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

# **Summary Outcome**

|  |  |  |
| --- | --- | --- |
| **Performance Evidence** | | **C/NYC** |
| **Determined and responded to Family Law Requirements including:** | |  |
|  | Used and followed systems, processes, documentation |  |
|  | Provided accurate and current information to party about family law and available support options |  |
|  | Identified areas outside own expertise and referred party to legal advice and other professional resources where appropriate |  |
| **Responded appropriately to party needs and managed any legal and ethical dilemmas** | |  |
| **Determined suitability for Dispute Resolution including:** | |  |
|  | Made an assessment of the issues with the party |  |
|  | Used standard protocols to screen for the existence of safety and vulnerability issues that would affect the party ability to negotiate freely in FDR |  |
|  | Supported party to articulate their concerns and consider their items for the agenda |  |
|  | Recognised possible impact and risk of the FDR process and made an informed judgement about the most appropriate approach and whether to proceed |  |
|  | Identified and explained the most appropriate approach for the party’s circumstance |  |
| **Helped the party to prepare for Dispute Resolution including:** | |  |
|  | Explained the FDR process to the party |  |
|  | Advised them of the FDRP’s role, obligations, and limitations |  |
|  | Explained the limitations on confidentiality and obtained written agreement to participate |  |
| **Maintained Confidentiality from the other Pre-Mediation (if 2nd Party Only)** | |  |
| **Demonstrated facilitation skills including:** | |  |
|  | Relationship skills including establishing trust and respect, encouraging party self-determination, and remaining unbiased |  |
|  | Interpersonal communication skills including establishing rapport, showing respect for individual differences, showing empathy, and using active listening and questioning to avoid assumptions when clarifying information |  |
|  | Spoke clearly, simply, and effectively at the party’s communication and comprehension level |  |
|  | Critical thinking and content management skills including obtaining, identifying, analysing, and prioritising information to assess issues and evaluate the party situation. |  |
| Overall assessment outcome | |  |

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| **Overall Comments** |
| **Observations:** |
| **Minor:** |
| **Major:** |

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| **Additional Evidence Required?** |  |

## 

## Mediators Opening Statements for Pre-Mediation Process

|  |  |  |
| --- | --- | --- |
| **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 |
| **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 parties’ rights and obligations** | |  |
|  | **Importance** of informed consent and seeking legal or other advice |
|  | **Their duty of disclosure** explained |
| **Explained Ground Rules** for the Pre-Mediation | |  |
|  | **Respectful Language** use first names only |
|  | **Agree to Ground Rules** |
| **Describe the Pre-Mediation Process** | |  |
|  | Discuss party situation and safety |
|  | Talk in more details about the issues to be resolved |
|  | Explain the mediation process – and consider if mediation is going to be appropriate. |
|  | Discuss next steps or additional information you need |

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| **Tools used effectively** | | |
|  | **Agreement** to mediate or equivalent used and signed |  |
|  | **Used Intake Form** completed by the mediator (upload to task following role play) |
|  | **DOORS 2 Aide Memoire** Used in Pre-Mediation |
|  | **DOORS 2 Aide Memoire** (Uploaded prior to Pre-Mediation) |
| **Prepared** for pre-mediation by collecting party information in accordance with organisational procedures. | |  |
| **Explained** the pre-mediation process purpose to the party and answered their questions appropriately | |  |
| **Established** rapport with the party throughout the opening statements | |  |

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| **Overall Comments** |
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## Identified The Party’s Family Law Situation and Issues

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| **Item** | | **S/N/X** |
| **Transition** – explained that the mediator would now be asking the party to tell you about the issued they’d like to resolve | |  |
| **Check if Reconciliation is an option** | |  |
|  | **Information** about reconciliation (if appropriate) |  |
| **Used** party intake form to accurately collect information from the party | |  |
| **Established rapport** by using facilitation skills such as verbal and non-verbal rapport building skills | |  |
| **Discuss history, issues, and objectives with the party** | |  |
|  | **Demonstrated active listening** by 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 interests, issues, and concerns |
|  | **Summaries:** a final or ongoing summaries of the issues with the party before moving on |
|  | **Avoided** questioning a party about motivations of others or irrelevant tangents |
|  | **Enforced** ground rules (respectfully) regarding respectful communication |
| **Accurately** identified the party’s presenting needs | |  |
|  | Domestic and family violence / safety and DVO’s (require copy) |
|  | Finance |
|  | Property |
|  | Children |
|  | Relationship Conflict |
| **Responded** appropriately to identified needs including referring to other services such as community support, legal advice, financial counselling etc | |  |

