When asked specifically about influences, it is apparent that she knows more than she can articulate. However, when talking about specific cases, Grace demonstrates that her knowledge and application of psychological theory and research are intertwined with her practice. Grace talks about the influence of Family Therapy research on her practice and her interactionist approach with a focus on understanding the child across contexts.

4.4.3 Grace: Superordinate theme 3b: Motivators / Influences

Given Grace’s experience of the all-consuming nature and emotional impact of her work, discussed in the previous interview, I was keen to understand what had been the main motivators that had prompted her to focus so much of her career on working as an expert witness.

Grace talks about having always been ‘a bit of an observer in life’ (470) and acknowledges the influences of her own family background and ‘difficult family dynamic’ (497-498) on her motivations. She reflects on having been the ‘peacemaker’ (474) in her family of origin with ‘two quite troubled brothers’ (476) and recalls having always ‘understood things differently to other people around me, even as a child’ (477-479). Not having had a voice as a child (481) and having noticed,
even as a child, that ‘there were adults who misunderstood what was going on with my brothers’ (479-480) were presented as formative experiences. Grace’s account suggests that watching and seeking to understand enabled her to find agency as a child when she did not have a voice (481). This is echoed in her narrative about her approach to working as an expert witness. Indeed, trying to attain the best possible understanding of a given situation permeates Grace’s phenomenology. Moreover, there is a clear acknowledgement that working as an expert witness provided her with the ‘chance’ to have a voice (482-483) and a way to find a sense of agency.

There is evidence to suggest that the blueprint for this resides in Grace’s own childhood. Grace again alludes to her own personal experience of having followed a different life trajectory to her siblings when she discusses the inherent bias in the assumptions of professionals from allied disciplines (528-554) regarding a viability assessment of potential kinship carers for three children who had been removed from the care of their father, a habitual drug-user. Grace recalls being at a professionals’ meeting where ‘everybody just dismissed this idea out of hand and said ‘yeah, but if it’s his brother…what’s he going to be like? What’s his family going to be like?’ (537-541). Grace contrasts this stance with her own which is informed by knowledge and experience from her professional and personal life which have taught her that ‘siblings are not necessarily the same and don’t necessarily have the same difficulties…the same lifestyles…the same personalities...’ (542-545). Grace’s tone and intentional gaze here add further meaning to this, resulting in my interpretation that she is referring to herself and her own family background.

Grace reveals a number of core values, beliefs, memes and tropes throughout the interview. Although some of these present as heuristics and cliché-like (e.g. ‘none of
us know exactly how it is until we’ve walked a few miles in someone else’s shoes’ (510-511) and ‘inside every psychologist is a client’ (525)), she redeems these from being potentially reducible to merely scripted platitudes by elaborating on them and providing examples to expound.

Grace is motivated by a desire to help others (485-489), although she explicitly owns that her ‘sympathies were always stronger towards people in public law proceedings...because they had such troubled backgrounds themselves almost always...almost always’ (605-610). She comments on some parents being ‘so damaged by their own experience of sexual abuse, physical abuse, neglect’ (625-630) that they were ‘less able to deal with being a good parent and had no blueprint to draw on’ (631). As discussed in 4.2.1. Person Centred values such as empathy, humility, genuineness and compassion are also strong influences that infuse Grace’s rationale. She evaluates her contribution in the case discussed in 7b, in terms of considering a hypothetical alternative scenario of not having been there: ‘if I hadn’t been there to do that and have that conversation with that adoptive parent, I don’t think she would have...understood the importance of that to the child’ (694-698).

Grace shares a private law case where the child at the centre of the case had parents who ‘were so...at daggers drawn with each other that they couldn’t allow her to take anything from one house... If it had been contaminated by the other party then she wasn’t allowed to bring it into the house, so she had two of everything [...]. She even had to change her clothes...before she went in the other person’s house. An unbelievable case of adults...you know, not being able to put the child’s needs before their own...or even show any insight into how that must have been for that little girl’ (312-323). Grace recalls ‘deliberately setting out to bring about changes in both her
perception and also...bringing about changes in her parents’ behaviour and
perception’ (340-341). She describes strategies to inform and encourage perspective
taking in parents (323-346) and then reflects ‘so then, yes, you do see some progress
when parents might actually then begin to be a bit upset when they realises what
they’ve done’ (348-350). She acknowledges that this ‘sometimes happens’ (351)
alluding to the intractable nature of private law cases in the main, but reflects that
evidence of progress and ‘a bit of hope’ (352) of even minute outcomes are
rewarding.

Receiving ‘very, very positive feedback’ (483) about her contribution is cited as a positive
reinforcer, as is the sense of doing the right thing: ‘sometimes actually ...having done
something that I thought I’m really proud of that and actually never sharing that with
anyone not actually telling anyone’ (901-903). Although Grace uses the word ‘proud’,
further clarification suggests that the intrinsic motivation here is borne out of a sense of
duty, ethical and moral obligation and feeling compelled to do the right thing: ‘...and so
actually I think I know that the intrinsic reward... I did it... you know ...because I knew it
was right and because I wanted to do it’ (908-910).

Having stressed that the ‘intrinsic rewards are hugely...important’ (900), Grace also
introduces the ‘big extrinsic reward’ (914) of money. She again demonstrates her
willingness to surface potentially uncomfortable issues by introducing the
metaphorical ‘elephant in the room’: ‘ I think the other thing that is undoubtedly...
undoubtedly true and I think it has to be named actually ...that expert witnesses get
paid a lot of money so there is actually also...a big extrinsic reward too’ (910-914).

Whilst acknowledging this as a legitimate extrinsic reward, Grace also considers the
perils of money being the primary incentive: ‘that bothers me a bit that I think there
are possibly some people want to do it...who maybe haven’t thought about all
the...requirements of the job because they do think it’s going to be a well-paid thing’
(915-919).

4.4.4 Grace: Superordinate theme 4b: Child-centredness

‘I felt always...always felt in court that the child was the absolute centre of the work...’
(741-743). Grace’s child-centredness is evident in both interviews and she makes several
explicit and numerous implicit references to the best interests of the child, to meeting
children’s needs and to prioritising their rights.

Recognising that children who have had a ‘wobbly start in life’ will ‘very often’ need better
than ‘good enough parenting’ (153-155) and that two children in the same family can
have vastly different experiences of caregiving and have different needs are just two
examples of how Grace acknowledges the different needs of children depending on their
individual needs and contexts.

Grace acknowledges the ‘adversarial nature of things’ (596-597) in private law cases and
that ‘winning and losing becomes absolutely everything in those cases’ (597-598). As
such, she identifies that ‘losing sight of how it is for the child becomes commonplace’
(599-600). In the private law case previously discussed (where the child was not allowed
to take anything from one parent’s house to another), Grace recalls that she undertook a
piece of therapeutic work with the child concerned: ‘We decorated little boxes and we
had a box for each of her parents...where we’d put little messages in the boxes about, you
know, what they thought and felt and what it was like ...and then... I presented a box for
her and this was going to be her box...and I gave her the box and she dropped it...and said
‘I don’t have a box!’ which was a very, very...symbolic moment and actually that was, you
know, when the real work began to be done...with thinking about ‘well, actually you do have a box.’ (325-335). This is an example of Grace working directly with the child and her parents with the express purpose of enabling and empowering the child to find their voice and their sense of agency, as previously discussed in 4.4.3.

Grace launches into recounting a multi-faceted dilemma involving a sibling group of eight, including two older children who were ‘clearly not adoptable’ (170) and ‘refused to accept substitute parents in the same way that younger ones are able to’ (181-182), two babies who were adoptable and four other siblings who could not be placed together. ‘How are we going to split?’ (171) was the springboard question from which other questions were generated about, for example, open adoption and contact: ‘Do we jeopardise the babies’ adoptive placement by making them open placements? What are the babies’ rights to know that they’ve got six older siblings and how do we weigh up and balance out their need for stability against the elder siblings’ needs to know that their baby siblings are okay?’ (183-188). Grace addresses these issues by focusing on the ‘primary needs for each of those siblings [...] as they are now’ (200-201), taking into account their experiences, relationships, attachments, different personalities and, ‘in particular, the competing needs of the siblings’ (207-208). She explains that she then would write her report ‘quite pedantically in terms of ‘these are the options and the needs’ (237-238), with the implication that the options would be securely informed by the needs. When discussing formulation in the context of expert witness work, Grace talks about family systems, dynamics and perspectives but firmly grounds this by ‘always keeping in mind, because that was the reason I was appointed in the first place, how that impacted on the child, that the child was always central to that’ (389-391).
Grace provides several examples of the court being guided by her opinion of the children’s needs. For example, she recalls that the court never declined permission for her to share her report with others (e.g. schools): ‘the court never said no if I thought it was in the child’s best interests. That was always agreed’ (282-284). Similarly, Grace recalls: ‘If I thought it was in the child’s best interests and I could achieve something, I could make that happen’ (733-735), suggesting that she derived a sense of agency from being able to act in the child’s best interests. Grace talks about best interests in the context of evaluation criteria and shares how, as a reflective practitioner, she enjoyed the opportunity to revisit children for an addendum report and to collect ‘some feedback about whether your original recommendations had been in the child’s best interests or not’ (121-122).

4.4.5 Grace: Superordinate theme 5b: Role Shaped by Context

‘In another context, if I’d been sent in to see this child over a court report, I’d be doing a Bene-Anthony with this child, I would be doing...I would also be observing this child in contacts with the absent parent for example, but of course that just isn’t possible’ (7-12).

Grace reflects on her role as an associate EP and contrasts this with her work as an expert witness. She suggests that the context determines the working practices of the EP. In referring to her work in the local authority she explains that different time constraints (12), remits and purposes of referrals (13) result in different decisions about the type of work undertaken.

Grace alludes to a loss of her sense of agency (and perhaps responsibility) in generic EP work in comparison to expert witness work and provides a hypothetical example where she might make recommendations to a school for family support or play therapy, based
on the child’s presentation. However, she acknowledges that in schools work: ‘I have a horrible feeling most of those recommendations are not implemented’ (23-24). In contrast, she reflects on an ‘incredibly complex’ (51) case as an expert witness, where she had been involved over a long period of time. The case involved a child who, while sleeping, had been seriously assaulted by their mother and was only saved by the actions of their sibling who had intervened. The children were consequently placed in foster care, whilst the mother was charged with attempted murder. Grace recalls that she was asked very specific questions about contact issues, even including whether one of the children (who was grieving for their mother) should receive a Christmas card from their mother. Grace highlights that she felt confident making clear recommendations in this case due to her knowledge of the children arising from having been able to spend time with them for ‘really as long as I wanted and that’s something that I think I never get in local authority work’ (72-74). Her account indicates not only greater autonomy and a greater degree of confidence in assessment and formulation, but also increased scope to apply psychology when undertaking expert witness work compared with associate work in a local authority. Grace also suggests that there is less of a focus on multi-agency work as a generic EP compared with working as a court appointed psychologist (106-112). She attributes this, in part, to the ‘spotlight’ (92), equating to more intense scrutiny in court proceedings, which ‘didn’t half keep people up to speed’ (92-93) and created greater accountability in the system: ‘I absolutely know that … the court would be checking every detail of recommendations that were made and social services would be brought to account if they hadn’t… done their bit.’ (82-86). In terms of formulation in school work, Grace refers to feeling ‘grossly ill-equipped to do that compared to the way in which I did it in court work’ (395-396). She attributes this to typically meeting parents for less than an hour and not conducting a home visit in the majority of cases. Consequently, Grace
feels that she does not have ‘that detail of information available to me’ and does not have ‘quite the same confidence that I’ve grasped what’s going on for the child across all contexts’ (401-405). Grace ascribes the relatively limited information to not being ‘permitted to spend that amount of time gathering information about the child in all contexts’ (414-416) due to ‘the demands of the service and the money available to complete this work’ (417-419). Grace refers to working as an associate EP as ‘a completely different job’ (722) compared to local authority associate EP work. She primarily attributes this to ‘leeway to do whatever you think is right’ (727-728) and the freedom to pursue an intervention ‘if I thought that was the way to go’ (730-731) and ‘if I thought it was in the child’s best interests and I could achieve something, I could make that happen’ (733-735). Grace adds ‘I would never see myself having that sense of agency in the local authority and I don’t think anybody wants me to do that in the local authority’ (735-738).

Despite Grace’s discussion of the contextual restrictions on her associate role, when I ask her if she has ever let her experience from working as an expert witness influence her work as an associate EP, she acknowledges that she had drawn on this experience when allocated a case that ‘felt like a court case’ (436-437) and had made certain recommendations that she might have made as an expert witness. Grace discusses local authority work as being ‘very much bound up with schools, not the child’ (740-741) adding ‘I felt always...always felt in court work that the child was the absolute centre of the work...Now although I know it is in terms of ...local authority work, it’s driven by...I don’t know, allocation of hours that the school has’ (741-745). She summarises this in the following quote: ‘I think in the court we had a psychological overview of everything that was going on and...there isn’t a psychological overview of everything that’s going on, I
don’t think, anyway that’s my limited experience in local authority work’ (752-757). This prompts me to ask her if she feels that her wings have been clipped, by way of a paraphrase of her comparisons. She connects with this metaphor answering: ‘Yes, I think…probably….yeah, probably they are but I also think I probably …if I knew…more…I think I’d probably realise how clipped they are. I think I probably don’t even know enough to know how clipped they are actually in a lot of cases…yeah’ (759-763). In an endeavour to explore any dissonance, I ask Grace how she feels about this, in the light of her expressed and evidenced desire to serve the best interests of the child. Grace appears to stem any potential for internal conflict firstly by acknowledging the compartmentalised nature of her specific caseload (‘a paper exercise almost’, 781) in the local authority where she works before resolving this and moving from a sense of loss of agency to a position of empowerment:

Grace: *I think I know myself well enough…if I had a case …where… I actually had a very clear view what I thought should happen and it wasn’t happening…I know I’d just…I’m afraid I’d just go for it.*

Interviewer: *You’d find a way…*

Grace: *I would…I know I would. And I think that’s one of the things, maybe one of the disadvantages of doing court work is…I think you realise that things can happen if somebody makes it happen so…I actually think…yeah I would’ (781-791).

Incidentally, almost as an aside, after the interview has finished and recording recommenced, Grace shares that she would typically track back through the bundle to establish who had first alerted any agencies about safeguarding concerns. Health visitors,
concerned neighbours and teachers were often recorded. However, notably, Grace is unable to recall a single case where an EP was the first person to alert agencies (875).

4.4.6 Grace: Superordinate theme 6b: High Stakes

As during Interview A, Grace illustrates her narrative about expert witness work with references to cases which demonstrate the high stakes nature of the work. Some of the high stakes, ‘tricky’ (164) decisions and ‘dilemmas’ (162) in which Grace was involved included children having suffered serious neglect or abuse resulting in their removal from the birth family, large sibling groups who needed to be separated from each other (112-220), children who had been at the centre of ‘intractable’ (306) private law disputes, and children with attachment difficulties who needed ‘better than good enough parenting’ (155) and who could not be returned to their parents, even when those parents might have made changes as a result of, for example, rehabilitation treatment and become just about good enough.

Grace refers to the long term consequences (175, 193) of decisions and the ‘pretty monumental task’ (199) of weighing up options. She talks through her involvement in a ‘farewell goodbye visit’ (681) for a young mother with learning difficulties and her toddler son. She describes this as ‘one of the saddest things that I can ever remember’ (682-683) and explains how this young mother had written a letter for her son which was ‘badly written and badly spelt but you couldn’t question the strength of feeling behind it’ (685-686). Grace recounts how she spent ‘a long time’ explaining to the adoptive parent ‘why this letter was important and why she must always, always keep this letter for this little boy because it will be important for him at some level to know when he’s older that he
had a mum who loved him and wanted him to have a better life than she could give him’ (688-693). Although this was clearly a case with a weighty emotional load due, not least, to the vulnerability of the mother and the young age of the child, Grace prefaces this case example with the assertion that she had never encountered ‘a mother who has been separated from her child who hasn’t ...really felt that...felt that very, very strongly’ (669-671).

4.4.7 Grace: Superordinate theme 7b: Emotional Labour

In referring to the case (previously discussed in 4.4.5) where a mother was due to be charged with the attempted murder of one of her children, Grace refers to ‘the spotlight’ (92) in court proceedings keeping people ‘up to speed’ (93) and bringing people ‘to account if they hadn’t...done their bit’ (85-86). She shares that she found the work ‘quite stressful’ (231, 935); questioning every decision (232) and talks about the question ‘what if I’m wrong?’ (229) being ever present: ‘I think you think that...all the time it’s there. It’s not even really in the back of your mind’ (226-228).

In relation to her former work as an expert witness, Grace shares:

‘I think one of the things I will say now I’m not doing court work currently is...actually...what a sense of relief in some ways it is that every single case felt significant and quite stressful. I think the levels of stress...in court cases are huge actually’ (857-861).

Grace talks about being consistently ‘at the sharp end with court work’ (640, 649), due to cases being more severe, more entrenched and more likely to have criminal elements. In discussing the high stakes of the ‘tougher cases’ (658) with ‘tougher decisions’ (659), she
conveys a deep sense of compassion when talking about ‘the most vulnerable mothers’ (668). She acknowledges ‘sad and difficult’ cases, some of which ‘will stay with me forever’ (804).

In addition to the work being stressful, Grace also recalls the deep sense of frustration associated with child sexual abuse cases in the family court where there was insufficient evidence to convict an abuser in a criminal prosecution ‘and ... you know, you knew that that person was guilty but there was going to be no consequences to that and that was really frustrating...really frustrating’ (943-946).

4.4.8 Grace: Superordinate theme 8b: Experience of the Interview

I ask Grace how easy it had been for her to be frank with me about her experiences. She tells me that the interview process has been ‘like a walk down Memory Lane’ (800) and that ‘certain things trigger thoughts and memories in my mind’ (831). She describes the process as ‘quite therapeutic for me to think about it all and to... somehow make some sense about it’ (855-857).

She also acknowledges that the space to ‘look back and reflect’ (495-496) on the impact of her own experience of a ‘difficult family dynamic’ (497-498) on her work as an expert witness has enabled her to concretise in her thinking that which she had not previously articulated:

I’ve found it quite helpful really to have some questions because if you’d just said ‘oh tell me about your experience...as a local authority...’ I think I’d find that too huge. So it’s been helpful to ... have some questions to sort of narrow it down a bit really, to filter out what sort of information you’re looking for’ (812-819).
Given the time lapse between Interview A and Interview B, providing Grace with the transcript of Interview A was especially important in enabling her to re-familiarise herself with the content of our previous conversation. On my arrival at her home (Grace’s chosen venue), she shared that she was feeling ‘under the weather’ and had not pre-warned me as she did not wish to postpone. I, of course, offered to postpone our conversation until she had recovered and when Grace expressed a strong wish to continue, I asked her to let me know at any point if she wished to terminate the interview. At times during the interview, she adopted a reclined position on the sofa but continued to talk with purpose. There were also three ‘false endings’ to the interview (828, 868 and 894), where having thanked her for her contributions and stopped recording, Grace then proceeded in introducing another thread or reflecting further on our exchange. Rather than her feeling below par having adversely affected the data, I perceive her more relaxed demeanour to have been conducive to even greater authenticity. Likewise, the stopping and starting of the audio recording on three occasions inevitably caused me to harshly scrutinise my technique, judging that I had perhaps been too hasty in prematurely terminating the recording whilst also feeling conflicted about having proceeded with the interview knowing that the participant was not feeling at her best (despite her insisting to the contrary). However, on reflection, after studying the transcript and listening to the audio, it is apparent that on all three occasions, the interview had definitely concluded. Moreover, it is my hypothesis that it was the very act of physically terminating the recording, perhaps resonating with her dislike of the ‘spotlight’, that had reignited conversation and encouraged her to share more. Consequently, as Grace regained her flow, I resumed recording.
Throughout the interview, Grace actively surveys the evidence of everything she can recall in this particular interview and recalls things throughout the interview, some of which surprise her. She does not shy away from difficult themes and her assessment of the process suggests that she found it a ‘therapeutic process’. Grace’s approach as an active participant, seeking to make meaning and gain an understanding as well as wanting to be as helpful as possible facilitated a multi-layered exchange and also reflected her approach as an expert witness. I was grateful for the opportunity to probe further about issues that I felt I had left relatively under-explored in Interview A and Grace engaged in thoughtful responses, often pre-empting where I might have otherwise probed, by cross-examining her own responses and challenging her own thinking. Given Grace’s response to my open questions, I was particularly pleased that I had maintained a relatively free conversational approach and had decided against the explicit use of PCP techniques such as triadic elicitation and laddering for this participant.

