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| **Applicant Name** |  | **Role Play Date** |  |
| **Assessor Name** |  | **Assessment Date** |  |
| **Role Play** |  | **RP 1** |  |
| **Role Play #** |  | **RP 2** |  |
| **Start Time:** |  | **End Time:** |  |
| **C**=Competent **NYC**=Not Yet Competent | | **Total Time:** |  |

# Summary Outcome

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| **Performance Evidence** | **C/NYC** |

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| **Determined and Responded to Family Law Requirements Including:** | |  |
|  | Used and followed systems, processes, documentation, and reporting requirements |
|  | Provided accurate and current information to clients about family law and available support options |
|  | Identified areas outside own expertise and referred clients to sources of specialist legal advice |
| **Applied ethical standards to the dispute resolution process including:** | |  |
|  | Informed participants of their rights and responsibilities |
|  | Used problem solving and critical thinking skills to resolve any ethical dilemmas or terminated the session if issues couldn’t be resolved |
| **Facilitated communication and information exchange including** | |  |
|  | Used facilitation skills to encourage active listening between the participants |
|  | Managed interactions between the participants that ensured fair and respectful engagement including equal opportunity to speak, be heard and present needs, interests and concerns |
|  | Provided sufficient opportunity for participants to access advice and information from other experts and identified the need for and conducted separate sessions according to client needs |
| **Maintained impartiality,** and client self-determination and assisted parties to communicate on issues that impact on children and to consider the best interest of the child | |  |
| **Encouraged mutual personal understanding between the participants including:** | |  |
|  | Identified and encouraged cooperative behaviour and monitored and managed any disruptive behaviours and communications |
|  | Managed power imbalances in the session and terminated or suspended the process according to ethical and organisational obligations |
| **Assisted participants to generate and evaluate options including:** | |  |
|  | Used techniques and strategies to assist participants to generate potential options |
|  | Encouraged discussion of the effects of each option on parties, with particular consideration of the best interest of children affected by the agreement to be made |
| **Confirmed and documented outcomes and agreements including:** | |  |
|  | Documented and confirmed participants understanding of agreement reached according to organisational requirements |
|  | Provided accurate information about the legal status of the agreement and next steps |

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| Comments | Overall Assessment Outcome |  |

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| Overall Comments |
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| **Additional Evidence Required?** |  |

## The Mediators Opening Statements

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| **Item** | | S |
| **Welcome and introduction** self and parties appropriately and established a positive tone | |  |
| **Mediators Role & Responsibilities** facilitate and support decision making (self-determination) including: | |  |
|  | **Neutral & Unbiased** |
|  | **Legal Information** not Legal Advice |
|  | **Assist** the party to communicate about their needs, interests, and concerns about their children in a safe environment |
| **Best Interests of the Child** (Family Law Act) | |  |
| **Explains housekeeping** (handling dropouts if video, bathrooms & exits if F2F, breaks and availability for the duration of the session) | |  |
| **Acknowledged or referred to Agreement to Mediate** to confirm terms for the mediation with parties | |  |
| **Explained confidentiality** and exclusions to confidentiality for the mediator and parties | |  |
|  | **Duty of care** and mandatory reporting obligations |
|  | **Not Disclose,** without permission |
|  | **Internally** with team and/or supervisor |
|  | **Professional Advisors** – Lawyers, Accountants, Financial Advisors, etc. |
|  | **Circle of intimacy** – Partners, Mentors, etc. |
|  | **Get Parties commitment** to confidentiality provisions |
| **Inadmissibility and non-binding nature** of proposed agreements | |  |
| **Describe Agreement Types** | |  |
|  | **Information** about how to make agreements legally enforceable |
|  | **Information** about Section 60i certificates |
| **Explained the voluntary process** | |  |
|  | **Information** about voluntary nature of FDR |
|  | **Confirmed** voluntary nature |
| **Explain the role of the party** | |  |
|  | **Open & Honest** full and frank disclosure |
|  | **Best Interests of the Child** (Family Law Act) |
| **Explained Ground Rules** for the Mediation | |  |
|  | **Do not interrupt each other** |
|  | **Respectful Language** |
|  | **Use active listening** |
|  | **Remain future focused** |
|  | **Agree to Ground Rules** |
| **BRIEFLY** describes the mediation process:  1 Mediators Opening Statements  2 Parties Opening Statements  3 Agenda  4 Exploration  5 Option generation  6 Private Sessions  7 Negotiation  8 Agreement  9 Closing Statements | |  |
| Used non-verbal rapport, check in questions and other engagement skills to keep parties engaged during mediators opening statements | |  |