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| **Tools used effectively** | | | |
|  | **Intake form** used to document relevant information |  |
|  | **Guides, diagrams,** or other pre-prepared information to facilitate party understanding (if used) |

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| **Overall Comments** |
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## Risk Assessment and Response

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| **Item** | | **S/N/X** | |
| **Transition** – explained to the party that the FDR would now be discussing some of the possible risk factors in order to determine if FDR is a suitable process for them | | |  |
| **Used** a risk screening tool and interpersonal skills including: | | |  |
|  | **Used a non-judgemental approach** to establish a climate for disclosure | |
|  | **Avoided assumptions** | |
|  | **Asked questions** about DV & Safety Concerns (Physical)? | |
|  | **Asked questions** about DV & Safety Concerns (Emotional, Psychological Abuse or neglect)? | |
|  | **Asked questions** about Substance Abuse? | |
|  | **Asked questions** about Self-Harm and/or Mental Health issues? | |
|  | **Asked questions** about any Cultural, Religious, Parenting Values, Disabilities, and Other Sources of Vulnerability? | |
|  | **Asked questions** about The Relationship Dynamic and How They Have Negotiated in The Past? | |
|  | **Asked questions** about Finances and Any Financial Concerns? | |
| **Demonstrated empathy** and compassion for the party without becoming an advocate or stepping outside of your role. | | |  |
| **Demonstrated an understanding** of family dynamics and the impact of any culture, religion, parenting values, disabilities, and other barriers to comprehension and access to services. | | |  |
| **Discussed** any concerns about proceeding to FDR with the party and involve them in decision making about risks and appropriate processes | | |  |
| **Discussed** any current safety concerns and the need for a safety plan / safety plan review or referral to specialist DV or other support services | | |  |
| **Responded** appropriately to identified needs including referring to other services such as community support, legal advice, financial counselling etc | | |  |

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| **Tools used effectively** | | | |
|  | **Intake form** used to document relevant information |  |
|  | **Risk Screening tool** such as DOORS 2 Aide Memoire used, or standard protocols incorporated into the intake form |
|  | **Guides, diagrams,** or other pre-prepared information to facilitate party understanding (if used) |

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| **Overall Comments** |
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## Discussion the Asset Pool

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| **Item** | | **S/N/X** |
| **Transition** – thanked party for discussing the history of the relationship and appropriately acknowledged any disclosure of DV. Explained that they would now be talking about their asset pool with them. | |  |
| **Explained** and assisted the party to identify their asset pool is and how it is determined | |  |
|  | Worked with the party to identify Assets |
|  | Worked with the party to identify Liabilities |
|  | Worked with the party to identify Superannuation accounts |
| **Assisted the party** to consider how to value assets and prepare for mediation: | |  |
|  | Discussed options to value assets, liabilities, and superannuation |
|  | Discussed any further professional advice the party may require (legal, financial, debt etc.) |
|  | Discussed how to access and use any tools provided by the FDRP (Asset & Liability Calc Sheet) |
|  | Invited questions about this part of the process and responded appropriately |  |

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| **Tools used effectively** | | |
|  | Asset pool recording tool used effectively |  |
|  | **Guides, diagrams,** or other pre-prepared information to facilitate party understanding (if used) |  |

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| **Overall Comments** |
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## Considerations and Legal Advice

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| --- | --- | --- |
| **Item** | | **S/N/X** |
| **Transition** – thanked party for discussing their asset pool and issues. Explained that they would now be talking about considerations and legal advice with them. | |  |
| **Explain** how the court decides the 4-step property settlement process | |  |
| **Assisted the party to contextualise and document the 4-step process to their situation in detail** | |  |
|  | **Step 1** - Determine the Asset Pool and remind them about full and frank disclosure. |
|  | **Step 2 -** Determine Contributions into the relationship, direct and indirect financial contributions, and non-financial contributions during the relationship. |
|  | **Step 3** - Determine future needs considering relative ages, health, financial resources, care of children and ability to earn. |
|  | **Step 4** - Determine what is Fair & Equitable and any other considerations |
| **Supported the use of other professionals in preparation for FDR** | |  |
|  | Supported the value of professional advice in determining a fair and equitable property settlement |
|  | Checked the parties understanding of their legal advice |
|  | Discussed how the information they have provided can be shared with them to use when seeking advice |