4.6 Clara: Person-in-context and Analysis of Interview A

As with Grace, this section begins by considering Clara in context and viewing her relatedness to the subject before providing my analysis of the first interview (A) followed by my reflections on both the interview and the analytic process. My analysis of the second interview (B) with Clara is then presented along with a reflective account of the interview and the analytic process for this.

Clara: Person-in-context

Clara is female, white, British and over 55 years old. She initially trained as a counsellor and teacher and then as an EP. She worked as an EP in the North and then as an expert
witness alongside her local authority role, before working exclusively as an expert witness from 1999 onwards.

I first met Clara at an event where she and a clinical psychologist colleague presented a session on the role of the psychologist in court, which was described as their response to the ‘Ireland Report’ (Ireland, 2012). Conversation with both presenters following their session resulted in an invitation for me to attend the peer supervision group for psychologists working as expert witnesses. Clara was a founder member of this group and was largely acknowledged by the group as the figure-head who kept the group in operation. At one peer group meeting, Clara shared a case that had received extensive coverage in the media. I was struck by her exposition of this case and of how she spoke about the mother with particular compassion and insight. I recall wishing that I had already gained ethical clearance for my research and that I could have recorded and utilised Clara’s account as data. I tentatively asked Clara if she might consider being a participant in my forthcoming research; she was positive and encouraging about this, again repeating her regret that no-one in the group had written up ‘the work’.

Shortly after agreeing to be interviewed, Clara announced her retirement from working as an expert witness and relocated. It was therefore agreed that we would conduct interviews via the use of video-telephony (Skype). I was initially unsure about how this would work and discussed my reservations with Clara who reassured me that she was a proficient user of the technology and that we already had an established rapport. Whilst acknowledging that this would possibly be less satisfactory than face to face, it was deemed to be nonetheless reliable. I discussed this with my supervisor and we agreed that I should opt for the pragmatic approach of proceeding with the initial interview and reviewing the impact of video-telephony on the data at the point of initial analysis.
**Clara: Thematic Map Interviews A and B**

The following thematic map is presented as a reference point for the reader.

![Thematic Map](image)

**Figure B - Clara: Thematic Map Interviews A and B**

**Clara: Analysis of Interview A**

I followed the process described in 4.2 for Clara’s interviews: reading and re-reading the transcript both with and without the audio, making comments alongside the narrative and organising these comments into themes with the use of coloured highlighters and mind-maps. I identified ten themes from the comments and resolved not to complete further analysis until I was at the same stage of analysis for the second interview. Themes emerging from the first interview were: ‘*EPs are uniquely placed*, high stakes, the personal, ‘*dramatic tendency*’, being child-centred, assisting the court, knowledge, experience and understanding, mentoring and supervision, motivating factors and the future. I will discuss each of these themes, with numbers in brackets referring to line numbers in the transcript.
4.6.1 Clara: Superordinate theme 1a: EPs are uniquely placed

Clara reflects on her time as a local authority EP and also as an EP working solely as an expert witness. She compares and contrasts the role within both contexts and shares her views on the unique contribution of EPs to the family court. She feels that ‘psychologists in the family courts are essential’ (10) and that EPs are ‘uniquely placed to move into court work’ (57). She justifies this by citing their connectedness with families and communities (55) as community psychologists (26; 760), their knowledge of the child in context (112) and their experience in dealing with schools (160-161). She also refers to their experience in establishing rapport, interviewing children (469-470) and their extensive experience of report-writing (759). Just as working as a generic EP is considered by Clara to be a solid foundation for working as an expert witness, she also holds the view that working as an expert witness provides EPs with ‘a different view of families’, ‘helps your understanding’ and that it ‘adds hugely to what you can bring to those children in schools’ (38). Clara is clear that ‘sound, well-argued psychology’, (563-564, 669) constitutes the unique contribution of EPs. ‘Charlie’, a former colleague and mentor, is credited throughout as having been a strong influence on her thinking and practice and she references a number of heuristics that originate from him, for example: ‘Educational Psychology...Charlie used to say, with a capital P and a small e. The educational is small because the teachers do that very well; the Psychology is what schools need from you...That’s the difference and I suppose that’s what I wanted to bring to court as well’ (665-670).
Clara references the high stakes, both for the child and for herself, highlighting a ‘much more profound impact’ (842) in ‘very, very complex’ cases (882; 876-877) before the court (than for cases in the local authority). She recalls the complex nature of the cases due to an escalation in drug use and ‘some very serious abusive experiences [...] suffered by the children’ (878-879). She acknowledges that ‘influencing a child’s life profoundly’ is a ‘terrifying prospect’ (306) and refers to an ‘ever present’ (286) fear and anxiety throughout the interview, both in terms of the professional and the personal (232), reflecting on being ‘afraid for yourself’ (352) and being ‘afraid for the child too’ (353). She is acutely aware that she could have been wrong and that, for example, a child perhaps should not have been adopted or separated from their siblings (301-305): ‘and we don’t get a chance to say six months later, ‘oh...maybe I was wrong, that child shouldn’t have been adopted’ (301-303). The professional and personal fear and anxiety identified by Clara relate, in part, to ‘getting it right’ (308, 351), acknowledging that: ‘However good your assessment, as far as the court is concerned, it’s actually only as good as the report you write ...and the evidence you later give’ (752-755).

Clara reflects on an occasion in court when she observed an adult psychologist ‘completely change her mind in court when she was cross-examined’ (358-359). She recalls that ‘It was awful for her. They just simply took this person apart, bit by bit [...] and seeing that and feeling the awful, awful, awful emotional experience really for the psychologist involved always did give me some personal fear too. There was always the chance that this was going to be you’ (359-368).
As alluded to in the previous section, Clara ascribes the ever present (272) ‘real fear’ (1004) to a fear of getting it wrong and to ‘looking an idiot’ (355), especially during cross-examination, which is ‘designed to make you doubt yourself’ (741-742) and to discredit the witness, with barristers who are ‘there to prove that what you have found was incorrect, either because you’re not knowledgeable or experienced enough or because you’ve interpreted things wrongly or that you have deliberately left out an alternative explanation and...it’s not easy to do’ (745-750). Clara claims to counteract this fear and anxiety with confidence and humility: ‘You need confidence in your professional self and to an extent in your personal self, but you mustn’t ever, ever think you’re any more important than anyone else or that you...have some sort of magical knowledge that no-one else does, you don’t, you just have your professional knowledge as an expert witness - especially when giving evidence’ (711-716). Although she alludes to having faced ‘some pretty awful experiences at times where you do feel terrible, personally as well as professionally’ (369-371), she is later unable to recall any: ‘No, I can’t think of one. It may be...that I’ll be...sending you an email in a week saying ‘oh, I’ve just thought of one’ but I actually can’t’ (682-685).

In addition to remaining cognisant of her own fallibility whilst balancing this with a degree of conviction and personal / professional confidence, Clara also references the role of performance in her practice, discussed in the next section.
4.6.4 Clara: Superordinate theme 4a: ‘Dramatic Tendency’

‘It’s totally true, being in court is a performance’ (1153).

Part of Clara’s identity is that she is from a ‘line of actors’, including her mother who was ‘a card carrying member of Equity’\(^{16}\) (1154). Clara owns this by surfacing this influence on her practice and in-court persona:

‘I’m entirely sure my past acting experience and dramatic tendency is a great help in court and barristers are great actors, they can make you feel as if you have started spouting rubbish, so you don’t look at them, look at the judge, speak slowly and clearly and my mentor was there the first time I gave evidence which is very unusual, most mentors would not do that because you don’t tend to …you can have someone in the court if you ask permission and everyone agrees, but mostly you don’t get your performance criticised, he was able to speak to me afterwards, very kindly, because it was enormously nerve-wracking’ (1155-1167).

This account evokes imagery relating to the theatre: of actors (Clara and the barristers), the stage (the witness box), the audience (the judge), the performance (the giving of evidence), stage direction (how to stand, where to look) and even a theatre critic, in the form of her colleague and mentor.

Abstraction, synthesis and the linguistic device of intensifiers have the effect of adding to the sense of drama by lending emphasis and creating a strong impression. They also occasionally result in blanket generalisations, such as would clearly not hold true in every

\(^{16}\) UK trade union for professional performers and creative practitioners.
situation: ‘it was...the child always that could give you the truth of the matter’ (534-535).

Indeed, intensifiers are used to great effect by Clara throughout the interview, especially in terms of amplifiers (including boosters e.g. really, very, so and maximisers including: utterly, completely, absolutely, entirely, eminently, 100 per cent). In contrast, downtoners, including approximators (e.g. almost), compromisers (e.g. partly), diminishers (e.g. a little bit) and minimisers (e.g. hardly) are used to a much lesser extent.

At times, there is a sense of Clara’s responses during our conversation offering a keyhole view of how she might have given evidence in court. In relation to her use of intensifiers, it is my impression that this is designed to serve two main purposes. Firstly, they appear to be intended to fulfil a narrative function, both in terms of lending emphasis to the construction of the ‘script’ and in terms of transmitting the depth of emotion and pain, with an additional purpose of evoking an emotional response from the judge and barristers (the ‘audience’ / fellow actors and / or would-be ‘critics’) or in the case of our conversation, from myself, to elicit empathy and compassion:

‘Barristers would often say they cried reading my reports...[...] “It made me cry”, several of them said and two judges...barristers...and I’ve had more than one judge say to me... “what you wrote about that child made me cry”. And I thought, “well, good because that’s what I want them to do, that’s what I want them to feel... the needs of these children.” I want them to feel what it might be like if social services want to adopt this three year old but he has been practically brought up by his nine year old brother, say...’ (589-600).

‘I wanted the judge to feel the same child that I had felt when I was interviewing them...and I know the courts are supposed to be detached and so on, but these are
children whose emotional lives are critical and if you can’t feel that, if you can’t communicate that, then I think that’s lacking as well.’ (565-573).

Secondly, maximisers are often employed to create an impression of ‘total’, ‘absolute’ and ‘complete’ conviction even though this may be an idealised presentation (i.e. an ‘act’). For example, ‘you have doubts ...you should have doubts but by the time you stand in the witness box...you cannot have doubts’ (309-311). Thirdly, they serve a persuasive function both in terms of conveying the extremity, severity and intensity of the situation whilst also consuming any potential riposte or counter argument. This hypothesis is reinforced by Clara when she talks about ‘the need’ ‘to convince in writing and [...] to convince in speech’ (755-757). For example, ‘they were desperate for their mother; absolutely desperate for their mother’ (435-436).

In the previous quote, repetition of ‘desperate’ is used to secure emphasis. Similarly, repetition as a linguistic device is used throughout the interview to add intensity to the narrative: ‘it was...not intuition, it’s never intuition’ (515-516) and ‘powerful, powerful sense of what was going on,’ (529-530), ‘awful, awful, awful’ (365) and ‘just horrendous...an horrendous life’ (449-450).

With regard to the story, there are examples of Clara casting herself in the role of rescuer and problem-solver. Her account of a case about two girls living with an abusive grandparent contains all the features of a traditional tale: the villain (a ‘wicked’ (419) grandmother), the victims (the two girls), the hero / rescuer (Clara) and a denouement: ‘The main difference I made was to escape them... help them escape from that grandmother’ (425-426); ‘So both children, that kind of...to me, that saved them from...just horrendous, an horrendous life...separated from their parents....’(448-450).
It is interesting to note that Clara does not often appear to pause to think at any length prior to answering (even sometimes probing) questions. The absence of obvious pauses to collect her thoughts or reflect creates an impression of pre-rehearsed responses, not in the sense that they lack authenticity, but rather that certain themes seem to prompt certain previously enacted (be they edited or unexamined) scripts. The absolutes and superlatives utilised when reflecting on both her time working as a local authority EP prior to 1999 and on her work as an expert witness, are perhaps consistent with her self-ascribed ‘dramatic tendency’: ‘I just said ‘oh yes, I would, absolutely and utterly fascinating... I totally and utterly loved it as part of my job...even the fear of standing in the witness box or...apparently very hostile barristers having a stern look on...but absolutely. It was wonderful. And the children...they were absolutely amazing, so were many of the parents’ (279-285).

4.6.5 Clara: Superordinate theme 5a: Being Child-centred

‘You want to do your best for the child, very best because that’s what you’re there for’ (229-231).

Clara perceives her purpose as acting in the best interests of the child and provides a synthesis of the court’s requirements (post The Children Act, 1989): ‘They wanted the psychologists to answer a tranche of questions about the children and their interest was in making absolutely sure that the children were at the centre of the proceedings rather than...almost incidental as had sometimes been the case before where the parents were at the front line demanding their rights,’ (133-136).
Resonating with the methodology adopted for this research, Clara stresses her concern with the idiographic such as, ‘from the point of view of a real, living, breathing child’ (613-617). In discussing the child’s voice, she acknowledges that ‘you have a duty as a psychologist to give it’ (660-661). She makes references to the ‘unique individual’ (626) and ‘the uniqueness of the children and their situation’ (627). She talks about social workers, who despite often having a ‘powerful, powerful sense of what was going on,’ (529-530) were limited by not being able ‘to get inside the child and inside the child’s emotions to prove it, you can only do it from the child’s point of view because no adult was going to admit what they were doing and…it was…the child always that could give you the truth of the matter’ (530-535).

Clara summarises the typical requirements of EPs as expert witnesses as: ‘to look at the emotional functioning of the children...very often the educational attainments of the children...and to look at the children in as broad a context as possible to answer questions that were put to them about whether the children’s difficulties could be attributed to their upbringing as opposed to some...something within themselves that would have existed regardless of their upbringing and that was what the courts wanted and...so that was where we started’ (142-152). In referring to ‘as broad a context as possible’, Clara conveys her interactionist perspective which is later reinforced: ‘... you don’t just take a child, throw a few tests at them and have a chat and write a report, you have to see the child in all sorts of different settings, speak at length with the parents and the foster carers and teachers and social workers and guardians and see the children in contact. It’s a holistic assessment and everybody’s
important in it. But of course they...the powerless at the bottom being the most important,’ (797-805).

Clara cites enjoyment of children and respect for their parents as part of their context as important features (728-737): ‘You [...] need to really, really like children and respect ...more than respect their parents. You’ve no idea why they end up with their children in care, no idea of where those parents have come from or how they got there and it’s important to have a great deal of respect for parents and just for themselves for having sheerly survived a lot of the experiences...’ (728-735).

4.6.6 Clara: Superordinate theme 6a: Assisting the court

Clara describes the primary function of the expert witness as a helper to the court: ‘because in the end, of course, it’s the judge...court who makes the decisions, not you. You’re there to offer help’ (317-219). Clara comments that ‘Usually...Family Court judges appreciate as much help as possible in making these difficult decisions because ... they’re entirely alone. It’s a very, very lonely position to be in, I think, that of the family judge, charged with deciding the future of maybe a number of children in the family. Mostly I found that judges were very...grateful for any information that would assist them, whether from social workers, psychologists, doctors, guardians and it’s essential for the children that that happens’ (988-997). Clara recalls that many judges had commented ‘very favourably’ on the ‘level of assistance’ (559) in her reports. She attributes this to offering something different from others: ‘There’s no point having a psychologist if you can’t get sound, well-argued Psychology’ (562-564). Clara reflects on her work as an EP in the local authority and reflects on ‘a degree of reservation’ (323) from a particular school where some staff had told her that their experience of EPs had been that ‘they were just
overpaid teachers and it wasn’t useful for them having someone who just told them what teachers could tell them. They had to have something more’ (326-330). Clara credits this conversation with particular school staff as ‘partly the start of my trying to put in all the emotional things…’ (330-331) and draws a direct parallel with what the court expects, commenting: ‘…It was the same in court’ (332); ‘The Psychology is what schools need from you. That’s the difference and I suppose that’s what I wanted to bring to court as well’ (668-670) and ‘It’s no good telling them no more than a good social worker or guardian ad litem could tell the court. You had to add something very important, you had to add Psychology, something that nobody else had…that would be very important, that the reports of myself and my colleagues to the court were telling them something they could not get from anywhere else. The reports had to be very, very psychologically based’ (332-339). Clara knows that for the purposes of the court, an assessment is ‘actually only as good as the report you write and the evidence you later give’ (753-755).

Although Clara dislikes the term ‘expert witness’, ‘because it always sounds like we know more than everybody else’ (98-99), she understands that this is ‘technically […] what the court wants from us’ (99-100) that is, specialist ‘expert’ psychological knowledge. She also references the value the court places on experience: ‘part of what the courts valued in educational psychologists doing this expert work was that they came with a body of experience already in interviewing children, in…seeing children in community settings, in family settings’ (1049-1054).

Clara acknowledges the court’s need for clarity and evidence based conviction, acknowledging that although doubts are an important part of formulation, ‘by the time you stand in the witness box…you cannot have doubts’ (310-311). In summary, Clara acknowledges that the court’s requirements from a psychologist expert witness include
specialist knowledge, sound, well-argued Psychology and high quality reports and evidence.

4.6.7 Clara: Superordinate theme 7a: Knowledge, experience and understanding

Clara discusses her own experiences, knowledge and understanding and application of psychological theories (namely Attachment Theory) which have influenced how she approached the role of the expert witness. She explicitly uses her own experiences as a point of reference for expert witnesses in general.

‘You need to have stuff in your armoury, if you like, so that when you’re with a child you can move from one thing to another fairly smoothly…so several years’ experience of your own career helps and then the mentoring is essential’ (1090-1094).

Indeed, Clara credits experience as ‘the biggest thing I was eventually bringing to all of this’ (512) and argues in favour of ‘minimum standards and experience before you’re allowed really to write reports that influence the rest of a child’s life’ (826-829). She shares her concerns about psychological reporting from EPs ‘with limited experience of educational psychology who hadn’t been mentored’ (822-823) not only in terms of their reports adding ‘very little’ (824), but also in terms of this leaving them in the position of being ‘torn apart by barristers’ (825-826). Clara highlights different types of experience which she considers prerequisite to working as an expert witness. These include: experience in report writing (759), experience of testing and interpreting (342-344), especially specific tests such as the MCAST, Manchester Child Attachment Story Task, and the Bene Anthony Family Relations Test (471-511; 1083-1089), experience of working with parents, teachers, community teams (759-760) and social care (36; 65; 127; 276; 1062;
and extensive experience of interviewing children and establishing rapport (470;1075-1082):

‘Mandatory should be several years’ experience in your own field before moving in. You’ve absolutely got...that’s where you get your experience of working with children, making them comfortable because if you can’t make them comfortable when you’re doing a BAS or something, you’re certainly not going to make them comfortable when you’re doing something much more emotionally challenging” (1075-1082).

When asked about psychological theories she drew upon, Clara primarily cites Attachment Theory: ‘Well, Attachment Theory...very, very strongly’ (155). Not only does she describe this as having been ‘colossally influential’ for her (185-186) and ‘the strongest psychological theme [...] running through all of the work that I did with the children’ (186-188) but it was consistently her principal theory of choice: ‘The theory I worked from was always Attachment Theory and it had, whatever results I might end up with, had to be coherent with that. If I felt I was getting the right thing for the child and from the child...if I couldn’t explain it in Attachment Theory then I would think I may have to look further, I might be getting this wrong’ (518-525).

4.6.8 Clara: Superordinate theme 8a: Mentoring and supervision

Mentoring

‘I had at least two years when nothing went to the court without being scrutinised, without me being almost cross-examined by the senior psychologist so that I was really...if I had put something carelessly, it would not appear in the final report, I
was made to think, made to examine every sentence really and it is important’ (832-838).

