**Mediation Training Centre**

**Process Design for Collaborative Practice**

**What do we do with the information we received during screening?**

Consider all of the usual indicators for whether CP is a good process fit, including:

1. Where each spouse is willing to provide voluntary and timely financial disclosure;
2. Where each spouse is motivated to reach an out of court settlement that addresses the needs of the children and at least some of the needs of each spouse;
3. Where there is a capacity on the part of each spouse to make self-determining decisions (given the proper legal, financial and emotional supports), and
4. Where each spouse is wiling to try to understand the other person’s perspective (being in mind that understanding and agreeing are two different things.)

In DV, IPV and CC cases we need to pay particular attention to #3 above as patterns of coercive control undermine the ability for the victim to make self-determining decisions.

Reminder: Spot the Signs

***CONSIDER also:***

*The skill and experience of the CP team in dealing with cases involving domestic violence*

*The level of trust and confidence the victim has in the CP team*

*The level of trust and confidence the perpetrator has in the CP team*

*The degree to which the perpetrator will follow the guidance and directions of the CP team*

*The options which are available to the parties should CP not occur, and the likely timing, cost and outcome of those options.*

**1.    NO CP PROCESS**

**IF some of the following indicators are present:**

1. Client says afraid to be in ADR process under any circumstances.
2. Professional feels too emotionally affected by one of the parties to provide a fair and balanced process (intimidated, scared, rage)
3. Concern that the risk of potential assault on a party, counsel, child or other family members or team members outweighs the safety and other benefits of a non-adversarial process.
4. Client says he or she is too intimidated to advocate for the outcome he or she wants or feels is best for the children. [and has considered the risks of their alternatives]
5. A party is likely to fail to meet disclosure requirements and the victim is too intimidated to insist upon it and / or it is too risky to require adequate financial disclosure [and the client who should receive the information has considered the risk of their alternatives]
6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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**Then SAFE TERMINATION (meaning don’t start the process)**

At any point in the file, safe termination

**IF:**

Client says his or her safety or that of the children has been threatened during the process

**Then consider SAFE TERMINATION**

**2.    SIGNIFICANT PROCESS ADAPTATIONS**

**IF some of the following are present:**

Client wants to try CP and:

1. Client fears for their safety no matter what process they choose.
2. There are coercive control elements and behaviours, eg. grabbing, blocking her path, stalking.
3. There is a history of police involvement.
4. There is a pattern of isolation and control.
5. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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**Then consider SIGNIFICANT PROCESS ADAPTATIONS**

Examples:

1. Consider pre-conditions to signing PA
2. Consult with DV ‘expert’
3. Have safety plans in place for the process as well as a safe termination plan
4. Formulate a plan as a team to have the couple live separate and apart during the negotiation process if possible
5. Have plan in place should abusive or controlling behavior occur during process.
6. Provide appropriate referrals and resources (to the ‘abuser’ and / or ‘at-risk’ client).
7. Consider experienced family professional as jointly retained neutral
8. Consider a mediator for the file as well
9. Consider when and how info from Financial Neutral is shared
10. Have safety plans in place, particularly post meetings.
11. Stagger arrival (and confirm ‘abuser’ has arrived before at-risk client enters)
12. Stagger departures (hold ‘abuser’ back until at-risk client has time to safely leave).
13. Have plans in place for pickups or drop offs of children especially after settlement meetings.
14. Have neutral parties (eg. family members) present in the house after meetings.
15. Shuttle CP with Professionals shuttling between rooms.
16. ‘Remote’ meetings by skype
17. Shuttle meetings on different days (i.e. triads meeting on different days)
18. Mid-file check- in with vulnerable client to see if they feel safe in the process.
19. Re-evaluate safety before each new substantive issue is addressed.
20. Plan for safe termination of CP process should be in place at the beginning of the case.
21. Consider termination of process regularly to avoid process being used for manipulation by ‘abuser’
22. Consider safety issues with respect to substantive issues (i.e. detailed parenting plans that don’t require ongoing contact, financial resolutions that don’t trigger safety risks)
23. Have funds set aside for litigation counsel for victim
24. arrange for a litigation lawyer to be on stand-by in case of emergency
25. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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**3.    MODEST PROCESS ADAPTATIONS**

**IF some of the following indicators are present:**

1. Client says spouse is controlling and gives concrete examples but client does not experience it as pervasive and it doesn’t interfere with their decisions
2. There are red flags but no immediate concerns about safety
3. There are some concerns about adequate financial disclosure that you believe can be overcome
4. There are identified hot button issues (eg. pension, spousal support) which are a strong trigger for one party and which they are presenting with a rigid position
5. The clients do not (and will not) speak directly to each other because one (or both) client refuses and / or one client does not want to be in the same room as the other.
6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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**Then consider MODEST PROCESS ADAPTATIONS**

Example:

1. Consider jointly retained family professional if CP
2. Have early permission for family professional to possibly spend unbalanced time
3. Formulate a plan as a team to have the couple live separate and apart during the negotiation process if possible
4. Have plan in place should abusive or controlling behavior occur during process
5. Allow a support person to be present if requested for the client(s)
6. Have safety plans in place for the process as well as a safe termination plan
7. “Accordion” meetings joint / separate / joint
8. Mid-file check- in with vulnerable client to see if they feel safe in the process.
9. Consider when and how info from Financial Neutral is shared
10. Re-evaluate safety before each new substantive issue is addressed.
11. Plan for safe termination of CP process should be in place at the beginning of the case.
12. Consider termination of process regularly to avoid process being used for manipulation by ‘abuser’
13. Consider safety issues with respect to substantive issues (i.e. detailed parenting plans that don’t require ongoing contact, financial resolutions that don’t trigger safety risks)
14. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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**4.    BASIC PROCESS**

**IF some of the following indicators are present:**

1. Relatively amicability or relatively low conflict
2. Clear commitment for financial disclosure
3. Simple or complex legal and financial issues
4. No indicators of violence or coercive control
5. There are hot button issues
6. There are no significant mental health or addiction issues.
7. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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**Then consider BASIC PROCESS** (and re-assess throughout the file)

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
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