**Domestic Violence, Domestic Abuse and Power Imbalance Draft Protocols**

**for Collaborative Professionals**

(These protocols are in draft form and will be evaluated over time as

our CP members gain training and experience in using them.)

The overriding principal is to do our best to ensure the safety of all participants.

**Informed Consent**

It is important for all CP professionals to advise of the possible benefits and risks of Collaborative Practice. Informed consent can only be achieved when the pros and cons of all options are thoughtfully presented and explored and there are not unrealistic expectations of the ability of the professional team or the collaborative process itself to impact the behavior of the abuser or to protect the safety of the at-risk client.

**Intake**

All CP professionals should be assessing risk. CP files come through the doors of lawyers, family professionals and financial professionals.

The OCLF suggests the following screening tools to assist with the screening process:

For family professionals:

* The O Webscale;
* DV-Rap by Desmond Ellis;
* MASIC;

For lawyers and financial professionals (and family professionals if they choose:

* The AG draft Screening tool at Appendix B of the ‘What You Don’t Know Can Hurt You’ paper.
* another research backed tool that the CP professional feels comfortable using.

**Financial or Family Professionals**

When Financial or Family Professionals are the first to be contacted by clients, they should meet with the clients individually to do an intake and screening consultation, using a screening checklist and / or intake form. They should not meet a couple

together before they have been individually screened.

**Lawyers:**

When a lawyer is the first to be contacted by a client, they should use an initial screening checklist/form during intake.

If after a preliminary intake / screening consultation, your client would like to proceed with CP and there are concerns about safety and / or issues of coercive control:

* Consider calling a family professional or mentor (who has DV training and experience) for guidance if you are feeling unsure.
* Be aware of your skills, knowledge, experience, competency and availability to provide services to clients that effectively deal with DV and power imbalances. If you do not have competence or availability, refer the case to a collaborative colleague you know is skilled in managing these types of cases.

In the first telephone call with other counsel, the underlying principle is safety and confidentiality. No disclosure of DV allegations should be shared unless there is clear informed consent coupled with thorough safety planning. The CP lawyer might say, either:

1. *“I believe that the following would create an effective collaborative process for this couple: list possible process design options such as inclusion of a family professional and / or starting with shuttle meetings and / or remote access meetings, etc.”*

**Nothing about allegations of DV are disclosed at this point in process.**

The Family Professional can then do a thorough screening and have a call with both lawyers to further design the collaborative process.

**OR**

1. *“I am not sure about the best way to design an effective process and I would like both clients to meet with a family professional to be involved in our process design discussions.“*

***If the other lawyer agrees and clients agree:*** Family Professional (who has training and experience in DV) is jointly retained to do further screening with clients and design process in consultation with lawyers in next conference call before first meeting.

If other lawyer or client says no to Family Professional, then you can suggest a call or a short meeting between the reluctant lawyer / client with a FP before proceeding either:

1. without an FP\* or
2. consider referral to another process if you believe that your counterpart counsel and / or their client is not amenable to necessary process adaptations.

\*Note: One process design option may be that the spouse who wants the FP, retains them and they are their support and coach throughout the process, and could even be present at all meetings.

Note: If there are no Family Professionals in your community or none with the requisite experience to join a CP team, consider jointly retaining one in a different practice group. Involvement by the Family Professional by Skype at meetings is an option if the distance is too far for them to participate in person.

**Suggested Process Design Adjustments to Consider**

(for all professionals unless specified)

Are any necessary pre-conditions before signing a PA and entering the CP, ie provision of funds?

Have plan in place should abusive or controlling behavior occur during process.

Provide appropriate referrals and resources (to the ‘abuser’ and / or ‘at-risk’ client).

Joint retainer of experienced family professional who could be present at all meetings and on all prep calls.

Two coach model.

Consult with a domestic violence ‘expert’ re: process design (eg. Barbara Schiffler Clinic)

Lawyers need to adapt your advocacy so that your client feels appropriately supported (whichever client you act for).

Have safety plans in place, particularly post meetings.

Debrief immediately after meetings with clients and team to assess state of mind and update/alert other lawyer and team members

Stagger arrival (and confirm ‘abuser’ has arrived before at-risk client enters)

Stagger departures (hold ‘abuser’ back until at-risk client has time to safely leave).

Consider having the family professional and lawyer meet with the abuser/perpetratordirectly after the team meeting to assess his state of mind.

Have plans in place for pickups or drop offs of children especially after CP meetings.

Have neutral parties present in the house after meetings.

“Shuttle CP” with Professionals shuttling between rooms.

‘Remote’ meetings by skype

Shuttle meetings on different days (i.e. triads meeting on different days)

Have a back-up plan to have them in separate locations during process, if necessary for some or all of meeting

Arrange for a litigation lawyer to be on stand-by in case an emergency motion is needed

Have funds set aside by client for retainer for litigation counsel

Consider whether any revisions should be made to the standard Participation Agreement prior to the start of process?

For example, delete provision that parties wait 30 days before commencing proceedings if CP terminated or consider amendments to allow consent interim orders along the way or amendments that restrict the disclosure of information (so that at-risk client’s personal information can be withheld, eg. addresses, phone numbers, work addresses)

Adjust use of Professionals, particularly the financial neutral and require them to have separate meetings with clients.

Mid-file check- in with vulnerable client to see if they feel safe in the process.

Re-evaluate safety before each new substantive issue is addressed.

Plan for safe termination of CP process should be in place at the beginning of the case.

Consider termination of process regularly to avoid process being used for manipulation by ‘abuser’

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)

Financial Professionals should not meet with both parties together until they have been screened

If financial control issues are present, special care is to be taken by Financial Professionals in what information is imparted to each spouse outside of meetings – information should be run by counsel first

CP professionals should have training in domestic violence, coercive control and the misuse of power and control to remain current

Family Professionals should always meet with the clients individually prior to the first team meeting.

A family professional may need to be present at all team meetings

Formulate a plan as a team to have the couple live separate and apart during the collaborative process if possible

Allow a support person to be present if requested for the client(s)

Have safety plans in place for the process as well as a safe termination plan

Family professional may need to meet with both clients individually often throughout the process.

Ensure early permission is obtained for the Family Professional to meet with either client as often as it is necessary. Normalize unbalanced time with each client and Family Professional may be the result