In promoting the benefits of peer supervision and mentoring, Clara warns that ‘you should never assume you know it all’ (883) and refers to the danger of making decisions ‘in a vacuum’ (116-117): ‘you could easily think you’re better than you are and the danger in that is making decisions totally alone forever and not really considering that there’s always this chance you might be wrong, you might have misinterpreted’ (873). She stresses that, in addition to experience and knowledge, essential preparation for working as an expert witness would include ‘current, initial, heavy mentoring and then more arm’s length and then real regular supervision’ (1121-1123). She makes frequent references to her ‘court mentor’, a senior EP who guided her through her introduction to court work (168; 179; 243; 277; 665; 1140; 1160) by reading her reports, ‘scrutinising’ every assessment and report (178) and providing her with critical feedback and direction. She refers to having been ‘heavily mentored’ (1095) and attributes much of her success as an expert witness to this positive grounding:

‘I know I became good at it not with any innate, you know, talent in this direction but because I was so well and thoroughly and carefully inducted and mentored and followed and supported and criticised and made to think. That’s what made me a good court psychologist’ (1004-110).

Clara also reflects on having acted as a mentor to an aspiring expert witness who was a clinical psychologist, sharing that her mentee felt that intensive mentoring was initially ‘essential’ before moving ‘into something a bit more gentle’, namely, supervision.
Supervision

‘...but you need to insist on a certain level of personal and professional supervision
I think because a lot of people doing court reports work in a vacuum and I think
that’s dangerous’ (1114-1117).

Alongside ‘heavy mentoring’, Clara also highlights the benefits of regular supervision (in
her case, peer supervision): ‘Oh, absolutely critical! It’s absolutely critical. It’s actually
quite easy and say if you’re relatively good at it, as I turned out to be, and people say very
nice things to you and judges say ‘thank you so much’ you could easily think that you’re
better than you are’ (868-872).

She places a high value on supervision, not only in terms of professional development,
challenging one’s thinking and maintaining a healthy sense of one’s own fallibility
(remaining grounded), but also in ensuring, in the absence of more formal regulation, that
expert witnesses regulate themselves: ‘There is a danger in being considered so expert
and doing it you actually think you know it all and you don’t have to doubt yourself. It’s
important to doubt every case, in a way...and you examine yourself but it’s so important
to have a peer group, whether it’s a mentor or a group as we eventually had with a phone
call to somebody that you know has a greater expertise in other areas of psychology than
you or some particular point or could advise reading or could advise somebody else to
speak to...to discuss the very difficult recommendations that you’re making...and then of
course in the group to hear other people talk about cases, their experiences that they’re
having. They...that brings something else to your practice as well, hearing how other
people do it and not assuming you’ve got the only answer...all of that’s so important and it
never ceases to be important...it doesn’t matter how long you’ve done it for, those are vital (883:902).

In comparing expert witness work to working in the local authority, Clara comments on the scope for noticing and adjustment as part of the generic plan-do-review cycle: ‘we can see that child again, we can review them, we can follow them along, we can make changes. If they’re given medication, that can be altered. There’s so much you can do as an ongoing involvement’ (845-849). In contrast, however: ‘but when you’re in court, this is the one chance the child has so it’s very important that you’re...we’re setting ourselves up to be called an expert...we actually are acquiring that expertise from someone who has that experience and psychological knowledge to help you through’ (849-855).

Clara recommends continued professional development in the form of reading and pursuing relevant training, whilst acknowledging that ‘there’s very little that you can actually train...as a psychologist in the courts, you have to decide for yourself what bit most needs enhancing about what you do and then find the right thing for that’ (1130-1134).

4.6.9 Clara: Superordinate theme 9a: Motivating factors

Clara talks about being keen (717), intrigued (265-274) and fascinated by the ‘emotional and family lives of the children’ (257-258) and the ‘emotional side of children’s existence and their emotional needs’ (260-261). The qualities and values that she endorses as prerequisites for working as an expert witness are invariably personal attributes to which she herself lays claim throughout the interview: Really, really liking children (728), wanting to do her best for the child (230), respecting parents (729), walking humbly and remaining cognisant of one’s own fallibility, humanity and place (as part of a team around
the child, 719) in a much bigger picture (708-713; 721-728; 886-887) are recurring themes. Clara is also driven by wanting to tell the story of the emotional lives of children, acting as a ‘transmitter’ (492) ‘to convince in writing and in speech’ (756-757) and to make the court feel and understand from the child’s perspective (567; 597; 577-588; 595-596). Fear and anxiety also have a motivating influence in that she does not want to be wrong and enjoys the feeling of being useful (681) and helpful (319; 560). She refers to being ‘so lucky’ (676) and ‘fortunate’ (544; 549; 558) in having frequently received positive feedback from judges (870-871; 558-562). Although she does not explicitly surface the role of positive feedback as a motivating factor, there is a sense (based not least on Clara’s self-confessed dramatic tendency) that she would possibly be encouraged by metaphorical ‘applause’.

4.6.10 Clara: Superordinate theme 10a The Future

It is Clara’s view that psychologists in family court are essential. She talks passionately about ‘abandoning the profession’ (6-7) due to the ‘many, many changes’ (6) which she feels are ‘unacceptable…completely unacceptable’ (916). There is a shared understanding between us of the changes to which she is referring, emanating from previous conversations in the peer supervision group and emails shared between group members relating to the fee reductions for expert witnesses and demands from solicitors for group members to return fees. She has also previously shared with me about feeling sad that such changes had forced her to stop more abruptly than she would have perhaps liked. I am also already familiar with Clara’s strong views about the reforms so when she asserts that she would currently refuse to work in the court, I know that she feels and thinks more about this than she articulates in the context of this interview: ‘And at the moment, I would refuse to work in the courts, I would refuse…if I’m supposed to be an expert then
surely it’s up to me how long it takes to do an assessment and write the report. I’m not having somebody sitting at a desk who knows nothing about Psychology, nothing about children telling me I am not allowed to take more than 14 hours to do my assessment’ (937-945). She feels that the restrictions imposed are unrealistic and unethical:

‘...always, all of us, always charge far, far less, fewer hours than we actually put into it...we’re still well paid enough to earn enough money and do that, but I couldn’t earn a living if every case was limited to 14 hours, it would be impossible because I would be spending four times that much, oh at least, and then some...on the work, but not being paid for three quarters of it. And it’s unethical anyway to pretend you could do a proper court assessment in that amount of time, so I stopped it’ (945-955).

Clara can foresee ‘problems for the future’ (1015) when things eventually ‘come full circle’ (998). She predicts that children and parents could sue local authorities and / or the courts ‘for making decisions on the basis of wholly inadequate information’ (961-962). She provides a hypothetical example of a child who might say ‘I was adopted age X with no assessment of my needs’ (962-963) and identifies the stakes as high for both the child and the courts:

‘...if you make a decision about a child’s life on the basis of wholly inadequate information, incomplete and inadequate information...the risk...it’s very, very risky for the child, but also you run the risk in the future of that child coming back in the future ...how could you do that?’ (965-971). She predicts: ‘I think it’s going to come back and bite the courts very heavily’ (982-983).
Clara foretells the turning of the circle ‘it’ll come full circle, things generally do’ (998-999), sharing her fear that when this eventually happens the expertise and scope for mentoring and induction will have been eroded:

‘...but my fear about it coming full circle is that when it does come you will not have a tranche of experienced psychologists who can induct younger psychologists into the work, we’re all leaving it, we’re all gone. None of us are carrying on doing this... It is a real fear [...]. And I don’t know where the future psychologists are going to find their mentors from (999-111).

The ‘us’ referred to in the quote seems to specifically relate to the small group of clinical and educational psychologists in the peer supervision group. Clara acknowledges that experts are still required by the courts in fewer numbers but wonders about the quality of the reports due to the impact of restrictions.

4.7 Clara: Reflections on Interview A and Analytic Process

I was relieved that the interview flowed well, despite very occasional moments in Interview A of poor Skype connection (noticed primarily by myself). This was not, however, to the detriment of the flow of conversation as Clara and I both naturally compensated for these and Clara talked fluently and uninterrupted. I also noticed that Clara wore headphones for both interviews which ensured that she could hear clearly and that she was not distracted by extraneous noise. We were in our respective homes for both interviews, lasting 83 minutes (Interview A) and 99 minutes (Interview B). Clara shared that she had not slept well due to feeling uneasy about the interview as she wanted to be as helpful as possible. I attempted to reassure her that any anxiety should be borne by me. As the use of video-telephony was not felt to unduly detract from the
experience and as the data generated was rich and warranted a follow up conversation, we agreed to utilise this method of communication for the follow up conversation.

Following the interview, I reflected on the intensity of the language and retrospectively wished that I might have interjected more frequently with some level of challenge to try to elicit some dissonance or ambivalence. I was therefore grateful for the opportunity to revisit some of the missed opportunities to probe further in Interview B.

4.8 Clara: Analysis of Interview B

As with Grace’s interviews, I followed the same analytic procedure for Clara (i.e. repeatedly reading the transcript, both with and without the audio, making comments alongside the narrative and organising comments into themes with the aid of coloured highlighters, lists and mind-maps). Eight themes emerged from the analysis of Interview B: The role, Emotional lives, Working with parents, Motivating factors and learning experiences, Decision-making and formulation, Court processes, Looking back and moving forwards and The experience of the interview. These themes are discussed in turn with the numbers in brackets denoting line reference numbers in the transcript.

4.8.1 Clara: Superordinate theme 1b: The role

‘You’ve got to put enormous amounts into it because it matters so much. It’s the rest of their lives [...] I mean we all are as we are partly because of our childhoods. So, what you recommend for a 3 year old is going to affect him at 13, 23, 53, 103. It’s just there forever. So...it’s weird because you always have to recognise you might be wrong while at the same time being absolutely sure you’re right’ (1459-1477).
Clara reflects on her work as an EP in the local authority and as an expert witness and she considers different aspects of the role, casting herself as a ‘transmitter’ (237-243), peace-keeper / intermediary (252), one who listens (372-399), bearer of Psychology (1640-1642), facilitator, interpreter, negotiator and conductor. She feels that her work as a local authority EP influenced her work as an expert witness and vice versa. In particular, working as an expert witness provided her with a greater understanding of children’s lives (161) and in-depth experience of interviewing parents (167-168), resulting in a greater understanding of parents and the capacity ‘to hear the things they didn’t say but that they felt’ (233-235). Clara talks about Educational Psychology (in the local authority) being ‘more satisfying’ (1233-1234) than working as an expert witness due to: increased opportunity for feedback, follow up, adjustments and evidence of outcomes. Whilst she found it ‘satisfying that a court will believe what I say and put that in motion for the children’ (1241-1243), she refers to ‘the trouble with court work’ (1227-1228) as not knowing the outcome: ‘I’ve no idea what happened’ (1231-1232). Whilst she alludes to some subtle differences between the role of an EP expert witness compared to that of a generic EP: the luxury of time (365), greater autonomy / sense of agency (368-372) and increased scope for openness with parents (364), insofar as the fundaments of the role of the EP across contexts are concerned, Clara is unequivocal: schools and courts wanted Psychology (340).

### 4.8.2 Clara: Superordinate theme 2b: Emotional Lives

Throughout our conversation, children are represented via the trope of ‘emotional lives’. Clara reflects on somewhat of an epiphany when she learned how ‘intensely different the lives of some children are’ (41-42) and how their emotional lives ‘colour[s] everything’ (52). She explains that she focused on this in her work as an EP, both in Norhtownt and
as an expert witness, but also as a counsellor and a teacher, not least as she found the emotional lives of the children ‘infinitely more interesting than anything I could ever teach them’ (86-87). Clara reflects on her move to Northtown, one of the most deprived places in the country (111-112) and therefore ‘a very fertile ground for looking at children whose emotional lives were disrupted and a bit sad’, as an opportunity to ‘delve’ into the emotional lives of the children (119-120). Clara credits the MCAST with providing her with showing not just ‘the terrible stuff’ (800) but also ‘just occasionally, it showed some really positive relationships that you hadn’t been quite aware of’ (803) and ‘the more you spend delving into the insides of kids’ lives and heads...the better you get at understanding it’ (804-806). Clara invokes a script from the previous interview, citing that ‘it doesn’t matter how good your assessment is, it’s only ever as good as the report you write’ (807-808). She adds to this that she ‘got a lot better at really putting far more of the children in’ (808-809).

Clara believes that Northtown’s approach was especially unique, not just in its focus on the emotional lives of children but also the emotional lives of professionals: ‘I always just loved Northtown’s approach’ (341-342); ‘I think the things that made Northtown better than okay were the massive focus...not just actually on the emotional lives of the children and families, but everyone in that team was important’ (1540-1544).

Clara recognises: ‘...we, all of us, bring to every interview, we don’t leave ourselves at the door. We bring in all our fears, our prejudices, our pre-assumptions, everything comes in with us and although we’re supposed to offload those and just be very neutral. I mean really it’s like...that’s not how human beings work’ (306-313). There are nuances here of a reflexive disclosure where Clara articulates a tension between her lived experience and what is expected by the court in terms of neutrality. Throughout the interview, she
surfaces a blurring of the personal and the professional in terms of the impact of her own
‘emotional life’ on her professional life. This is illuminated when she starts discussing the
impact of children’s (‘their’) emotional lives and then inadvertently alternates the
possessive pronoun to ‘our’: ‘just their emotional lives…it colours everything we do. I
mean we’re not just trained professionals, we’ve got our own emotional lives going on
and just as we find elements in our life when there’s actually almost no room for
ourselves, never mind work, children are like that all the time…there’s almost no room to
learn’ (51-58). A further example of Clara combining the personal with the professional is
when she relates a difficult period in her life and talks about how ‘everybody was so
massively...both...non-interfering and non-probing...and hugely supportive’ (1547-1548).
She describes her experience as ‘like being in a warm bath to go in there...because it was
so distressing at home for the children and for me [...] Anyone would talk to me if I
wanted to...but at the same time they would leave me alone if I wanted that as well’
(1549-1554). She refers to work being ‘wonderful because...it was like being held
emotionally’ (1551-1552).

4.8.3 Clara: Superordinate theme 3b: Working with parents

Clara reflects that prior to working as an expert witness, she had not always been aware
of or had ‘possibly underestimated’ (249) the ‘colossal’ contribution of parents to their
child’s life (244-249). She articulates that she ‘got more and more aware of how much the
child needs their parents...one hundred per cent’ (250-252). Whilst working with schools
as a local authority EP, Clara recalls that she could sometimes ‘get really cross with
parents, you can just think they...they’ve made such a hash of this...they’re not helping
their child...’ Working as an expert witness reinforced that ‘the parents have emotional
lives too that are profoundly influential on the children and affect every aspect of their lives, including education’ (360-363).

Clara maintains that she cannot categorise clients because ‘their life experiences were so different’ (567-568). I ask Clara if she thinks she could have ever been a client and she asserts that ‘everyone’s a potential client and it’s a matter of personality and great good fortune’ (606-608) and ‘Often it’s the luck of birth…you’re just born into a family that just manages well enough to bring you up well enough and you make good enough relationships and you do a good enough job with your kids and life is good enough’ (608-613). She contrasts this with ‘some people’ who are ‘born with a dark star almost…life’s bad in the beginning’ (613-614). References to luck, fortune and dark stars evoke imagery resonant of mysticism, superstition and fate.

Clara starts from the premise that ‘most people feel unlistened to’ (376) and that she ‘learned profoundly that parents feel unlistened to’ (377-378). She recalls that making time ‘to sit and just listen’ (395) would sometimes elicit ‘enormous amounts of grief and distress’ (405-406). Clara makes a distinction with how she might operate as a local authority EP compared to an EP expert witness when working with parents: ‘At least as a Court Psychologist, if I asked parents something and I got this profound outpouring of grief and need, I can find them someone via Social Services who will listen to them [...] but for a parent...in school, I might be opening up all sorts of things without necessarily being able to tell’ (420-428).

Clara talks about going into interviews with parents ‘almost ...blank’ (499) free of expectations of the interview (503-504) and tells me that she would just ‘start them off’ (506). She likens this to our conversation: ‘It’s a bit like you’re doing...start me off...[…]To
me it’s the right way to interview if you really want to get inside someone’s head because if you ask questions you just get answers to that question’ (506-512).

4.8.4 Clara: Superordinate theme 4b: Motivating Factors and Learning experiences

‘I mean we all are as we are partly because of our childhoods’ (1471-1472).

Despite initially claiming that she has ‘no idea’ what motivated her to become an expert witness, Clara then refers to the influence of her own upbringing, identifying some of the personal values, instilled in her by her ‘very socialist parents’, such as: equality, kindness, concern for others and the aspiration to do something worthwhile. ‘A passionate belief that this was worth doing’ (1687 -1688) is something that compels her even in the most harrowing of cases. Clara also discloses that she was ‘an enormously nosy child’ (1422) who ‘loved knowing what was going on with people, loved hearing things’ (1422-1423), recalling that she would frequently ‘sit […] at the top of the stairs and listen to my mother’s conversations with her sister!’ commenting: ‘Oh, it was so fascinating! I was interested always anyway in people’s lives, which is why I did Psychology’ (1425-1429).

Clara reflects on her unplanned journey, referring to ‘steps on a path’ (146-147) guided by ‘accidents of fate’ (124) and the ‘greatest good fortune’ (125; 101) before she ‘ended up in court’ (145-146). Subtle shades of mysticism, redolent of an anointing or an appointment, are present in her claim that ‘it was in me’ (89). There is also a suggestion here of self-actualisation and of Clara fulfilling her destiny. In the main, Clara reflects on her work as an expert witness in superlative terms as having been an enjoyable experience: ‘Oh, I mean I have to say…I just absolutely loved it…I adored the whole thing, well no, that’s not strictly speaking true…I thought the kids were just wonderful and it was so exciting, it’s…and this is…and this is personal rather than professional but my personal
feelings about it were that it was enormously exciting to be given this opportunity to maybe do something that might...work...for a child, a set of children and to find out...so going and seeing the children was just brilliant. I never...even the older teenagers...who’d...really tell me where I could go sometimes... ‘fuck off! I’m not seeing no fucking psycho!’ (1327-1339).

In contrast with this, after recalling one particularly distressing case, Clara summarised ‘Very, very few parents...I mean virtually none...are wicked with evil intents...but just a few were truly terrible and inter-generationally terrible with...ghastly consequences for the children and their children and so on. And that makes you feel terrible, but it also makes you feel part of a team...that is ensuring that at least these children are removed from it, at least these children’s children will not go through that and there are things you can put in place to help them’ (1707-1716).

Clara comments on the political climate of the 1970s and the ‘savage educational cuts’ (71-72) that resulted in her losing her job as a school based counsellor and led to her taking a teaching post in ‘the remedial department of a huge overcrowded school in a [name of city] slum clearance estate’ (82-84). Changes in family circumstances brought about a move to Northtown where her husband was employed as a senior advisor. An opportunity arose for Clara to train as an EP in the same authority and she ‘happened to be appointed to an Ed Psych department that profoundly believed in Community Psychology’ (99-101). Northtown is credited by Clara as a unique learning experience. She believes that it was Northtown that provided her with a range of opportunities to be exposed to certain types of assessment (including the Bene-Anthony), to hone her skills in interviewing children and parents and to work as part of a multi-agency team. It was in Northtown that she met colleagues from whom she could learn and receive support.
Similarly, it was also in Northtown that she met Charlie, a senior EP and court mentor who, via heavy mentoring, would be such a significant influence on her learning and professional development and whose heuristics she adopted and internalised.

In terms of specific training, Clara shares that the ‘phenomenal’ Manchester Child Attachment Story Task ‘gave me a lot’ (803) adding: ‘I can’t tell you how much that added to my ability to know what was going on in a child’s life’ (721-722).

Clara makes a number of references to her own feelings and emotions in relation to her work. For example, ‘there’d been a lot of times doing the MCAST… I really… had to try hard to get rid of the emotion I’m feeling, ’cause that’s not helpful’ (763-766); ‘but you come out of those feeling appalling […] And I felt terrible for several weeks after that […] so the poor experiences which have got to make you feel bad because you were doing what you thought was right for the child and it didn’t work’ (993-1004). She also acknowledges the role of emotion in her work when she shares that ‘A lot of the time it was an emotional thing… partly why I wrote so much so the judges would understand’ (1160-1162). She talks about the all-consuming nature of being an expert witness: ‘…it was such a busy job. There was no nine to five about it’ (11-12) and ‘…it was really exhausting sometimes, you’d feel as if you’d been through the wringer after a couple of days of intense interviews ‘cause you had to be aware of everything...’ (240-243). Clara also revisits (from Interview A) the impact of her work on the emotions of others ‘I think I said last time that judges and barristers said they cried and I don’t mean just women…men would say ’I had to stop reading that, I couldn’t bear it… I couldn’t bear it!’ (846-850).