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| Overall Comments |
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## Participants Opening Statements

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| **Item** | **S** |
| **Transition** – explained this stage and facilitated negotiation of who speaks first |  |
| **Focused** - parties opening statements identifying the issues in dispute |  |
| **Allowed** – sharing of feelings as well as facts |  |
| **Managed disruptions** - to maintain control over the process and client’s sense of safety using minimally obtrusive verbal and non-verbal behaviours |  |
| **Maintained role** - avoided bias in words or approach |  |
| **Thanked participants** for listening and cooperating |  |
| Kept the stage brief and focused |  |

*When talking with each party*

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| **Item** | **P1** | P2 |
| **Demonstrated active listening** by using body language, eye contact, asking clarifying questions and confirming understanding with summaries in reported speech e.g. You mentioned / You said … |  |  |
| **Questions** - open ended, relevant, and direct questions to clarify facts, interests, issues, emotions, and concerns |  |  |
| Elicited emotions and acknowledged facts while avoiding assumptions or bias |  |  |
| Avoided questioning a party about motivations of others or irrelevant tangents |  |  |
| Enforced ground rules regarding respectful communication |  |  |
| Completed a final summary of the issues with each party before moving on to next party or agenda |  |  |
| Took sufficient notes to enable creation of agenda without losing focus on the clients |  |  |

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| Overall Comments |
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## Agenda Setting (defining issues in dispute)

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| **Item** | **S** |
| **Transition** - Explained the purpose of the agenda |  |
| **Explained and wrote up** the agenda items in neutral language and identifying any common ground |  |
| **Described** the agenda items in terms of interests (outcomes they want if appropriate) |  |
| **Checked** with parties if all issues they want to discuss are identified and let them know other items can be added |  |
| **Facilitated** negotiation of the order for discussion without imposing criteria for the decision. |  |
| **Kept the process brief** and remained facilitative |  |
| **Thanked parties** for reaching agreement on agenda and sequence |  |
| Used the interactions to determine the “weaker party” for the next step |  |

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| Agenda |
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| Overall Comments |
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## Exploration and 5 Option generation

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| **Item** | | **S** |
| **Transition** – explained that the parties would now be speaking directly to each other and asked the weaker party to start on first issue | |  |
| **Encouraged** direct communication where the parties were willing | |  |
| **Facilitated** the exchange of information and increased understanding between the parties | |  |
| **Supported** the parties to identify, clarify and explore their interests (what really matters to them), issues and concerns and best interest of the child | |  |
| **Encouraged** participants to describe their understanding of each other’s statements (if their ability to hear was in doubt) | |  |
| **Used conflict resolution techniques** to identify and respond to potential and actual conflicts and enforced ground rules | |  |
| **Maintained** impartiality and a fair process | |  |
| **Used the following communication skills:** | |  |
|  | **Paraphrasing** (express meaning using different words for greater clarity) |
|  | **S****ummarising** (briefly re-stating the main ideas from a communication in own words) |
|  | **Reframing** (express words or concept differently in order to encourage different perspectives) |
|  | **Problem solving** (identifying problem and potential root causes, generating and evaluating options to resolve the problem, facilitating agreement on implementation of chosen solution) |
|  | **Maintained rapport** with both parties and/or regained rapport if temporarily lost |
| **Used silence** and other non-verbal communication effectively | |  |
| **Used the agenda** effectively to manage time and maintain momentum | |  |
| **Encouraged** brainstorming for possible solutions | |  |
| **Encouraged** evaluation of ideas and options raised and avoided premature agreement | |  |

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| Overall Comments |
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## Private Sessions

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| **Item** | **S** |
| **Transition –** was decisive in facilitating transition to private sessions |  |
| **Identified** the need for, and conducted, separate sessions according to client needs |  |
| **Explained** - confidentiality to both at the start of private sessions |  |