Clara is acutely aware of the high stakes involved and the ‘colossal decisions… that… profoundly affect the whole of the rest of their life’ (1470) and cites the ‘recognition of the
possibility of wrongness’ as a motivating factor ‘that makes you do a really thorough assessment and a really thorough report’ (1477-1480). Towards the very end of our conversation, without prompting (almost by way of a door knob revelation), Clara identifies the commonality of purpose of the members of the peer supervision group: ‘but we all shared this common...both massive enjoyment of it, acknowledgement of the personal challenges and the feeling that it’s really important that we do it’ (1682-1685). This acknowledgement of personal challenges causes her to reflect on ‘some of the experiences of some of my colleagues and occasionally of me’ (1686-1685) of feeling ‘soiled by it’, qualifying this as: ‘not by the children but by the fact that that exists and probably what you’re seeing is the tip of the iceberg of that kind of thing...’ (1696-1699).

She then proceeds in summarising a particularly harrowing case, which she classifies as ‘vile’ (1690): ‘I watched the film...the step-father...He videoed it. He videoed the ...he was obsessed with videoing things...He videoed himself trying to rape his step-daughter...that’s ...you...can’t...take those things away from your head’ (1699-1703). She asserts ‘If you didn’t have a passionate belief that this was worth doing, you’d just say, ‘that was so vile, I’m never doing it again!’ (1687-1689). She is quick to establish that the ‘end result’ was that ‘those children were safe’ (1704) and that ‘most cases are not like that; they’re not so vile’ (1705-1706).

Interestingly, after revisiting this case and acknowledging the emotional impact, Clara reveals a rare glimpse of dissonance: ‘Oh...I mean...I really, really both enjoyed it and hated it sometimes ...lots of terror bits here and there when you were really nervous’ (1723-1725).
When reflecting on her decision-making, Clara acknowledges the instinct of the ‘kneejerk reaction’ (1028), an apparent euphemism for heuristics and immediately contrasts this with ‘The Research’ (1031), used here as an abstraction, without qualification or specification. She then synthesises, in broad terms, ‘The Research’ in relation to adoption before employing heuristics and speaking ‘generally’ (1037): ‘Six months to a year...pretty straightforward’ or, in the case of ‘a sort of neglectful, careless, drug-addicted, alcohol-addicted, chaotic family and this baby was removed early [...] then you’re fairly successful six months to a year’ (1033-1041). She acknowledges the age of the child, the nature of their past experiences, their wishes and feelings, the needs of the sibling group and an understanding of legal guidance. For example, ‘You’re not supposed [...] to sacrifice a child to the needs of another one’ (1062-1065).

Clara identifies the role of the narrative in her assessment when referring to the case of a family whose mother developed Huntington’s chorea at a young age, requiring a move into adult residential care (1085-1156). She recalls how she argued in favour of long term foster care for one of the children as opposed to adoption, despite objections from other professionals: ‘Social Services were just so angry with me for doing that. They said ‘but you’re destroying this child’s chances of life...' [...] It was the most great nonsense, but they were convinced it was the right thing to do’ (1132-1143). Clara reflects that, in contrast, she believed that ‘Adopting him is destroying his chances of living with his family really forever’ (1132-1137). She explains that her approach in this case was ‘partly narrative because you can’t do a psychological test’ (1130-1131). However, she also views this as ‘a common sense narrative too’, claiming that ‘Those sorts of things are apparent. They’re so clear and sometimes all you can do is point out the emotional
disaster waiting for a child if you just rip them out of a family simply because they happen to be two or that you adopt them when they are three and a half and they’ve been with these foster carers since they were six months old’ (1145-1152).

Clara has internalised various heuristics which she readily invokes, some of which she seems to attribute to the influence of Charlie’s adages and metaphors: ‘It’s like Charlie would say... it’s like breaking a really healthy leg on the off chance you could set it better somewhere else...No...no, you don’t break something that’s healthy without an incredibly good reason’, (1156-1160); ‘It was one of the things Charlie said in the beginning, ‘don’t leave something out and then rely on it in court because they’ll ask you why it’s not in your report. If it’s important it’s in your report, it’s got to be there, it must be there’ and ‘Charlie gave me the instruction in the very beginning [...] never look at the barrister except to listen to the question. You get the question and you turn to the judge’ (901-905). In the context of the interview, these maxims and cognitive shortcuts are ostensibly afforded by Clara the same status as ‘The Research’.

4.8.6 Clara: Superordinate theme 6b: Court Processes

Clara likens the context of the court to a different planet, language and culture, where ‘everybody else seems to know what’s going on except you’, (868-869) and reflects on her own ‘baptism of fire’ (872) into working as an expert witness. She does not agree with Mr Justice Ryder’s call for shorter expert witness reports, stating: ‘Well, mine couldn’t have been any longer if I was writing a novel’ (812-813) and defends the length of her reports in terms of thoroughness, defensibility, representativeness and unambiguity. With regards to the defensibility of the report, Clara was aware that the reports of expert witnesses would be ‘picked apart, often a word at a time...in court, out loud, with you in
the witness box,’ (832-834), and highlighted the need for experts to be able to ‘justify every word’ (834-835).

Clara recites a series of rapid fire questions about the process of court (874-881) (E.g. Who speaks first? Who are all these people at the front?), providing a window into the anxious mind of a first time expert witness. She contrasts this with the ease with which barristers navigate their own planet, highlighting the difference between how barristers execute their function and make a sterile demarcation between the professional and the personal compared with other professionals (e.g. teachers), noting that ‘there is no relationship in court except for the professional one’ (899-900).

‘It’s just gamesmanship, it’s a bit like a game, but you can’t think of it as a game because it’s too serious with the children but the rules are like the rules of a game…’ (910-913). In relation to the gamesmanship employed by barristers, Clara provides examples of barristers’ attempts to discredit or de-stabilise witnesses: ‘If you look at the barrister they’ll be rolling their eyes, smirking, looking at colleagues, turning round to the client and it’s all to try and put you off’ (908-910) and ‘Barristers will find an uncertainty and worm their way in there […] They know immediately; they go for the jugular’ (930-933). Clara goes on to explain that, after some time, experience taught her that the rules were exactly the same across the country: ‘The rules are the same. Once you know the rules, you know how to play them…It’s much more comfortable giving evidence because the rest of it doesn’t matter. You can just focus on what you’ve got’ (923-927). Clara retrospectively evaluates her performance and concludes that she ‘got better’ (927) at giving evidence as a result of becoming ‘more sure’ (928) of herself which she considers to be a contributory factor in her being questioned less. Clara reflects on one of her earlier cases, confessing ‘I don’t think I gave evidence well enough’ (953-954), that she ‘had some
doubt’ (968; 989-990) about what she was saying and that she ‘hadn’t...really thought enough’ (970) and ‘wasn’t confident enough in myself as a so-called expert’ (985-986). Clara immediately compensates for these admissions by sharing how she used these experiences to modify her practice (970-978) acknowledging, ‘I got used to cross-examining myself’, resolving that ‘next time...those things I had left unsaid were actually said’ (1000-1001). Clara also alludes to the power of persuasion and the necessity for the expert witness to convey both humility and conviction: ‘you always have to recognise you might be wrong while at the same time being absolutely sure you’re right.’ (1475-1477)

4.8.7 Clara: Superordinate theme 7b: Looking back and moving forwards

‘So when I look back on Northtown...it’s both personally and professionally as the most fantastic experience and I’m sad that it eventually...went the way of all good things...got chipped away at.’ (1595-1599)

‘I always just loved Norhtown’s approach. For a deprived borough, it was actually achieving really well in schools because the kids were so well supported and the schools were well supported. That all changed as education changed, which is why I got out of Northtown at the end of the twentieth century, 1999, I saw the writing on the wall for Educational Psychology. It could no longer be everything that Northtown had shown it could be’ (341-350).

Clara reminisces with an apparent air of romanticised nostalgia about her time in Northtown Local Authority, during an era where there was no time allocation and where EPs had more autonomy. She talks in exclusively positive (idealised) terms using absolutes and intensifiers about the nature of all her work and the motivations and dedication of everybody. It was apparent to me during the interview that Clara’s all or
nothing dichotomies and the intensity of her language were perhaps indicative of a
degree of hindsight bias and a subjective romanticised, idealised version of reality. In
response to challenge about the possibility of a rose-tinted distortion enhanced by the
distance, however, Clara becomes even more resolute in her position, describing
Northtown as ‘an absolute model’ (1518): ‘work was wonderful’, ‘everyone in that team
was important’ (1541-1544), ‘everybody worked over the odds’ (1571); ‘nobody resented
it’ (1572) and ‘everyone was as important as everyone else’ (142-143). This is also evident
in her reflections on the impact of their work: ‘the parents and schools were so
overwhelmingly positive about the service as a whole and the contribution made by the
psychologist and the social workers...’ (1526-1527). Her use of abstraction such as
‘nightmare’, ‘delving’ and ‘fertile ground’ further generate evocative metaphors that
convey intense drama.

Similarly, when talking about her work as an expert witness Clara speaks in almost
exclusively favourable terms:

‘Oh, I mean I have to say...I just absolutely loved it...I adored the whole thing, well no,
that’s not strictly speaking true...I thought the kids were just wonderful and it was so
exciting, it’s...and this is...and this is personal rather than professional but my personal
feelings about it were that it was enormously exciting to be given this opportunity to
maybe do something that might...work...for a child, a set of children and to find out...so
going and seeing the children was just brilliant’ (1326-1335). The first glimmer of
dissonance is present here with ‘that’s not strictly speaking true’, suggesting that Clara
thinks that behind the intensifiers and absolutes, there might be a more nuanced
account.
In considering the future of expert witnesses, Clara shares that she is ‘distressed, beyond distressed that the government have made it almost impossible for the children to have a really, really good and thorough hearing...because most cases will not have a psychologist now’ (1746-1750).

4.8.8 Clara: Superordinate theme 8b: Experience of the Interview

Interviewer: [...] I wonder to what extent you think this interview has been affected by seeing things through my eyes...

Clara: I don’t think it...well, I talk so much that wherever you start from I end up with me anyway! [laughter] A very egocentric conversation.

Interviewer: [laughter] That’s such an honest answer!

Clara: You did write it very clearly when you set out your proposals and what you wanted, you wanted the insides of three people’s heads really...[...] You made it clear that...the interviewing you were going to use is semi-structured, it has to be a bit structured otherwise I’ll just talk for two hours and you write and there’s no direction at all and you do need to know things and you need to stop me and take me back...but I haven’t felt...other than...it’s a bit like how I interview parents, just give them a nudge and off they go and...you give me a nudge and I’ll just ramble on for as long...until you interrupt me or until I run out!

Clara tells me that she has found it easy to be frank with me during the interviews. Whilst acknowledging that she ‘can talk the hind legs off a donkey’ (1675), she establishes that
what fuels this is her love of the work (1676), feeling passionately about its importance (1677) and valuing the colleagues she met (1677-1679). Clara endorses my style of interviewing by comparing it to her own, sharing that she would approach an interview ‘blank’ (499; 503). Clara feels that starting people off (506-507) or giving a ‘nudge’ (1769) is the ‘right way to interview’ (509) and enables the psychologist / researcher to ‘get inside someone’s head’ (510) and to ‘see where it goes’ (527). Whilst she feels that she is ‘rambling... disconnected...because thoughts occur and they spark off...’ (521-522), she is aware that ‘that’s what you actually want... if you want the real I don’t know if truth’s the right word, but if you want that person’s views and perceptions and feelings’ (521-525).

Clara discusses the benefit of our established rapport prior to the interview:

‘And although I could...yes, I could have presumably done this with anyone, knowing you and knowing that you already have an implicit understanding...through having attended the group, [...] and talked...I didn’t have to wonder what your standpoint was, I didn’t have to try and persuade you to be empathetic towards this or any of the things you normally do with someone you don’t know, where you’re not quite sure what their agenda is or if they’re trying to...it was...extremely comfortable...’ 1786-1796

Clara also mentions her familiarity with using Skype: ‘I do use it all the time, it’s my main means of speaking to family...and you look as if you’re in the next room [...] you [...] are as clear as if I could reach out and touch you.’ (1775-1780) and the fact that it’s Skype, to me, makes...absolutely no difference, (1796-1797).

4.9 Clara: Reflections on Interview B and Analytic Process

The Skype connection was much clearer for Interview B. I was pleased (although not surprised) that the lapse in time and the physical distance did not affect our pre-
established rapport, quickly reinstated ahead of the interview by engaging in some social research-free conversation. Clara, wearing her headphones to reduce unwanted ambient sounds, again talked fluently and uninterrupted. We were in our respective homes for the interview which lasted 99 minutes.

I felt much better prepared to probe further during this interview. Interestingly, on analysing the interview, I was aware that silence (on my part) was sometimes, in itself, a probing device which allowed Clara space to listen to herself and self-edit or at least expose a degree of dissonance.

4.10 Chapter Reflection

In this chapter, I have presented the idiographic findings as themes within cases from the two participants, thus maintaining the integrity of the individuals’ respective phenomenologies. The intention was to enable the reader to become familiar with their individual narratives whilst also providing them with the opportunity to evaluate the trustworthiness of my analysis and interpretation. Whilst writing up the idiographic findings for both participants, emerging patterns and also some discrepancies and contrasts came into view. Endeavouring to maintain a constantly reflexive attitude (including an attitudinal approach to epochê, as previously discussed) and to stay with the individual participant’s phenomenology, I resolved the potential for conflict by acknowledging instances of my developing awareness and by seeking to capture, contain and bracket them by making a note of such as potential points for further discussion. In so doing, it was also my aim that such revelations would not interfere with the flow of the idiographic presentation and/or the reader’s interpretation of the double hermeneutic.
5 CROSS-CASE ANALYSIS

5.1 Chapter Overview

Having maintained fidelity to the idiographic in the findings section, I was keen to adhere to this approach in the discussion. As such, whilst I might have opted to present a cross-case analysis of the findings prior to (and perhaps somewhat sterile from) engaging a dialogue between the findings and the existing literature, I have, instead, chosen to discuss the findings within the wider context from the outset. Crucially, it is my intention that ‘the theorizing is still ‘from within’ rather than being imported ‘from without’ (Smith et al., 2009:166). This is supported by Smith (2004:46) who explains that whilst most of the interpretative levels in IPA are more in keeping with Ricoeur’s (1970) hermeneutics of empathy and meaning recollection, ‘IPA also allows a hermeneutics of questioning, of critical engagement, as the reader may well ask questions and posit readings which the participants would be unlikely, unable or unwilling to see or acknowledge themselves.’ He claims that both a hermeneutics of empathy and one of suspicion can contribute to a fuller interpretation of the participant’s lived experience and suggests that researchers begin with a hermeneutics of empathy before qualifying this with a ‘more critical and speculative reflection’ (p46). Whilst working on different hermeneutic levels is a balancing act for the novice IPA researcher, this resonates strongly with the multi-level, cross-contextual work of EPs and, perhaps even more so, with that of an EP expert witnesses.

Purely for orientation purposes, this chapter begins with a summary of the findings, signposting relationships between themes and emergent patterns across the two cases. I then endeavour to evaluate the extent to which the analysis of the data is able to answer
the research question: *How do EP expert witnesses make sense of their experiences in family court?*

As Smith (2011:10) explains: ‘IPA studies are also concerned with the balance of convergence and divergence within the sample’. Cross-case analysis involves looking for patterns across cases and considering how a theme in one case might illuminate or contrast with a theme in another case (Smith et al. 2009: 101). For this research, this was achieved by clustering superordinate themes and then comparing and contrasting themes within. Cross-case analysis revealed five main focus points:

1. The role of being an EP and an expert witness
2. Maintaining a phenomenological attitude
3. Personal and professional identity
4. The Court
5. The experience of the interview

Within each of the five focus points are included superordinate themes from both participants across both interviews, with each in turn having subsumed other themes. A thematic map is included prior to the discussion of each of the first four focus points as a reference for the reader.
5.2 Discussion of Focus Points

5.2.1 Focus Point 1: The role of being an EP and an expert witness

Figure C - Focus Point 1: The role of being an EP and an expert witness

5.2.1.1 Being a Psychologist

Grace and Clara both discuss their perception of their unique contribution as an EP expert witness in terms of the application of psychological knowledge. Although neither participant makes explicit reference to professional practice guidelines, HCPC Standards or the BPS Code of Ethics and Conduct (2009) pertinent to practitioner EPs, nor to the guidance and practice directions for expert witnesses in the family court, there is evidence throughout their narratives of a deep understanding of what is required both by the court and by their professional role. Reference to children’s rights and needs, power issues, remaining within one’s remit and the need to ensure that the child’s best interests are paramount at every level of their work resonate implicitly with professional standards discussed in Chapter 2. Clara stresses the importance of ‘sound, well-argued psychology’ (563-564, 669), both as a psychologist working within the court and as an EP employed by the local authority. Likewise, Grace emphasises the ‘psychological overview’ within court and the apparent absence thereof within the local authority where she works. Notably,
the theme of ‘Being a Psychologist’ also corresponds with the findings from Greer (2013:30-32) where the EP expert witness participant expresses the strong view that ‘It’s very important the psychologist should, in their assessment and testimony...be a psychologist’ and ‘Don’t write a social work report....write a psychological report... but it’s got to be a psychological report that ends up with conclusions and giving recommendations’. The barrister participant in the same study similarly places high value on the depth of knowledge, psychological theory and their application to children in the context of placement, contact and permanency. This also resonates with the findings of reviews of the EP role (e.g. DfEE, 2000; Farrell et al. 2006 and DfE 2011) about the distinctive contribution of the EP and with Norwich (2000), Lee and Woods (2017) and Ashton and Roberts (2006).

The importance of clarity of communication and precision and specificity in thought and language are mentioned by both Clara and Grace in terms of establishing rapport, being fair, and reducing power imbalances with clients and also in terms of persuasion and communicating psychology to non-psychologists. These themes also clearly echo the HCPC (2015) SOPs.

5.2.1.1 Being a Scientist Practitioner

Reflections on the inclusion of this theme

It is my interpretation, guided by the literature (e.g. Lane and Corrie, 2006, Norwich, 2000 and Fallon et al., 2010), that Being a Psychologist / Applying Psychology also naturally encompasses ‘Being a Scientist Practitioner’ which, in turn, incorporates knowledge and experience, decision-making and formulation, being reflective and reflexive and adopting an interactionist perspective (insofar as this amounts to triangulation). As such, these
themes are compatible with the four main themes previously referred to in 2.1.3 of being a (modern) scientist-practitioner outlined by Lane and Corrie: effective thinking, reasoning, judgement, decision making and problem-solving; psychological formulation; effective planning and intervention; and the use of scientific enquiry and critical thinking to guide self-evaluation.

Epochē: A worked example

The application of epochē to the pre-analytic and analytic process allowed me to view my theories, assumptions, and their respective origins in sharp focus. Rather than epochē ‘switching off’ my thinking to allow analysis that is unencumbered by a priori knowledge, I accepted that the ‘I’, along with my prior learning, beliefs, values, preconceptions and inclinations could not be filtered out - even momentarily. Inspired by Bach’s (2014) notion of attitudinal epochē, I sought to reconcile this dilemma by immersing myself in an ongoing reflexive process of reminding myself to notice when my analysis or choices might be influenced by sources other than the participant and questioning myself (as if, indeed, cross-examining myself) about the origins and motivations of these. The emergence of themes pertaining to Being a Scientist Practitioner, and my analysis thereof, provide the reader with a worked example of this process:

During the analysis for Grace, I became aware that some of the emerging themes echoed the four main themes cited by Lane and Corrie (2006:3) in relation to modern scientist-practitioners that I had referenced as part of my epochē literature review and that Being a Scientist Practitioner was evidently a recurrent theme. Similarly, it became apparent that this theme secured a fit within the theme of Being a Psychologist and I was conscious that this, in turn, echoed the main exhortation from the conclusion of my preliminary
study (Greer 2013), recognising that ‘insights do not happen haphazardly; rather they happen to prepared minds during interplay with the data’ (Strauss and Corbin, 1998:47).

Some of my reflections included: Might I have identified these had I not been aware of the literature and not been influenced by my own previous research in this area? Would using similar sounding but ostensibly different theme titles be more likely to withstand scrutiny - even though this would feel contrived? Was it not inevitable that an EP interviewing an EP with similar training and from similar backgrounds might have some shared influences on their thinking and use of language, thus resulting in resonance with previous research, learning and concepts? Would it not be incongruous with the methodological approach to attempt to mask this in the analysis to avoid appearances of having been theory driven rather than data driven? Was the data itself not at times influenced by such theory? Should I really suppress any notion of resonance with ‘just in time learning’ in favour of demonstrating fidelity to the notion of epochē, as already familiar patterns seemed to leap out from the data (reminding me of learning a new word and then noticing it in use with increasing frequency immediately following its acquisition)? How might I reconcile these deliberations?

I reasoned that adopting an attitudinal approach to epochē (Bach, 2014) allowed me to notice, work through, accept and contain the various aspects of myself that might influence the data and I resolved to signpost and boundary these where possible, but to acknowledge them nonetheless. It also struck me that the nature of these consuming deliberations in terms of a motivation to get it right, demonstrate rigour, guard against bias, learn from mistakes and ensure that defensibility in my (research) practice echoed the scientist-practitioner themes inherent within Grace’s phenomenology and also satisfied, to some extent, the intensity and critical thinking demanded at doctoral level.
Consequently, I felt comforted by my discomfort as if dissonance in my internal world confirmed not only an integrity and internal consistency in my methodology to which I could lay claim, but also evidence of operating as a scientist-practitioner.

Some tentative self-evaluation questions emerged from the analytic process, alongside a developing awareness of the commonality between the role of IPA researcher and the scientist-practitioner role of the EP, especially in terms of sensitivity to context, commitment and rigour, transparency and coherence (Yardley, 2000:219). These questions are presented in Figure G and relate to factors ranging from being aware of one’s epistemological perspective to being prompted to consider whether I can account for my practice in terms of ethics and science.

**Assisting the Court**

The barrister participant in Greer (2013) extols the merits of analysis, structure, logic and expertise brought to bear (in his experience) by the majority of ‘child psychologists’ (as distinct from ‘adult psychologists’). He also attributes to (the majority of) child psychologists the capacity to offer a ‘bigger picture’, ‘shed light’, ‘challenge assumptions’ and ‘mantras’ and to ultimately assist the court by ‘providing justification’ and giving confidence to the court to take a risk. Grace demonstrates the scientist-practitioner skill-set that might contribute to such light-bearing and thus illuminating a bigger-picture view, not only in how she talks through her approach to formulation within cases, but also in terms of how she reflects on her responses throughout the course of the interview in real time. The emphasis on looking at the evidence, triangulation, thinking, reasoning, weighing up, decision-making, problem-solving, planning and applying painstaking diligence and self-evaluation in formulation to guard against cognitive bias are well
established as constituent parts of a scientist-practitioner approach (Lane and Corrie 2006: 26). Grace’s motivation is to sense-make and her practice and experience are intertwined.

Although there are several references to mysticism in Clara’s narrative where she refers to fate, ostensibly at odds with a scientist practitioner approach, she tempers these by placing emphasis on the role of experience (of testing and interpreting tests and working with children and families across contexts), mentoring and her strong sense of responsibility, along with an omnipresent fear of being wrong. Clara identifies experience as her most valuable asset (512) and also highlights the importance of mentoring. The role of experience is considered by Lane and Corrie (2006), and in the case of Clara’s phenomenology is perhaps best conceptualised as practice-based evidence.

Bias

Lane and Corrie (2006:26) refer to ‘decision-making short-cuts’ including the availability heuristic, the representative heuristic and the anchoring heuristic, identified by Tversky and Kahneman (1974) and the confirmatory bias, including preferred theoretical orientation (Lord et al., 1979; Turk and Salovey, 1985) and the illusory correlation (Tversky and Kahneman, 1980). Although neither Clara nor Grace refer explicitly to confirmatory bias, there is an inherent acknowledgement of this in their narratives. Clara uses the term ‘kneejerk reaction’ almost as a euphemism for heuristics which suggests that she is aware of the pitfalls. ‘The Research’ (my capitalisation) is offered as an apparent attempt to offset the risk of such. Within the context of the interview, ‘The Research’ becomes an abstraction and is effectively distilled into soundbites which might in themselves be interpreted as heuristics. In discussing the writing of assessment reports
for the court, Fatimilehin, Butterworth, O'Shaughnessy and Göpfert (2015) comment that ‘research evidence does not necessarily increase the credibility of the report’. They even argue that ‘it may be problematic if challenged by one of the parties and lead to an escalation or obfuscation of the issues in the case’ (p74). This raises questions beyond the scope of this study about how research might be deployed by psychologists across contexts in hypothesis generation and formulation.

Grace makes implicit reference to an awareness of the potential for confirmatory bias when she shares how she aspires to ‘allow people to tell me their experience from their perspective rather than me asking it from how it might seem from what I’ve read and what I’ve learnt at that stage’ (73-76) and adopting a methodical approach which systematically seeks to disconfirm her hypotheses and to look at every option - even those which she might have previously discarded (‘on an emotional or intellectual level’). This chimes with Fox’s (2011) discussion of ‘strongly held hot beliefs’ (p230) where EPs become ‘emotionally attached’ to particular theories, potentially preventing the accommodation of new theories. Grace knows that she is fallible and that her subjectivity, values and judgements are at odds with a neutral stance. She acknowledges the conscious effort and ongoing labour involved in bracketing these, along with humility and reflexive self-evaluation. Clara also talks about adopting an approach where she is ‘almost ...blank’ (499) and ‘free of expectations of the interview’ (503-504), comparing this with my approach as a researcher. Finlay (2011:78) references Dahlberg, Dahlberg and Nystrom’s (2008) recommendation for phenomenological researchers to adopt an ‘open discovering way of being’ and to ‘develop a capacity to be surprised and sensitive to the unpredicted and unexpected’ (Dahlberg et al., 2008: p98). Finlay elaborates that within
this approach researchers are advised not to predetermine their methods and describes it as a ‘dance between vulnerable engagement and disinterested attentiveness’ (p78).

Intuition

Both Grace’s and Clara’s constructs about intuition are of particular interest, with both seemingly dismissing intuition and re-framing the ability to understand something instinctively:

Clara: ‘...and it was...not intuition, it’s never intuition. It’s lots and lots of subliminals that this child is giving to its real intent and real life’ (515-517).

Grace: ‘...and it isn’t just gut-feeling and it isn’t just intuition. I don’t believe in that, I think what we call gut-feeling is when you’ve observed something and you might only be observing it subliminally, but I knew I was seeing something there that was more than just the mother had left that home.’

In effectively branding intuition as opaque and unscientific, both participants essentially reveal their philosophical position as empiricists and convey a deep understanding of their accountability to the court for their evidence, which they know must be accounted for. Formulation, however, is summarised in the BPS (2011:26) Good Practice Guidelines as ‘a highly skilled process that combines scientific principles with intuition and reflectiveness’. Haarbosch and Newey (2006:142) also defend intuition against would-be accusations of being ‘unscientific’, noting that that which is labelled ‘intuitive’ ‘may in fact arise out of personal constructs assembled from accrued professional and life experiences as well as knowledge from the scientific and clinical literatures’. They also alert to the tension about intuition, noting that whilst ‘Intuition may be underpinned by solid scientific
and clinical knowledge that enables us to move closer to the elusive concept of expertise’, conversely, it might equally be founded on cognitive biases, namely heuristics, and thus be inaccurate, misleading and ultimately unethical. Scaife (2013) goes some way to resolving this dichotomy dilemma in relation to ‘the value of science-art, actuarial-intuitive and quantitative-qualitative approaches to assessment’: ‘I do not think we need to choose between these dichotomies but rather adjust our approach at different stages of the assessment process. We may use our intuition providing we subject it to critical checks and balances. Having a ‘feel’ for something may result from important learning that has taken place through ‘osmosis’ unconsciously…’ (p13-14).

‘Epistemological Co-existence’

Referring to the ‘inevitable indeterminacy of the process’ (Moore, 2005) of working within a system characterised by uniqueness and complexity, ‘where judgements often have to be made on the availability of only partial information and where the ability to deal with ambiguity and uncertainty are paramount and perpetual’, Moore (2005:111) suggests that ‘expert practice is understood more as an art than a science’. Just as there are inherent tensions regarding the extent to which the EP role might be conceptualised in terms of science or artistry, so too phenomenological researchers wrestle with the apparent dichotomy. Influenced by Todres (2007), Finlay (2011) recommends a ‘middle ground’ whereby: ‘Rather than seeing phenomenology as either science or art, it might best be considered along a continuum with pure rigorous, scientific description on one end and fluidly poetic interpretation at the other, with most practice falling somewhere in the middle’. This corresponds with Lane and Corrie (2006:3) who believe that being a modern scientist practitioner is ‘about an approach to professional practice that encompasses rigour, science, artistry and ingenuity’. My experience of being an EP researcher, my
choice of methodology and my interpretation of applying this methodology are fundamentally influenced by who I am and by my experiences. My professional and personal identities are not mutually exclusive nor are they dilemma-free.

Discussing reflexivity, Langdridge (2007:59) explains that ‘phenomenological approaches seek to recognize the way in which knowledge is always a co-construction, reflecting the choices and questions the researcher makes and brings as much as the experience of the participants being recounted’. Being reflective about my own subject position and the impact of such on the psychological knowledge produced was a fundamental component of my approach to the epoché component of IPA. As ‘psychology and education are connective specialisms’ and ‘education involves multiple values which require balancing’, it follows that ‘we have to confront ideological or value dilemmas and impurity, that there is no avoiding of the diverse natures of education and psychology which arise from epistemological uncertainty, that there is value in epistemological co-existence and that exclusive positions deny connections and pose false oppositions’, (Norwich, 2000: 237).

Interactionist Perspective

Bronfenbrenner (1994) proposes that human development should be studied in the context of the entire ecological system in which growth takes place. His ecological paradigm (Bronfenbrenner 1974, 1976, 1977, 1979) constituted a reaction to the prevailing focus of much developmental psychology research which he conceptualised thus: ‘It can be said that much of developmental psychology is the science of the strange behaviour of children in strange situations with strange adults for the briefest possible periods of time.’ (Bronfenbrenner, 1977:513 in Bronfenbrenner 1994:38). Although not explicitly mentioning Bronfenbrenner’s ecological systems theory, Clara and Grace make
explicit reference to knowledge of children across contexts. For both participants, working holistically in different settings is a distinctive contribution of the role of the EP and fits with an interactionist perspective. Clara’s perspective accords with Bronfenbrenner: ‘You don’t just take a child, throw a few tests at them and have a chat and write a report...’; as do Grace’s references to ‘looking in the round at the holistic information that the whole assessment process produces for the child’. For Grace and Clara, working from an interactionist perspective allows a unique vantage point to survey the case as a whole and the case within the system. It extends the focus beyond within-child difficulties and prompts a bigger picture view of the child in the context of their family, school, community and socio-political context. It is my interpretation that both participants position this as a unique feature of the role of the EP and that this provides an added dimension to the scientist-practitioner role in terms of providing opportunities for triangulation across contexts. Joint BPS and FJC guidance for Psychologists as expert witnesses in the family courts (2016:5) refers to the ‘essential process of triangulation’, which ‘helps to overcome bias and weakness of individual methods, and increases the credibility and validity of the analysis and psychological formulation.’

**Theory Choice**

In terms of theoretical considerations, Clara and Grace both refer extensively to Attachment Theory, with both crediting the Manchester Child Attachment Story Task (MCAST) (Green, Stanley, Smith and Goldwyn, 2000) training as having been particularly influential on their thinking and practice. Clara goes further in her affinity with Attachment Theory by owning it as her touchstone theory of choice: ‘whatever results I might end up with had to be coherent’ and ‘if I couldn’t explain it in Attachment Theory then I would think I may have to look further, I might be getting this wrong’ (518-525).
Grace acknowledges the potential for bias and refers to ongoing effort to uncover and address the potential for bias borne out of subjectivity.

In considering ‘What kind of scientists are we?’ Lane and Corrie (2006:79) reflect on Kuhn’s (1970) theory of how knowledge develops and caution against becoming wedded to any particular ‘scientific story’. They alert to the random way in which knowledge is developed and to its vulnerability to external influences including social, economic and political factors and the ‘prevailing zeitgeist’. They formulate five questions (p79) which would encourage scientist-practitioners to reflect on paradigmatic influences and the impact on practice in terms of the aforementioned four themes they set out (p3). One question of particular significance to psychologists as expert witnesses might be: ‘Given that different paradigms emphasize different questions, how would the nature of my enquiries change if I switched paradigm?’ (p80).

Clara’s apparent exclusive preference for one theoretical perspective evokes Scaife’s assertion that: ‘Focussing only on one way of understanding the data is always likely to miss critical influences’ (p262) and suggests a potential susceptibility to confirmatory bias. Scaife (2013) provides a reminder that theories are vulnerable to the prevailing zeitgeist and that different psychological theories can be used to ‘frame the same data’ (257). She notes the current popularity of Attachment Theory and provides examples of how this is typically reflected in instructions to expert witnesses. For example, ‘What is the nature and quality of the attachment between the child and the parent?’, whilst also alluding to how a different theoretical emphasis in the instructions might generate a different assessment approach such as: ‘What kinds of reinforcement has the child been exposed to in the birth family?’ (258). Scientific thinking, including triangulation along with supervision and mentoring, would ostensibly offer some protection against cognitive bias.
(Lilienfield, 2012), however, this would inevitably depend on the epistemological stance of the supervisor / mentor and their propensity for critical thought and reflexivity.

Lunt and Majors (2000) consider why it might be difficult for EPs to articulate the theoretical / psychological frameworks that inform their practice, with one hypothesis being that psychological knowledge might have ‘become synthesised with the development of individual and professional (psychological) practice knowledge, and that the theoretical framework for articulating this has yet to be developed’ (p238).

Formulation amidst uncertainty

Both participants reveal a sense of the ongoing nature of intense formulation. Even during the interviews, long after cases have been closed, there is evidence of revisiting and reflecting on their practice, wondering ‘what if’ and questioning and / or confirming the extent of their certitude in particular cases.

In theory, the law expects honesty and integrity from expert witnesses. It is the very issue of privileging one’s own opinion and ‘amour-propre’ which is referenced by judges in several cases of expert witness malpractice and which, in turn, provides fodder for rebuke by the court and the media. Despite this, in practice, there is a sense that in order to ‘survive’ as an expert witness (especially in the giving of evidence) expert witnesses must have one robust opinion, as if to suggest that were an expert witness to thoughtfully review their opinion in the process of giving evidence, despite all preparation, that this would somehow diminish their expertise and lead to them being discredited. Scaife (2013:263-264) acknowledges that ‘Sometimes it is not possible to reach a clear view’ on certain matters despite her experience that ‘there can be a great deal of pressure on professionals to express certainty’.
To the profession that defines itself in terms of being scientist-practitioners, this presents as paradoxical. In essence, holding a jealously-guarded opinion that is not amenable to change in the face of reflection, cross-examination, or even disconfirmatory data, constitutes the anchoring heuristic identified by Tversky and Kahneman (1974) and is neither scientific nor what the court requires. It is apparent then, that there is an ‘inherent mismatch between legal questions and scientific answers’ (Eastman and Campbell, 2006) and that ‘To attempt to go from science about things in being to law in the abstract which makes its own stab at answering what are ultimately profoundly difficult moral questions, involves a journey for which there is no map and which may not even ‘exist’ as a journey’ (314-315). Moore (2005:107) reasons that the endeavours of EPs naturally involve working with complexity and the need to ‘cultivate a tolerance of ambiguity’, requiring more than ‘a view of expert practice based upon precise scientific knowledge’. Moore posits that the adoption of a ‘rigidly scientised approach’ risks constraining EP practice to that which can be solved and measured and severely restricting the role of the EP and the relevance of EP practice within more ‘complex social worlds’ (p108). Scaife (2013:16) articulates her view of the role of the expert witness psychologist thus: ‘To my mind, the research process in which we are trying to make the best decisions about children’s futures does not require particular methods defined as ‘scientific’, ‘intuitive’, ‘quantitative’ or ‘qualitative’. It is about selecting methods that are suited to purpose.’ Notably, this ‘allows both intuition and systematic research to influence the professional judgements that drive decision making’.

5.2.1.2 Safeguarding and Child Protection

Grace and Clara refer to children disclosing abuse and also discuss cases where children had experienced abuse or neglect. Safeguarding is so fundamental to Grace’s role that
she synthesises this as ‘needing to raise, obviously, all the concerns from a child-protection point of view’ but does not elaborate. A later incidental reflection reveals that she is unable to recall a single case from her experience where an EP had been amongst the first to alert agencies. How representative this might be, for example, in terms of how frequently EPs might make direct referrals to Social Care and how they might describe their experiences are outside the scope of the current study. However, it is my general impression from practitioner-based experience, including conversations with social workers and fellow EPs, that referral rates from generic practitioner EPs would be lower than from other local authority employees. Nonetheless, Woods, Bond, Farrell, Humphrey and Tyldesley (2009) identify safeguarding and child protection as core areas for EP work and explore the contributions of EPs to preventive and reactive work in the area of safeguarding and child protection. Their findings suggest that, at the time of their research, EP safeguarding / child protection work spanned a range of activities at multiple levels from identification to therapeutic intervention and training. Barriers identified by Woods et al. (2009) include: the absence of a strategic lead, the EP’s need to prioritise child protection / safeguarding within their CPD planning and lead managers’ perceptions about the role of the EP. Issues pertaining to a reduced sense of agency might also be considered to be a potential barrier.

5.2.1.3 Role shaped by context

It has been well-established that the context itself determines the working practices of the EP (e.g. Lee and Woods, 2017; Farrell at al. 2006), with Lane and Corrie (2006:100) arguing that ‘psychology is ideally placed to consider the development of our identity within a rapidly changing work environment’. It is evident that ‘the context’ of both Local Authority EP work and that of the expert witness EP within the family court are rapidly
changing landscapes. It is inevitable that changing contexts will demand a flexible response from EPs. Both Grace and Clara contrast the role of the expert witness EP with the role of the EP within the local authority context, acknowledging a greater sense of agency within the court context compared to that of the local authority and that time constraints, remits, expectations and purpose of referral can result in different decisions and modes of operating. Grace confidently states that the two roles do not compare and that she feels ‘grossly ill-equipped’ (394) in schools-work formulation compared to her sense of competency in court work. She attributes this to a reduced sense of agency, insufficient time with parents and the absence of a home-visit (in most cases). Clara’s recollections of work within the local authority are not current and her experience was at a time where she had a greater degree of autonomy and consequently a greater sense of agency than would be likely in the current age of outcomes focused work, traded services and time allocation models. Her recollections of the opportunity for noticing and adjusting and the extent to which she recalls having the capacity to revisit and review cases certainly did not resonate with the current picture across local authorities.

Although Grace conveys a general loss of a sense of agency working in the Local Authority context, when pressed, she resorts to her self-knowledge and conveys a clear view of her epistemological stance. She ultimately acknowledges that, regardless of the context, she would find a way to work in the best interests of the child: ‘I think I know myself well enough…if I had a case …where… I actually had a very clear view what I thought should happen and it wasn’t happening…I know I’d just…I’m afraid I’d just go for it.’ This suggests a sense of self-awareness and intuition in flow.
5.2.2 Focus Point 2: Maintaining a phenomenological attitude

![Figure D - Focus Point 2: Maintaining a phenomenological attitude](image)

### 5.2.2.1 Maintaining a Person Centred stance

Although neither participant expressly articulates subscribing to a Person-Centred approach or adopting a phenomenological attitude, repeated references to Rogerian core-conditions permeate their phenomenologies. It is my strong impression that both individuals bring a profound compassion to their work, along with genuineness, congruence, acceptance, respect and self-knowledge.