*Private Sessions*

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| **Item** | **P1** | **P2** |
| **Established trust** by reminding party of confidentiality |  |  |
| **Establish Trust and Rapport** by checking in and asking how the mediation is going for them giving the opportunity to identify issues or concerns, progress, and options |  |  |
| **Remained** neutral in facilitation of the private sessions and did not provide advice |  |  |
| **Assisted** party to move towards resolution using a range of dispute resolution skills |  |  |
| **Explored** parties’ interests and the interests expressed by the other party |  |  |
| **Encouraged** problem solving and option generation |  |  |
| **Reality Tested** proposed options SWC and What if’s |  |  |
| **WATNA / BATNA** alternatives to reaching an agreement through negotiation without being coercive |  |  |
| ***Neutrality –*** avoiding bias and supported self-determination |  |  |
| **Assisted** in preparation to bring back to the joint session |  |  |
| **Maintained confidentiality** by not taking notes or sharing information between sessions |  |  |
| **Confirmed confidentiality** at end of each session |  |  |
| **Even handed** in the time allocated to each party |  | |

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| Timings +/- 10% | | | |
| **Party 1** | | **Party 2** | |
| Start Time: |  | Start Time: |  |
| End Time: |  | End Time: |  |
| TOTAL: |  | TOTAL: |  |

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| Overall Comments |
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## Negotiation – discussion aimed at reaching agreement

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| **Item** | **S** |
| **Transition** – Restated Confidentiality and provided the opportunity to bring back, following private sessions |  |
| **Use Agenda** to maintain momentum after; any options are brought back from private sessions, OR, if nothing is brought back. |  |
| **Helped** - the parties to negotiate towards a realistic resolution for their parenting agreement including reality questioning and asking, “what if?” questions |  |
| **Used facilitation skills** to break deadlocks helping the parties to question, evaluate and consider options without the mediator evaluating or giving advice |  |
| **Encouraged** interest-based negotiation and prevented abuse of power / exploitation of vulnerabilities where positional bargaining occurred |  |
| **Facilitated** reality testing of proposed solutions including the short and long-term consequences SWC Goals |  |
| **Clarified** and noted down points of agreement and agreed actions as they arise |  |
| **Assisted** parties to consider the effects of proposals on other interested parties especially children |  |
| **Thanked the parties** for reaching common ground |  |

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| Overall Comments |
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## Documenting agreements reached

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| **Item** | **S** |
| **Transition** – determined when parties were ready to confirm the points of agreement reached |  |
| **Documented** points of agreement and decisions in the participants own words |  |
| **Reality tested** while documenting agreements with who, what, when, how, using 6W’s |  |
| **Promoted** the best interests of the child in participants’ agreements |  |
| **Supported participants** to reach agreement using facilitation skills and confirm participant understanding of agreements reached |  |
| **Ensured** that participants reached agreement freely, without undue influence and with informed consent |  |
| **Discussed** the legal status of the agreement reached and any requirements to make it legally enforceable |  |
| **Provided** the opportunity for participants to access advice and information from other experts |  |
| **Accurately recorded agreements** and outstanding issues / actions |  |
| **Tools used effectively -** Document outcomes and agreements according to organisation and legislative requirements and limitations of own role |  |

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| Overall Comments |
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## Mediation Close

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| **days** | **S** |
| **Transition** – told the parties the mediation is over |  |
| **Determined** the need for another session |  |
| **Asked** how the parties want the agreement shared |  |
| **Provided** participants with appropriate referral to supports for post dispute resolution |  |
| **Confirmed** next steps if other services are to be provided by the practitioner |  |
| **Asked** if they have any questions on what they have ‘achieved’ here today |  |
| **Gave Information** about other forms of dispute resolution if agreement is not reached e.g. legal advice / Section 60i |  |
| **Documented** information and actions according to organisation policy and legal requirements |  |
| **Thank parties & Final Confidentiality** before closing the mediation |  |

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| Overall Comments |
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## If unable to Proceed / Reach Agreement

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| **Item** | **S** |
| **Managed** the end of the process when agreement is not possible based on progress of mediation |  |
| **Ended the process** if mediation is not safe or being effective |  |
| **Gave information** on other dispute resolution options if agreement is not reached e.g. legal advice |  |

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| Overall Comments |
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**Instructions following the role play**.

Upload to the assessment task a copy of the agreement reached and any action steps or other information you would provide to the client.

If your organisation provides a screen shot upload a copy of what would be provided otherwise provide a PDF version of the spreadsheet or other tool and any heads of agreement document produced.