Working therapeutically is fundamental to the practice of both participants and they evidently seek to convey values of genuineness, unconditional positive regard, congruence and empathy. These are also attributes which Finlay (2011:78) ascribes to phenomenological researchers: ‘we pay close attention to our participants through ‘curiosity, empathy and compassion’. We attempt to ‘feel into’ the Other, aiming to get a sense of what their lived experience is like.’ Finlay also underscores that the differences between researcher and participant ‘are preserved so there is sufficient distance to challenge and be critically analytical where appropriate’ (Finlay and Evans, 2009: 38 in Finlay 2011). Whilst referring to the role of the phenomenological researcher, this
description could equally be applied to Grace and Clara’s constructions of the role of the psychologist as expert witness.

Scaife (2013:62) discusses the impact of structural oppression and social and economic disadvantage on personal resources, recognising that, ‘What would be an easy task for me with my economic advantages and tertiary education can be daunting or even impossible if you have no credit for your phone, no confidence to speak to the person at the other end of the line, no energy as a result of your long-standing depression and the demanding task of caring for a number of small children.’

Similarly, Grace and Clara operate from a position of empathy and are cautious about not over-stretching. They acknowledge that they cannot presume to completely know or feel the experiences of another person with very different life experiences, resources and opportunities.

5.2.2.2 Being reflective and reflexive

‘Assembling, generating and organising information about a family for the purposes of assessing whether child and parents can safely live together are not neutral acts. I do not think it can be accomplished dispassionately. As a professional I bring my whole self to work, as feeler, thinker and actor. The way in which I construct meaning from the data will be influenced by my values, my prior experiences, my profession, my working context and history’ (Scaife 2013: 253).

Reflexivity is best conceptualised as an ongoing process involving conscious effort and self-evaluation. The Fallon et al. (2010) ‘anchoring definition’ can be separated into two broad parts: who EPs are and what EPs do or, alternatively, the identity of EPs and the functions of EPs. As a practising EP, I hold the view that my professional identity is
primarily in the who (being) rather than what (doing) and that the functions themselves and the approaches adopted emanate from my professional identity which is underpinned by a developing awareness of the epistemological basis of my practice.

*Being* a scientist-practitioner inevitably involves *being* continually aware of one’s epistemological basis and essentially *being* a reflexive practitioner. This involves engaging with the ‘inevitable indeterminacy of the process’ (Moore, 2005: 111), along with the ongoing labouring towards unresolved ambiguity. This resonates with the quasi-physical embodiment of indigestion described by Grace in her analogy of being a reflexive scientist-practitioner and, captures my own lived experience of EP practice, especially in more complex cases. Moore (2005:114) concludes that ‘good’ practice is always ‘a complex synthesis of both practice and theory, each informing the other’ which is ‘continually in flux and always being worked upon to meet the complicated, shifting dynamics or the expert’s present context’.

Grace acknowledges the scope for bias in her work and asserts at the outset that ‘we’re none of us value free, we make judgements about what the people in our cases say and do’ (54-56). In acknowledging this axiom, she exposes the potential for bias in her work whilst simultaneously identifying herself as one who seeks to counter such bias with reflexivity and critical thought. Clara also demonstrates a reflexive approach: ‘we, all of us, bring to every interview, we don’t leave ourselves at the door…’ and ‘everything comes in with us’ (307-308).

Both participants refer to humility as a prerequisite and recognise that their own privileged status in relation to their clients is due to little more than a combination of good fortune and positive life chances and choices. Scaife (2013:44) also recognises this: ‘Stories like this remind me that at times my own life could have taken a trajectory that
would have landed me in circumstances not too dissimilar from those people I am asked to assess. I think it is important for me to keep this in mind lest I begin to feel too distant from them, as if we are a different species. I need to maintain my sense of compassion and a will to encourage and support rather than condemn.’ Recognising that ‘life isn’t fair’ and that we can never presume to know exactly how clients think or feel, Grace acknowledges that in the more extreme cases, she makes a conscious effort to redouble her efforts to maintain a non-judgemental approach. This stance is mirrored by Scaife (2013:131): ‘I think it behoves me as a professional to maintain an orientation of kindness and compassion to the people I have been tasked to assess, even when I abhor the actions of a care-giver who has harmed or even killed a child’ (Scaife, 2013: 131).

Without invitation, Grace proffers examples of case work where she was criticised by the judge and identifies these as opportunities for learning and as reminders of her humanity and fallibility. Likewise, Clara expresses the view that self-doubt, self-examination, critical reflection, peer mentoring and supervision are vital ingredients not only in guarding against ‘amour-propre’, but also in terms of continuous professional development. She adds that ‘it never ceases to be important…it doesn’t matter how long you’ve been doing it for’ which is a strong exhortation for lifelong learning and the continuous effort involved in reflective and reflexive practice previously discussed. Wilson (1994) argues for continued engagement in both professional and personal development to help to maintain emotional health and stability and notes that this is especially pertinent to EPs, given the ‘demanding and complex nature’ of the EP’s role: ‘You work directly with distressed young people, with families and with a “welfare network” of other concerned professionals. You are expected to fulfil “positive outcomes” and provide support for all of these people, and to keep in mind the “proper development of all young people”. You are
asked to attend carefully to the vulnerability of your clients, to be aware of the
“professional power issues” of confidentiality, informed consent and open communication’
(p72). She adds that there is also an added dimension to the role of the EP which is
distinct from the practices of other practitioner psychologists in that, whereas good
practice for counselling psychologists would be to avoid dual relationships at all costs,
‘educational psychologists have a major responsibility to maintain multiple relationships
with grace and unceasing attention to professional competence.’

5.2.3 Focus Point 3: Personal and professional identity

![Figure E - Focus Point 3: Personal and professional identity](image)

5.2.3.1 Motivators and Influences

Crighton (2013:486) states that the motivation for most psychologists undertaking expert
witness work will be ‘a commitment to serving the best interests of ‘justice’. Of reaching
the fairest decision possible. Of balancing competing interests and needs as well we can.’
He views these motivations as compatible with the professional commitment to acting in
the best interests of the client but believes the focus to extend to ‘a much broader consideration of the interests of society’ (p486). Both participants refer to their primary purpose as acting in the child’s best interests, acknowledging the sense of agency and achievement from being engaged in such important work.

Interestingly both participants trace their motivations for working as EPs as expert witnesses back to their own childhood experiences. Grace reflects on a ‘difficult family dynamic’ and of having been the ‘peacemaker’ in her family of origin and recalls having always understood things differently from those around her. The absence of a sense of agency or a voice as a child, whilst seeking to understand seem to have been formative experiences which have influenced her professional way of being. Clara does not share with me any references to a difficult family dynamic but recalls being ‘an enormously nosy child’ who was fascinated by the lives of others. She credits this, along with her upbringing by ‘very socialist parents’, to have been defining features in her journey.

Both participants are motivated by a desire to help others and a passionate belief that working with the most vulnerable children is a worthwhile endeavour. Receiving positive feedback and intrinsic rewards of feeling a sense of pride in having done the right thing or been useful are also identified by both participants as positive reinforcers. Grace acknowledges that remuneration for expert witnesses was also a ‘big extrinsic reward’ and fears that some psychologists might be motivated to enter family court work for this reason without due consideration of the wider context and requirements. For Clara, there is a strong sense of her fulfilling her destiny and self-actualisation. She cites a combination of reciprocal factors (within-person, family, life experiences and socio-political contextual influences) as having directed her path and references an unplanned journey, accidents of fate, the greatest good fortune and the sense of it being in her. She
reflects on her work as an expert witness in almost exclusively superlative terms as having been an enjoyable experience but then, after recalling one particularly distressing case, appears to momentarily contradict this reflection, raising some questions about hindsight bias.

Like Clara, Grace’s journey into expert witness work was also unplanned and she talks of falling into it ‘incidentally’. Unlike Clara, there is less a sense of her having enjoyed the work but rather of feeling compelled in spite of the personal costs. She primarily reflects on the work as having been stressful and exhausting but reflects that, at times, she felt ‘proud’ of having made a unique contribution in the best interests of a child.

5.2.3.2 Emotional Labour / Emotionally Demanding

Grace repeatedly refers to having found the work ‘quite stressful’ and the ‘relief’ of no longer doing court work. She speaks of the ‘sharp end’, ‘tough decisions’ and sad and difficult cases that will stay with her forever and which she carries around in the back of her mind. She speaks with compassion and frequently refers to having been ‘troubled’ by cases and by not knowing the long term outcomes. She recalls cases that stick in her mind that will never leave her, conveying that her work as an EP expert witness is seldom far from her mind. She is profoundly cognisant of the ‘magnitude of those decisions’ made by the court and, with very little in the way of prompting, is able to step back into the throes of formulation, which although futile in terms of outcomes for the individual case, is evidently meaningful for Grace in terms of still feeling the need to reflect and sense-make.

Grace also talks about ‘really frustrating’ cases where there was insufficient evidence to convict perpetrators in cases of sexual abuse and where there would be ‘no
consequences’. She poignantly refers to a case that troubles her more than any other case because she thinks ‘who is that man abusing now?’ My experience of her reflecting on such cases was that I too encountered a sense of powerlessness and frustration. The fact that Grace did not avoid telling me about these more ‘troubling’ cases, nor from sharing with me her ‘what if’ thoughts, provided me with a unique insight into her inner-world. It also impressed on me the lonely and all-consuming nature of the work of an EP expert witness.

Briefly recalling a particularly harrowing ‘vile’ case which required Clara to watch a video-tape of a child being sexually abused, Clara recoils and re-evaluates that she sometimes ‘hated it’ and that the work sometimes involved ‘lots of terror bits here and there when you were really nervous’. She shares that ‘the nightmares of those children and the things that they managed to tell...they don’t go away and you feel soiled by it, not by the children, but by the fact that that exists and probably what you’re seeing is the tip of the iceberg of that kind of thing [...]...you can’t...take those things away from your head but the end result...of that was those children were safe so you had to keep going with it...because most cases are not like that, they’re not so vile.’ Clara shared this towards the end of the second interview and did not dwell on the case but chose to close down her recollections, with a summary that ‘most cases are not like that’.

In considering the emotional impact for professionals working with children who have experienced sexual abuse, Trowell, Jennings and Burrell (1996:186) stress that all practitioners have the need ‘to be able to hold on to the capacity to think, to observe, assess, evaluate and to be in touch with the range of feelings; and to go on thinking.’ They note that these cases can be all-consuming to the extent that workers can take them home and find them affecting their own relationships (p186). This echoes Lord Laming’s
acknowledgement of the ‘severe emotional and psychological stresses that staff involved in child protection often face’ (Lord Laming, 2009:32). In advocating supervision, Trowell et al. (1996:186) stress that this should amount to ‘more than management, administration or discussion’ and should involve time to process the case and the emotional impact on the professional and ‘to consider the verbal, non-verbal and unconscious communications that get inside the mind of the professional’.

When asked specifically about retrospective reflection, Clara shares that she does not tend to consciously reflect on her work but that her reflections tend to happen without invitation or warning (1731-1741).

Scaife (2013:21) acknowledges exposure to ‘compassion stress’, ‘compassion fatigue’, ‘vicarious traumatisation’ and ‘staff burnout’ as potential features of providing psychological assessments for safeguarding and promoting children’s welfare in the family court. Grace expresses her concerns about psychologists undertaking assessments for the court who do not have the necessary safeguards for dealing with the emotionally distressing nature of the work. Her misgivings encompass concern for practitioners and for clients and echo the views of Scaife (2013:21): ‘We have a duty of care not only for our clients but also for ourselves and through reflective practice with colleagues, to ensure that we do not become inured to our clients’ pain and anguish’. Reynolds (2011; 2016) critiques the individualism and neutrality of ‘burnout’, vicarious trauma, compassion fatigue and empathic stress disorder, rejecting the notion that ‘clients infect us with their helplessness’ (Reynolds, 2016) which she feels pathologises both the client and the caregiver. Rather, she perceives the problem to emanate from working with people at the margins who are suffering as a result of structural oppression: ‘I don’t think as therapists and community workers we’re burning out. The problem of burnout is not in
our heads or in our hearts, but in the real world where there is a lack of justice’ (Reynolds, 2011: 28).

5.2.4 Focus Point 4: The court

Figure F - Focus Point 4: The context of the Court

5.2.4.1 The spotlight

‘It can be helpful to consider court or quasi-court (e.g. tribunal) proceedings as being very like theatre, with parties taking particular roles and a script already in place. Psychologists acting as witnesses simply need to be familiar with the process (script)’ (Ireland, 2008:125).

A prominent facet of Clara’s personal identity is that she is ‘from a line of actors’. She speaks with confidence and poise and refers to giving evidence as her ‘performance’. She believes that this has influenced her professional identity. She knows that her primary purpose is to assist the court but she also conveys a strong compulsion to ‘give voice’ (Larkin et al., 2006) and sees this as her ‘duty’, much as an actor might, and to move the
court by transmitting the pain and emotion experienced by clients to such an extent that the judge might experience the child in the same way as Clara. Her account is akin to the concept of ‘empathic dwelling’ (Churchill, Lowery, McNally and Rao, 1998) discussed by Finlay (2011: 78) and the notion of ‘feeling into’ the other person’s experience. She sees this as a distinctive contribution of the practitioner psychologist as expert witness when she compares her ability to ‘get inside the child and inside the child’s emotions to prove it’ to social workers who were unable to do so. She surfaces a key success indicator as barristers and judges being affected at an emotional level (i.e. moved to tears) by her reports. Whilst Clara acknowledges that she enjoyed this aspect of the work, her approach to the drama, performance and theatre of court is in stark contrast to that of Grace, who sees this aspect as a necessary but unwelcome part of the process. Whereas, Clara talks about the ‘performance’, Grace refers to the ‘pressure and spotlight’ of ‘being there in the dock’ which she found emotionally and physically exhausting. Grace is open about not enjoying the experience but views it, nonetheless, as a necessary task, especially for the parents.

Both participants mention the role of persuasion and this is of particular interest given the discussions about advocacy in the context of the role of the EP and the express guidance for expert witnesses about avoiding advocacy which is the lawyer’s domain. Susan van Scoyoc, a counselling and health psychologist comments: ‘I remind myself my role is to provide information and psychoeducation to the court, not to persuade them of someone’s guilt or innocence. Thank goodness I don’t have that responsibility. If I did, I couldn’t do this work’ (van Scoyoc, 2013).
5.2.4.2 Court Context

Both Clara and Grace have a deep sense of their primary function as being ‘helpers to the court’ and see that being a good communicator is fundamental to the level of assistance they are able to bring. Clara empathises with the lonely position of the judge and the weighty decision making responsibility. She sees it as her duty to assist the court, arguing ‘there’s no point having a psychologist if you can’t get sound, well-argued Psychology’. Grace also sees her role as communicating psychology to non-psychologists to assist the court. This echoes Greer (2013:34) where the EP expert witness empathises with the judge’s responsibility to arrive at a finely balanced decision and stresses that the psychologist should ‘make one decision’ and ‘give clear advice’.

Dvoskin and Guy (2008:202) acknowledge that for some mental health professionals, providing evidence is a ‘harrowing and anxiety laden experience’, whilst others ‘seem comfortable, even eager to testify’. They attribute the anxiety to the fear of embarrassment arising from poor performance during cross-examination, fear of accusations of unethical conduct or fear of being harshly criticised (p202).

Clara views the court context as a different planet with its own distinct culture, language, customs and rules which need to be understood. This is echoed by Dvoskin and Guy (2008:202) who acknowledge ‘a system that uses very different language, whose rules of engagement are unique to courts of law.’ Clara refers to both the gamesmanship (especially non-verbal communication from lawyers intended to ‘put you off’) and the theatre of court, acknowledging the set of rules to be played. She credits mentoring as crucial to her acculturation process. Cooke (1990) acknowledges the rigorous appraisal to which psychological evidence and opinion can be submitted and the personal and
professional implications this can have for the individual psychologist in terms of their reputation and career. As such, he advocates that expert witnesses should be able to provide evidence within their field of expertise and that they should also be ‘expert at presenting their evidence’ (p218). Ireland (2008:125) concurs ‘Being a qualified (educational) psychologist, however, does not qualify a professional to give good witness evidence - nor should it. Legal forums focus on quality and delivery of evidence. If a professional or expert witness is not qualified in process and is unable to present themselves and their evidence as credible, this can be harmful to a case and the profession as a whole’. Ireland (2008: 125) provides an aide-memoire of key points for expert witnesses when preparing and delivering evidence including: ‘Identify the issues, facts and opinions in your report: reduce it to these three areas’ and ‘Focus on the judge / chairperson when giving your answers: this demonstrates respect for the process and allows you to ignore any non-verbal behaviour from counsel that may be unsettling’. She also provides a range of possible responses and approaches to address the various questioning techniques employed by lawyers including: rapid fire, complex, leading, aggressive/hostile, closed, hypothetical and multiple. Maintaining composure, respect, transparency, integrity, humility and credibility are recurrent themes in the literature (e.g. Ireland, 2008, Melton et al., 1997, Brodsky et al., 2009, Brodsky et al. 2010, Dvoskin and Guy, 2008, Ogloff and Cronshaw, 2001) which are echoed by both participants.

5.2.4.3 High Stakes

Clara and Grace recognise the high stakes involved in proceedings for both the child(ren) and their families, believing these to be much higher than for cases in the local authority. They both share case examples involving serious neglect and emotional, physical and sexual abuse. Recurring themes for both participants relate to the magnitude and
significance of the issues before the court and of the weight of responsibility associated 
with the consequences and long term outcomes resulting from the ‘colossal’ and ‘tricky’ 
decisions about children and their families. Both have a profound awareness of the 
‘terrifying prospect’ of influencing a child’s life and the permanent nature of the decisions 
and a strong fear of being wrong. There is also a sense of personal fear related, in large 
part, to the adversarial process and the court’s understanding of expertise. Grace reflects 
on a personal experience of an early case when she was ‘pulled up in court’ and 
references this experience of feeling exposed as a motivator in future cases. Although 
Clara alludes to some cases that did not go well, she is unable to provide any specific 
examples, instead reflecting on an occasion in court when she had observed a fellow 
psychologist being ‘taken apart, bit by bit’ which she feels gave her some ‘personal fear’ 
as: ‘There was always the chance that this was going to be you’.

Both appear to share a deep seated fear of their reasoning not holding, especially in the 
face of adversarial scrutiny where the stakes are high. Having contemplated and 
discussed this at length in supervision, the following quote is of assistance in summarising 
my deliberations:

‘...law, by its nature and process, may be incapable of acknowledging scientific 
evidence without, at best, misunderstanding such evidence, and, at worst, 
distorting it. Put simply, the law asks questions science is unlikely to be able to 
answer, whereas science answers questions that the law mostly does not pose.’

(Eastman and Campbell, 2006:312).

They determine that the law is ultimately pragmatic, autopoeitic and seeks assistance
from science whilst maintaining a scepticism about it. Analysis of discussions with both Grace and Clara reveal an inherent tension between ‘Being a Psychologist’ and operating within the context of the court. Grace acknowledges and accepts both the need for the close scrutiny of her work as an expert witness and her own humanity and fallibility, including her natural propensity to make judgements. She recognises that safeguarding against bias and operating in a way that is fair despite her own judgements and values are pursuits that require constant maintenance.

5.2.4.4 Looking back and moving forwards

This theme is perhaps of particular interest as both participants had recently retired from expert witness work and were retrospectively reflecting on their experiences in this context. Clara had retired from EP work altogether, whilst Grace was still working as an Associate EP in a local authority. Both shared that they had been prompted to retire due to ‘the changes’, which I understood to mean the ‘perfect storm’ which I have described in detail in Chapter 2.

Clara is very vocal about the imposed restrictions on practitioner psychologists acting as expert witnesses which she feels are unacceptable, unrealistic and unethical. She foresees problems for the future when she predicts that things will ‘come full circle’ and ‘bite the courts very heavily’, in relation to the long term consequences of children not having been afforded psychologist involvement. She credits much of her success as an expert witness psychologist to mentoring and supervision from a skilled and experienced practitioner and fears that new-comers to the role will be vulnerable due to the absence of experienced mentors. I have since contemplated Clara’s post-hoc presentation of her experiences in the light of the Peak-End rule (Kahneman, 2011; Kahneman, 1999: 2)
where ‘retrospective judgements of affective episodes are strongly influenced by the affect experienced at singular moments’, ‘showing little or no sensitivity to duration’ and that ‘remembrance of things past is not necessarily the remembrance of things as they were’ (Proust in Quicke, 2000). I have wondered to what extent her experiences, both as an EP working in Northtown and as an expert witness, might be presented (and therefore potentially distorted) from a vantage point of how she felt at the most intense points. As her use of language contains lots of intensifiers, it is perhaps discernible that there have been a number of ‘peaks’ (both positive and negative) for Clara. Whilst I am minded that authors and participants may change their views over time (Richards, 2011), I consider the extent to which retrospective reflective evaluation on the utility of one’s career might engender a possible distortion and how this might have hypothetically differed from a vivid contemporaneous account. However, I also note that, when describing a more traumatic case, there is nonetheless a sense of this still being ‘raw’ and potentially as vivid as a contemporaneous account.

Clara reflects on her contribution to the court with an air of romanticised nostalgia, emphasised by her use of intensifiers, absolutes and evocative metaphors. Although a flicker of dissonance is surfaced, she appears to repress this. In contrast, Grace reflects on her time as an expert witness with a sense of relief that she is no longer burdened by the work to the same extent.

### 5.2.4.5 Importance of mentoring and supervision

Grace does not mention mentoring or supervision in either of the two interviews, whereas, in contrast, Clara presents mentoring and supervision as pillars of her work, fundamental to ensuring reflective practice, critical thinking and recognition of fallibility.
With hindsight, I might have specifically explored Grace’s experiences of and views about supervision and mentoring. I know that she has been an active member of the peer-support group for psychologists working in the family court. I wonder if Grace might feel that the emotional labour might have been somewhat alleviated by access to individual supervision, especially in the light of her expressing that talking to me has been therapeutic and allowed her space to sense-make. However, I acknowledge that there is insufficient evidence to support this hypothesis and that, ultimately, being an expert witness might be seen as a lonely endeavour where the expert stands alone with just their opinion, their data and their psychological knowledge with the weighty responsibility to predict future outcomes, which are essentially unknowable, but fundamental to safeguarding vulnerable children.

Regular supervision and/or peer review is highlighted in codes of conduct for the BPS (2009) and the HCPC (2014; 2015; 2016). The BPS and FJC guidance (2016) identifies the specific aims of supervision as quality assurance, sharing best practice, facilitating continuous professional development through reflective practice, contributing to the protection of clients and by providing opportunities to assess risk and discuss ethical dilemmas. Supervision also aims to ‘contribute to the psychological health, wellbeing and resilience of practitioner psychologists by providing opportunities to disclose their personal reactions to the demands of their work’ (p27). The guidance stipulates that the absence of peer review increases the risks for expert witnesses and advocates an interdisciplinary approach to reflective practice: ‘psychologist expert witnesses should also engage in reflective practice with non-psychological peers to ensure their work is fit for purpose within the Family Court’ (p28).
5.2.5 Focus Point 5: The experience of the interview

Both participants refer to wanting to be helpful and evidently approach the interviews with an understanding of the research and their interpretation of what they feel I am ‘looking for’. It is this very issue that prompts my question about the extent to which the interviews might have been affected by their attempts to see things through my eyes, essentially the double-hermeneutic in reverse. On several occasions, Grace checks whether she is being helpful by wondering aloud whether she is answering questions in line with what I might be ‘looking for’. This high state of reflexivity on Grace’s part would cause me to frequently reflect critically upon my own ‘way of being’ and upon the flow and focus of my questions. This is still left unresolved for me as I wonder whether I should have perhaps been more explicit about the epoché process within the research methodology prior to, or even during, the research process, not least given our shared knowledge and the inevitable assumptions that EPs might reasonably hold about fellow EPs. Similarly, Clara in summarising the research objectives as wanting ‘to get inside someone’s head’ and to ‘see where it goes’, reveals a reflexive approach and an understanding of what I ‘actually want…if you want the real…I don’t know if truth’s the right word, but if you want that person’s views and perceptions and feelings.’

In ‘The Doctor’ or ‘The Girl from the University’, Richards and Emslie (2000) highlight the similarities between research interviews and therapeutic interactions. As researchers from different professional backgrounds (general practice and sociology), they reflect on their impact on in-depth interviewing in primary care. Whilst there is some divergence between interactions which appeared to relate to the researcher’s professional background, both researchers report commonalities in interviews being frequently regarded as ‘therapeutic’ (Richards and Emslie, 2000:72). Both Grace and Clara also refer
to the ‘therapeutic’ (Grace) and ‘cathartic’ (Clara) benefits of the process. Pistrang and Barker (2010:83) describe this as an ‘often overlooked aspect of qualitative research’ and cite anecdotal evidence from their own studies where participants provided feedback to the researchers about the value of being listened to ‘attentively and empathically’. The authors also alert to the potential risks involved with semi-structured interviews with clinical populations where participants may disclose information that is distressing to them or that might indicate a risk of harm to self or others and implore researchers to have ‘robust systems in place to exercise their duty of care’. Whilst the risks were minimised by working with fellow experienced psychologists rather than a ‘clinical population’, I was mindful that, in reflecting on difficult cases or aspects of their work, they may inadvertently over-disclose, that is, their attempts to be helpful to (what they perceived to be) the wider knowledge inquiry might not actually be helpful to the participant. The potential risks of this and safeguards are discussed in the methodology section but it is important to underline the fact that ethical approval does not remove risks and that reciprocal human interaction engenders intended and unintended outcomes. Participants’ references to the therapeutic benefits of the conversations offer some assurances that my endeavours to ‘take all reasonable steps to reduce the risk of harm’ (HCPC 2016:6.1) were sufficiently robust for these particular participants in this particular context.

Finlay (2011) suggests that the only methodological given in relational-centred research is that the researcher attends to maintaining: ‘as open an empathic presence as possible and to be reflexive about what may be happening in the embodied intersubjective space between researcher and co-researcher’ (166-167). In so doing, resonant of Carl Rogers (1980), Finlay (2011) refers to a ‘way of being’ (p12) which transcends a research
methodology. Clara articulates her interpretation of my way of being as being one of empathy and openness, suggesting that these were fundamental components of the ‘*embodied intersubjective space*’ (Finlay, 2011) between us. She describes the experience as ‘*extremely comfortable*’ and attributes this to a pre-established rapport and not feeling the need to ‘*persuade*’ me to be ‘*empathetic*’. She compares my interviewing approach to her own when working with clients and I am mindful that my approach as a researcher is informed by my experience of working as an EP endeavouring to maintain a phenomenological attitude. This is echoed by Scaife (2013:25) who describes the interview as ‘*the central plank of enquiry when undertaking family assessments*’. She describes the process thus: ‘*The interviewer encourages, clarifies, and probes, explores exceptions, contradictions, ambiguities and ambivalence in order to gain as deep an understanding as possible of the interviewee’s experience. It is about me trying to enter into the client’s ‘reality’ whilst trying to suspend my own*’ (p25). I attribute the reported cathartic and therapeutic functions of the participants’ experiences of the interviews, in part, to my adoption of a ‘*way of being*’ typified by a ‘*reflexive-relational approach to phenomenological research*’ (Finlay, 2011: 160) in conjunction with the participants’ reflexivity, experiences of working therapeutically and their willingness to immerse themselves in the research process.

How Clara and Grace relate to clients by being present, listening attentively and empathically and seeking to understand their understanding corresponds with my approach as both a researcher and as an EP in generic practice. To this end, there would perhaps appear to be compatibility in our respective paradigmatic orientations that might be best described in social constructionist terms. However, as expert witnesses, Clara and Grace cannot comfortably or exclusively occupy a social constructionist position as
they are duty bound to argue their opinion as critical realists. There is inevitable
epistemological tension here for reflexive, reflective EPs socialised as social
constructionists who are then required to adopt a position that might refute the client’s
worldview (e.g. with regards to parenting capacity). For the EP expert witness, there is
therefore an extent to which both epistemological positions need to be held
simultaneously to serve the requisite functions, thus being mindful of upholding
professional ethics and practice guidelines as an EP whilst adhering to one’s overriding
duty to the court within an adversarial process. This paradigmatic tension would appear
to be irresolvable and therefore requires a constant and conscious re-positioning
between positionalities.
6 SUMMARY AND CONCLUDING REFLECTIONS

6.1 Summary of Findings

The aim of this study was ultimately to explore the lived experience of EPs working as expert witnesses in the family court and to learn more about the EP role by studying it from within a different context. The research question was: How do EP expert witnesses make sense of their experience in family court? The research question itself was honed during the research process, having first started out at the proposal stage as three research questions:

1. How do EPs with expertise in family court work make sense of their past and future contributions?
2. What constructs are held by EPs with experience of working as expert witnesses about their contribution to the court?
3. What can be gleaned of the ‘tacit knowledge’ (based on beliefs, ideals, mental models) of effective EP experts?

Langdridge (2007: 57) acknowledges that research questions may need to be ‘amended and refined’ through the process of a phenomenological research study. My rationale for refining the research question is supported by Eatough and Smith (2008: 187) who reinforce that the methodological practice of IPA involves research questions which are directed towards aspects of the participant’s lived experience. I reasoned that, having modified my data collection plan regarding the use of PCP techniques, the notion of constructs, in the PCP, sense became less of a focus than the concept of sense-making from the perspective of the lebenswelt of participants. This also seemed coherent with IPA’s focus on personal-meaning and sense-making in a particular context for people who share a particular experience (Larkin, 2015: 252 in Smith, 2015).
Adopting IPA as the methodology from the outset, two EPs were interviewed using in-depth conversations based around semi-structured interview prompts. Interviews were audio recorded, transcribed verbatim and analysed using IPA. Follow up interviews were conducted to explore initial analysis which were subjected to further IPA analysis. In Chapter 4, the idiographic findings are presented as themes within cases from the two participants. Emerging patterns, convergences and divergences come into view and are noted but not explored at this stage in an endeavour to maintain an attitudinal approach to epochê (Bach, 2014).

The findings from cross-case analysis, exploring convergences and divergences are presented in Chapter 5 and findings are discussed within the context of the existing literature. This marks the point at which I make a conscious shift as researcher from a hermeneutics of empathy towards a hermeneutics of both empathy and critical engagement (Ricoeur, 1970; Smith, 2004). Superordinate themes are clustered and themes compared and contrasted. Cross-case analysis reveals four main focus points which reflect the participants’ lived experiences of working as EP expert witnesses in the family court and a fifth focus point relating to their experience of being a participant in this research:

1. The role of being an EP and an expert witness
2. Maintaining a phenomenological attitude
3. Personal and professional identity
4. The Court
5. The experience of the interview
The role of being an EP and an expert witness is considered in terms of Being a Psychologist, applying and communicating psychological skills, knowledge and understanding in the context of the court. Concurring with Fallon et al. (2010), Being a Scientist Practitioner is fundamental to Being a Psychologist. The tensions regarding EBP and PBE are acknowledged along with the need for reflexivity and self-awareness at all levels of practice. As a researcher-EP using IPA with other EPs who were essentially being and doing with their clients what I was being and doing with them (i.e. being psychologically-minded and seeking to explore their understanding and experiences) this was a particular type of IPA. There was an added dimension to this process in that the participants also engaged to such an extent that they incidentally made assumptions (that only fellow EPs could make) about my positionality, perceptions, a priori knowledge and what they thought I was ‘looking for’. Both participants compare and contrast the role of the expert witness with that of the EP within the local authority context and findings support the literature (Lee and Woods, 2017; Farrell et al. 2006 and Norwich, 2000) that the context itself determines the working practices of the EP. Safeguarding and Child Protection have been identified in the literature as core areas for EP work (Woods et al., 2009) and safeguarding is a recurrent theme in the HCPC SOPs (2015) and SCPE (2016). Prevalent issues regarding safeguarding and child protection in family court casework are referenced by both Grace and Clara, highlighting the contribution of EPs as expert witnesses to this area and raising questions about how generic EPs might view their contributions in this area.

Maintaining a phenomenological attitude made manifest in building rapport, communicating curiosity, empathy and compassion (cf. Finlay, 2011) is a particular focus both for participants, with their clients in order to glean a sense of their lived experiences,
and also for me as a researcher, endeavours to see this phenomenon through their eyes. *Being reflective and reflexive*, whilst fundamental to maintaining a phenomenological attitude, are also viewed as key components of a scientist practitioner approach which act as a defence against cognitive distortions.

*Personal and Professional Identity* reflects the motivators and influences which have contributed to this distinct career path for these EPs. Feeling useful, having a sense of agency and doing something worthwhile are particular motivational factors for both participants. There is some interesting divergence in how both participants reflect on the totality of the work, with Clara presenting this almost in exclusively superlative terms, with infrequent evidence of ambivalence. Where there are glimmers of ambivalence, however, these converge with Grace’s phenomenology relating to the work being stressful, exhausting, frustrating and troubling; thus highlighting the emotional labour and emotionally demanding nature of the role.

Both participants focus on the culture of *The Court*. There is convergence in the role perceptions for both participants and they demonstrate a clear view of being helpers to the court, communicators of sound psychological thinking and formulation and a responsibility to act in the best interests of the child. They have a deep appreciation of the high stakes involved and the weighty responsibility they bear. There is a shared sense of fear of their reasoning not holding in the face of adversarial and public scrutiny and a strong fear of being wrong when contributing to permanent and life-changing decisions. Tensions are explored between the law and science, and between *Being a Psychologist* and operating within a legal context which, whilst seeking assistance from science, is ultimately autopoeitic (Eastman and Campbell, 2006).
The experience of the interview provides some interesting insights about using IPA as a psychologist with other psychologists. The depth of participants’ engagement with the process and their comments about the interview being a therapeutic experience perhaps further highlights the emotional labour involved in the work of an expert witness.

6.2 Limitations of Research

As advised by Smith et al. (2009:3), the sample for this IPA study was small and relatively homogeneous as a focus on idiography requires a commitment to detail, depth of analysis and to understanding the particular (Smith et al., 2009:29). It is therefore inevitable that claims would be restricted to the particular participants studied and the cases discussed and therefore generalisable only in analytic terms. Whilst a sample size of two participants would be considered a limitation within many other methodological approaches, in the context of an IPA study, it is believed to enhance the interpretation by allowing for greater in-depth analysis and rigorous validation. That is, in presenting detailed interpretative accounts ‘one is sacrificing breadth for depth’ (Smith, 2015: 29). In discussing commitment, rigour, transparency and coherence, Yardley (2000) considers adequacy of sample not in terms of numbers of participants but rather in terms of its capacity to ‘supply all the information needed for a comprehensive analysis’ (p221).

Burden (1994) highlights the need for teachers to acknowledge the discrepancies between their ‘espoused theories’ and their ‘theories in action’. He references Schön (1983) who posits that there is a gap between professionals’ reported perceptions about their behaviour and their actual behaviour in practice. Kennedy, Frederickson and Monsen, (2008) explore this potential gap in questioning whether EPs ‘walk the talk’ when consulting. Likewise, I am mindful that this research relies solely on self-report and
does not triangulate in terms of the reliability of participants’ reports, not least with regard to effectiveness and whether discrepancy might exist between their actual and perceived or projected selves.

The case of Anna raises some methodological issues introduced in 3.9.2 which warrant further reflexive accountability at this point. As previously discussed, after analysing interviews with Clara and Grace, I decided to subjugate the interview with Anna. My rationale for this decision was informed by both ethics and pragmatics. Practical issues such as word count restrictions and the absence of a second interview were factors in this decision and would ostensibly have stood alone as a justification. However, as an IPA researcher, I am compelled to surface the more uncomfortable issues that also led to this decision. Firstly, the interview with Anna was my first interview. With hindsight, I had not established sufficient rapport with Anna prior to the interview and the conversation, perhaps consequently, lacked fluency. On reviewing the transcripts with and without audio, there are moments of discomfort and it became apparent that the potential interpretation might also be a factor. Anna did not respond naturally to open questions and I harboured a sense of dissonance about the potential interpretation, especially in the light of my interpretation of interviews with Grace and Clara. I had planned to attempt to redress this at the second interview but in the absence of a response to my request, I began to speculate about whether perhaps Anna had reflected on the interview and had felt exposed. Coupled with the pragmatics of word count restrictions and the absence of a second interview, I determined that treating this interview as a ‘pilot’ would also resolve the ethical dilemma about the potential interpretation.

Conducting research as an EP with participants who are also EPs, using a methodology designed for psychological research was likely to result in a very particular kind of
analysis. I am aware that there is correspondence between my endeavours to access perceptions of participants’ lived experiences and their endeavours to access the lived worlds of their clients. Clara surfaces this comparison by recognising similarities between my approach and her own. An additional layer relates to the way in which participants engage, emanating from their awareness of the frame of interpretation and my positionality as a researcher-psychologist. They realise that being psychologically-minded is the medium of this work and that I am trying to see this phenomenon through their eyes and to essentially understand their understanding. I notice that their selectivity in what they choose to explicate (or not) is sometimes informed by assumptions about my knowledge of psychology and of working as an EP. Coy (2006) discusses the ethical dilemmas of conducting practitioner research, acknowledging that her relationship with the women she interviewed hindered some disclosure because of her existing knowledge of their lives. However, she notes that ‘In considering the unspoken, the silences and the emotional tone, my relationship with the women gives me ‘more than a glimpse’ into their lives’ (p426) and enables her to construct ‘my story of their stories’ (Birch, 1998:182 in Coy, 2006:427). Gaining ‘more than a glimpse’ similarly conceptualises the spirit of the research question for this study which is also facilitated by prior knowledge of the participants interviewed and of the area being explored.

Although the role of the expert witness EP in family court would be viewed primarily as an assessment function, it is my assumption that this function does relate in ways to other functions reflected in the literature such as consultation, intervention and even training (cf. van Scoyoc, 2013 regarding ‘psychoeducation to the court’). However, whilst participants allude to consultation and intervention, the main focus of the research is assessment.
Within the theme *Looking back and moving forwards* (5.2.4.4), I consider the extent to which looking back on one’s career might be subject to cognitive distortions, including the Peak-End rule (Kahneman, 1999:2) especially in relation to Clara’s phenomenology. The totality of the Ronsard poem previously discussed (see 3.4) captures potential distortions. Beyond the ‘*gathering of the roses while you may*’, there is poignant interpretative resonance in terms of how one’s retrospective reflections, reminiscent of Heidegger’s ‘*das nichts*’ and confronting one’s finitude (at least in career terms) might be susceptible to hindsight bias. Further poetic interpretation can also extend to how predictions for the future are cast into a different light when they no longer contain the protagonist.

### 6.3 Implications for Theory

The aim of this research was to learn something about the EP role by studying it in a different context. The Fallon, Woods and Rooney (2010) definition of the EP provides a useful starting point for considering the identity and functions of the EP across contexts, encapsulating both the *being* and the *doing* (cf. Wilson, 1994). This definition also holds for EPs working as expert witnesses in the context of the family court, with the scientist-practitioner identity being further illuminated in this milieu, especially with regard to formulation and self-evaluation. Findings from this study suggest that Lane and Corrie’s (2006:3) four main themes relating to the skills of psychologists as modern scientist practitioners have direct application to the role and functions of the EP expert witness and are seen in even sharper focus when scrutinised in the context of the family court. Evidence-based practice, psychological formulation and self-evaluation are highlighted as essential criteria in the HCPC SOPs (2015:10). Although implicit in the concept of ‘*scientist-practitioner*’, these are not made explicit in the definition provided by Fallon et al. (2010) and their definition stops short of capturing the *way of being*. Best practice in
line with ethical codes of conduct would also involve maintaining a phenomenological attitude moment by moment, attending to power, acknowledging privilege and seeking to challenge oppression in all its forms. Reflexivity, self-awareness and critical thought are fundamental to maintaining internal consistency and authenticity. Findings from this study suggest that the Fallon et al. (2010) definition of the EP also corresponds with the role of the EP as expert witness, with the scientist-practitioner identity being viewed in sharper focus through a different lens (i.e. from within a different context or discipline).

Inspired by the findings of this study and the HCPC SOPs (2015), the following additions to the Fallon et al. (2010) definition are proposed: reflexivity, psychological formulation and promoting psychological understanding. I also propose amendments from ‘for the benefit of children and young people’ to ‘to support the best interests of children and young people and to prioritise their needs and rights’ in an attempt to acknowledge the ‘wider societal context within which formulating takes place’ (BPS, 2015:14) and to follow Woods and Bond’s (2014) and Woods’ (2014) priorities for EPs which are compatible with the UNCRC principles. The following constitutes a preliminary attempt at incorporating the proposed additions into the existing Fallon et al. (2010) definition:

As reflexive scientist practitioners, it is imperative that EPs continually strive to utilise psychological formulation, skills and knowledge to promote psychological understanding to support the best interests of children and young people and to prioritise their needs and rights, through the functions of consultation, assessment, intervention, research and training, at organisational, group and individual level across educational, care and community settings, with a variety of role partners.
6.4  **Implications for EP Practice**

The learning I have acquired from this process extends beyond that which relates to the research question: *How do EP expert witnesses make sense of their experience in family court?*

Deeper analysis of the participants’ experiences reveals some interesting insights into the role of the EP in other contexts, especially with regards to reflexivity, maintaining a phenomenological attitude and psychological formulation.

Close inspection of psychological formulation and reflexivity in the context of family court has generated some searching questions for me as a scientist-practitioner EP which might form part of a reflexive self-evaluation framework for wider consideration by other EPs. These are further sharpened by professional standards and ethics and by evidence in the literature, including judgements where expert witnesses have been found wanting. The questions in Figure G were honed by the analytic process. The corresponding focus points are noted in brackets:
Figure G - Self-evaluation questions emerging from the analytic process

<table>
<thead>
<tr>
<th>Question</th>
<th>Reference(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Am I maintaining a phenomenological attitude with everyone at all times? (2)</td>
<td></td>
</tr>
<tr>
<td>Am I aware of my ‘blind spots’ / preconceptions? (1, 2)</td>
<td></td>
</tr>
<tr>
<td>Am I maintaining humility and an awareness of my own fallibility? (1, 2)</td>
<td></td>
</tr>
<tr>
<td>Am I always keeping in mind the best interests of the child? (1, 2)</td>
<td></td>
</tr>
<tr>
<td>Am I mindfully maintaining an anti-oppressive stance? (1, 2)</td>
<td></td>
</tr>
<tr>
<td>Am I challenging oppression when I see it? Am I always seeing it? (1)</td>
<td></td>
</tr>
<tr>
<td>Is there enough ‘evidence’ to ‘convict’ me of being a psychologist and of being a scientist-practitioner? (1)</td>
<td></td>
</tr>
<tr>
<td>Have I considered all eventualities? (1)</td>
<td></td>
</tr>
<tr>
<td>What is my epistemological position and what if I were to adopt a different paradigm? (1)</td>
<td></td>
</tr>
<tr>
<td>Does my reasoning hold and is it defensible, well-formulated and communicable? (1, 4)</td>
<td></td>
</tr>
<tr>
<td>Can I explain the technical and theoretical in terms that a non-psychologist would understand? (1)</td>
<td></td>
</tr>
<tr>
<td>Can I account for this in terms of science and ethics? (1)</td>
<td></td>
</tr>
<tr>
<td>Is my knowledge up to date? (1)</td>
<td></td>
</tr>
<tr>
<td>Can I learn from the mistakes of others to avoid known pitfalls? (1)</td>
<td></td>
</tr>
<tr>
<td>Have I remained within my expertise? (1)</td>
<td></td>
</tr>
<tr>
<td>Would this be defensible in court? (4)</td>
<td></td>
</tr>
<tr>
<td>Have I been precise in my thought and language? (1)</td>
<td></td>
</tr>
</tbody>
</table>

This is not intended to be a checklist as it would be unwieldy to simultaneously process all of these questions live, recognising that ‘no matter how we go about it, we cannot be all of ourselves all at once’ (Shattuck, 1984:13 in Quicke, 2000: 256). As such, the concept of ‘intuition in flow’ is perhaps called for here, whereby being mindfully internally consistent and self-aware act as grounding agents.

6.5 Implications for Future Research

Working as an expert witness in the family court is an area that is under-researched and the scope for future cross-disciplinary research regarding the role and functions of expert witnesses is vast. The experience of practitioner psychologists working in this context is
similarly under-explored. Findings from just two EP expert witnesses suggest that there is potentially a wealth of untapped learning that has much to offer practitioner psychologists across disciplines. Further research might focus more specifically on the psychological theories and epistemological stance of practitioner psychologists working as expert witnesses.

There is also a dearth of literature about how EPs (in contexts other than the court) use theory and research to inform their thinking and practice. Exploring how EPs might utilise and critically evaluate research would seem fundamental to understanding more about the EP’s scientist practitioner identity.

Whilst recognising that effective and experienced are not synonymous, actively capturing the tacit knowledge, wisdom and insights acquired over time of EPs nearing the end of their psychological careers might also be considered to be a useful contribution to the knowledge base on a range of issues pertinent to the profession.

Despite the fundamental safeguarding role of EPs, research suggests that generic EPs have not always felt adequately equipped and supported to use their psychological skills in this area (German, Wolfendale, McLoughlin, 2000 and Woods et al., 2009). Further research would be useful to explore the current picture for generic EPs. Whilst the safeguarding role is implicit in Fallon et al. (2010) ‘for the benefit of children and young people’ and emphasised further by my proposed addition: ‘to support the best interests of children and young people and to prioritise their needs and rights’, further proposed enhancements might include a more specific reference to safeguarding and child
protection to underscore the distinctive contribution of the EP in relation to this area (Woods et al 2009 and 2011).

Practising interdisciplinarity involves ‘the very ability to stand back from one’s own attitudes and experiences’ and requires a ‘stable disciplinary identity and flexibility’ which are an ‘expression of the necessary tension to which an individual is exposed in interdisciplinary work’ (Bromme, 2000: 116-117). Interdisciplinary ‘borrowing’ from, in the case of this research, law, linguistics, philosophy, literature, counselling and other applied psychology disciplines (i.e. forensic and clinical) serves as a means of triangulation, making comparisons and validating cross-situationally or even cross-culturally. Essentially just as focusing on the role of the EP as expert witness in the unusual context of the family court can provide ‘novel insights’ (Bromme, 2000) into the role in general, so too finding out more about the role by looking at it through the lens of other (even diverse) disciplines might also bring to the fore a distinct nuance or emphasis that has hitherto been obscured. For example, research in the field of Artificial Intelligence (AI) regarding legal reasoning, argumentation and decision making (e.g. Atkinson and Bench-Capon, 2018) might provide unexpected ‘novel insights’ for other disciplines. So too, exploring the role of the EP as perceived by multi-agency partners such as clinical psychologists and social workers, might also generate new learning about the role.

Given the prominence of the scientist-practitioner identity in the standards, codes and practice guidelines relating to the role of the EP (e.g. HCPC and BPS), it is considered essential that EPs embrace this fundamental facet of our identity in its entirety and explore how we might be most effective in psychological formulation both in terms of product and process to ensure that our contribution as EPs is both distinctively
psychological in essence and in the best interests of the child. Starting from the premise that ethical practice is essential, further research might look beyond ethical practice to consider what good enough and good practice might look like in relation to psychological formulation. Similarly, whilst reflexivity and self-evaluation are frequently referenced in research pertaining to Educational Psychology, further exploration of these is justified in the context of how EPs make sense of their identity as scientist-practitioners.
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Appendix 1: Participant Information Sheet

You are invited to take part in a research study part of a Doctoral study. Before you decide whether to take part, it is important for you to understand why the research is being conducted and what this will involve. Please read the following information carefully and discuss it with others if you wish. Please ask if there is anything that is not clear or if you would like more information. Thank you for considering this.

Title of the Research
‘Gleaning the grain from the threshing-floor in the midst of a storm: Deconstructing the Distinctive Contribution of the Educational Psychologist as Expert Witness in Children’s Proceedings in the Family Court.’

Who will conduct the research?
Jo Greer, Chartered Psychologist, HCPC Registered Educational Psychologist and Doctoral Student at University of Manchester
Supervised by: Professor Kevin Woods, University of Manchester

What is the aim of the research?
This research aims to explore in detail the constructs of Educational Psychologists who have experience of working as expert witnesses in the unusual context of the family courts. It also seeks to capture some of the tacit knowledge and lived experience of practitioners working in this specific context, at this particular time of unprecedented changes in the family justice system.

In summary, I aim to explore the following:
- How do EPs with expertise in family court work make sense of their past and future contributions?
- What constructs are held by EPs with experience of working as expert witnesses about their contribution to the court?
- What can be gleaned of the ‘tacit knowledge’ (based on beliefs, ideals, mental models) of effective EP experts?

Why have I been chosen?
Participants selected have been chosen, not only because of their experience, but also because they are known by the researcher to be forthcoming and articulate. Employing a purposive sampling method, a minimum of two semi-structured interviews will be conducted with each of three key informants who are expert witness EPs known to the researcher.

What would I be asked to do if I took part?
Participants will be requested to participate in 2 semi-structured 1:1 interviews with the researcher to review their practice as an expert witness in family court. Sessions will be audio recorded and full transcripts will be made available for member checking. Data collection will rely on methods derived from Personal Construct Psychology (Kelly, 1986) within an overarching methodological framework guided by the philosophical principles underpinning Interpretative Phenomenological Analysis (IPA).
What happens to the data collected?
Data analysis using an IPA approach allows a detailed exploration of the topic whilst managing complexity and novelty. I plan to adopt the range of strategies proposed by Smith et al. (2009) including the identification of themes and the development of a narrative reflecting the interpretative journey in collaboration with my tutor to help test the coherence of the interpretation.

How is confidentiality maintained?
The study will not publish data that might allow the identification of individuals and direct quotations will be anonymised.
Data will be stored securely (Locked filing cabinet, Firewall and antivirus software installed, operating system is set up to receive automatic updates, computer account passworded, electronic files containing sensitive information password protected). All paper containing sensitive information will be securely shredded (cross cut) upon disposal, and audio recordings will be kept for 5 years following the submission of the final thesis.

What happens if I do not want to take part or if I change my mind?
It is up to you to decide whether or not to take part. If you do decide to take part you will be given this information sheet to keep and be asked to sign a consent form. If you decide to take part you are still free to withdraw at any time without giving a reason and without detriment to yourself.

Will I be paid for participating in the research?
There will be no payment for taking part in the research.

What is the duration of the research?
2 x 1 hour interviews and follow-up member checking

Where will the research be conducted?
At the participant’s place of work or other convenient location.

Will the outcomes of the research be published?
It is anticipated that the research findings may be published beyond the submission of the thesis.

Criminal Records Check (if applicable)
I hold an enhanced disclosure certificate and am fully registered under the Data Protection Act.

Who has reviewed the research project?
The project has been reviewed by the University of Manchester Research Ethics Committee.

Contact for further information
Please contact Jo Greer jo@jogreerpsychology.com Tel. 07#### #######

What if something goes wrong?
If there are any issues regarding this research that you would prefer not to discuss with members of the research team, please contact the Research Governance and Integrity...
Team by either writing to 'The Research Governance and Integrity Manager, Research Office, Christie Building, The University of Manchester, Oxford Road, Manchester M13 9PL', by emailing: Research.Complaints@manchester.ac.uk, or by telephoning 0161 275 7583 or 275 8093.
Appendix 2: Participant Consent Form

University of Manchester
School of Education
CONSENT FORM

Please read the consent form and initial it if you are happy to participate:
‘Gleaning the grain from the threshing-floor in the midst of a storm: Deconstructing the Distinctive Contribution of the Educational Psychologist as Expert Witness in Children’s Proceedings in the Family Court.’

I confirm that I have read the attached information sheet on the above project and have had the opportunity to consider the information and ask questions and had these answered satisfactorily.

I understand that my participation in the study is voluntary and that I am free to withdraw at any time without giving a reason and without detriment to any treatment/service.

I understand that the interviews will be audio-recorded.

I agree to the use of anonymous quotes.

I agree to take part in the above project:

Name of participant __________________________ Date __________________________ Signature __________________________

Name of person taking consent __________________________ Date __________________________ Signature __________________________
Appendix 3: Semi-Structured Interview Schedule for Interview A

Hefferon and Gil-Rodriguez, (2011) refer to the difficulties encountered by students when developing a good quality semi-structured interview schedule:

“Students tend to produce schedules that are too long, overly extensive and detailed and therefore constraining”.

They advise that when collecting data for IPA, a careful balance should be sought between ‘guiding and being led’, recommending “short schedules starting with broad general questions that allow the participant to set the parameters of the topic, not the other way around”.

Mindful of these recommendations, I have attempted to design an interview schedule which identifies the broad area to be discussed and which starts with scene setting and drawing the participant into the interview with the opportunity to tell their story before ‘funnelling’ (Smith et al, 2009 p61).

- Please could you tell me about your role as an expert witness and what this entails?
- Please could you tell me what drew you to this area of work?
- Can you think of an example where you feel you were able to make a helpful / valuable contribution in a challenging case? How do you know? (maybe how do you know that you know?) What might the judge / barrister say about your contribution in this case?
- Please could you talk about a case where you felt that your contribution was not valued? How do you know? (maybe how do you know that you know?) What might the judge / barrister say about your contribution in this case?

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- If you were to create a person specification for an EP expert witness - what would you consider to be the essential and desirable qualities?

- How do you perceive the future contribution of the EP in the family court? What are the constraints / opportunities? How might EPs need to adapt / evolve?
Interviewer: So you’ve talked about remaining non-judgemental and asking lots of open questions. You’ve also talked about building rapport and investing in kind of setting up that relationship early on. Is there anything else that you particularly draw on at that early stage?

Grace: I try and put families at their ease because often, especially if these cases have been in proceedings for a long, long time. I try and put people at their ease and I think carefully about my manner and style of interacting with them. I do have a few set pieces that I draw on, I have to admit, that I regularly do with children and families in that setting. If they seem a bit tense I will often…or if a child seems particularly quiet and I feel they may have been silenced by one of the adults, I might go in and…say to the adult and child together, ‘do you know what, I think you’re the expert about you, I’ve got an idea, why don’t we do an all about you quiz and I’m going to ask you questions and…’cause I don’t know the answers, only you know the answers, only you know the answers.’ And so I will ask them all the usual questions about…what’s your favourite colour, what’s your favourite dinner, what’s your favourite TV programme…where would be your favourite place for a day out? If your mum said tomorrow ‘we’re going out somewhere and you could choose, where would you choose to go?’ And I have to say in my experience children love talking about themselves and things that they like and the adults…find that very non-threatening because of course it’s not
related to the issues that are before the court, so they tend to respond favourably to that as well. It’s almost as if they think well talking about anything other than the court case is going to be preferable so they really embrace that quite fully. I often…I will ask them about their kind of…tell me what your week’s like, tell me what your day is like to get a sense of what time the child goes to bed, what time they get up, what they do when they get home from school. And usually children will very quickly will be, you know, either running upstairs and bringing their favourite toys to show you or their confirmation photographs or all manner of things that they want to then share, they want to tell you a bit more because they think ‘oh this person’s interested in me as a person’ so they then kind of get into that and really want to extend that role and quite often they’ll then say ‘oh will you come upstairs and see my bedroom and I’ll show you my toys’ so then I will say to the parent ‘is that ok with you if I do that?’ And I’ve never, ever been refused and I think trying not to disempower parents is something I try and do. I try and always maintain that sense of ‘this is your child, you’re the person who’s got parental responsibility and is in charge here’ and again, I think that probably puts people a bit more at their ease.

**Interviewer:** Yeah, so the all about you quiz, trying not to disempower parents, what else…

**Grace:** It all sounds very low tech, well, it is very low tech, but yes, they are the things that I think build up some sort of level of trust, some personal rapport and I quite often say to people ‘if there’s anything that you want to ask me, if I know the answer, I will
tell you. If I don’t know, I will say I don’t know’ and I
will usually say ‘for example, if you say to me, what
do you think the judge is going to decide, I will have
to say I don’t know because only the judge knows
that.’ So…I try and give people an opportunity to feel
that they are fully part of this process which of
course they are, that their information is central to
the views that I form, what I learn about the child,
the child’s needs and what I think might be best for
the child in the future which of course is usually
the…central kernel of what the court is trying to
determine, is what is best for the future of that child.

Interviewer: What you’ve described there is very warm and very
human and making a point of being approachable as
well isn’t it?

Grace: Yes, I mean I…try and give a very approachable sort
of aura…and I will spend a couple of minutes chatting
to them about something I’ve noticed about their
local environment where they live, if they happen to
be near a park or near the shops. I was at a case the
other week that was right next door to this
superstore Asda and, you know, just saying to
families things like ‘well, you don’t have to go very
far if you run out of milk do you?’ will make people
laugh and then it does kind of put them at their ease
and relax them a bit so…

Interviewer: She buys her milk from Asda as well!
[Laughter]

Interviewer: She’s normal like us!

Grace: So I think…yeah, making people feel you are actually
not just going through the motions as well, that you
are interested, this is a real person with real life
issues and real struggles in their life that many
people are fortunate enough not to have experienced...that you’re not just going through a box-ticking exercise, you are experiencing them as a real person.
Appendix 5: Possible questions / prompts for Interview B

Is there any interplay between the role of the EP working in a local authority and the role of the EP as an expert witness? How do they compare / relate?

How often do you think you might have been wrong?

Explore motivations / drivers

What influenced you?

How did you make sense of evidence?

Is making a difference in court work different from working as a local authority EP?

To what extent do you think clients are just as varied as everyone else? (Do you think you could have ever been a client?)

Do you reflect back differently now there is more of a difference?

What is your experience of the interview? How easy has it been to be frank?

Explore sense of agency and competence.
Appendix 6: Admissibility Criteria

The Turner Rule

The key question for the Turner Rule focuses on helpfulness to the court. In R v. Turner [1975] QB 834 (CA), the judge ruled that the psychiatric testimony was inadmissible as: ‘If on the proven facts a judge or jury can form their own conclusions without help, then the opinion of an expert is unnecessary. In such a case if it is given dressed up in scientific jargon it may make judgement more difficult. The fact that an expert witness has impressive qualifications does not by that fact alone make his opinion on matters of human nature and behaviour within the limits of normality any more helpful than that of the jurors themselves, but there is a danger that they may think it does’. Criticism of the Turner Rule and the underlying ‘transparency assumption’ (Mackay, Colman and Thornton, 1999:324) is that it is based on naïve realism (i.e. the belief that the world is exactly as we see it). Scientific thinking or ‘uncommon sense’ is a ‘potent antidote’ against naïve realism, (Lilienfield, 2012: 13)

The Frye Test

The Frye test (dubbed the ‘general acceptance rule’) became widely used in the US following Frye v. United States, 293F, 1013 (D.C. Cir.1923). In this case, the court found that the systolic blood pressure test used by the expert and presented as evidence was inadmissible due to a lack of general acceptance in the fields of psychology and physiology. The court stated ‘Just when a scientific principle or discovery crosses the line between the experimental and demonstrable stages is difficult to define. Somewhere in this twilight zone, the evidential force will go a long way in admitting expert testimony deduced from a well-recognised scientific principle to discover, the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs.’
The general criteria were that it must be sufficiently and established and accepted.

Criticism of the Frye Test related to the limitations of peer review and consensus. The Frye Test was subsequently superseded in the US by the Daubert Standard.

**The Daubert Standard**

In Daubert v. Merrell Dow Pharmaceuticals\(^ {19} \), the parents of two children alleged that their children’s serious birth defects were a direct result of exposure in the antenatal period to a prescription drug marketed by Merrell Dow Pharmaceuticals. Under the Frye Test, the evidence provided by expert witnesses was not admissible as it was deemed novel scientific evidence. However, the US Supreme Court held that the Federal Rule of Evidence control the admissibility of evidence in a federal trial. Under Daubert, a judge has a duty to evaluate the admissibility of evidence more rigorously to determine whether it meets the requirements of Federal Rule of Evidence 702 (Testimony by Expert Witnesses):

*A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:*

(a) *the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;*  
(b) *the testimony is based on sufficient facts or data;*  
(c) *the testimony is the product of reliable principles and methods; and*  
(d) *the expert has reliably applied the principles and methods to the facts of the case*