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| **Tools used effectively** | | |
|  | **Considerations** recording tool used to assist the client to seek further advice |  |
|  | **Guides, diagrams,** or other pre-prepared information to facilitate party understanding (if used) |

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| **Overall Comments** |
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## Modelling Proposals

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| **Item** | | **S/N/X** |
| **Transition –** thanked party for discussing their considerations and issues. Explained that they would now be talking about modelling proposals with them. | |  |
| **Assist** the party to consider their expectations for their property settlement. | |  |
| **Helped the party to consider their options rather than locking in a position**: | |  |
|  | **Used the tool** that would be used in mediation to model their proposals |
|  | **Discussed** their Zone of Possible Agreement |
|  | **Discussed** the effects of their proposal on the children or others (if applicable) |
|  | **Identify** gaps in their advice prior to the mediation session. |
|  | **Invited** and answered questions appropriately |

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| **Tools used effectively** | | |
|  | Used a tool to model proposals for the client competently |  |
|  | Used the intake form |
|  | Guides, diagrams, or other pre-prepared information to facilitate party understanding (if used) |

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| **Overall Comments** |
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## Discussion of the FDR Process and Options with the Party

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| **Item** | | **S/N/X** |
| **Transition** – thanked party for discussing their past issues and appropriately acknowledge any disclosure of DV. | |  |
| **Explained** the FDR Process in greater detail including:   1. Mediators Opening Statements 2. Define Asset Pool 3. Considerations 4. Negotiation 5. Option Generation 6. Private Sessions 7. Negotiation of Options 8. Agreement Writing 9. Mediation Close | |  |
| **Explain Suitability of FDR** | |  |
|  | Check With Them if They Feel Safe to Proceed |
|  | Explain differences between, video, face-to-face and shuttle |
|  | Party’s willingness to proceed via Zoom Face-to-Face or Zoom Shuttle? |
|  | Check if Safety Plan Required |
| **Explained** the party’s rights and obligations | |  |
|  | Explain Ground Rules for Behaviour and Voluntary Process in Mediation |
|  | Are there any vulnerabilities and include best interests of the children |
|  | Role of support people, lawyers, and other strategies regarding safety |
| **Supported** the party to identify any concerns regarding the FDR process | |  |
| **Prepared** the party for collaborative negotiation by explaining and discussing positions, needs and interests and the benefits of win/win outcomes for sustainability of agreements | |  |

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| **Tools used effectively** | | | |
|  | **Intake form** used to document relevant information |  |
|  | **Risk Screening tool** such as DOORS 2 Aide Memoire used, or standard protocols incorporated into the intake form |
|  | **Guides, diagrams,** or other pre-prepared information to facilitate party understanding (if used) |

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| **Overall Comments** |
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## Preparation for FDR

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| **Item** | | **S/N/X** | |
| **Transition –** explained that they would now talk about how to prepare for the FDR Session | | |  |
| **Asked** the party about their proposal and considerations for property, or provided information to assist the party to consider property arrangements | | |  |
|  | referral for legal advice | |  |
|  | referral for financial advice | |  |
|  | referral for other pre-mediation services e.g., counselling etc | |  |

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| **Tools used effectively** | | | |
|  | **Intake form** used to document relevant information |  |
|  | **Risk Screening tool** such as DOORS 2 Aide Memoire used, or standard protocols incorporated into the intake form |
|  | **To Do List** for the party |
|  | **Guides, diagrams,** or other pre-prepared information to facilitate party understanding (if used) |

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| **Overall Comments** |
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## Closed the pre-mediation session

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| **Item** | **S/N/X** |
| **Transition** – told the party that the session was at an end |  |
| **Confirmed** any information, referrals, or resources the practitioner would be providing |  |
| **Confirmed** next steps including ‘To Do List’, and if other services are to be provided by the practitioner (FDRP referrals to professional services) |  |
| **Thanked** the party and closed the session |  |
| **Documented information and actions** according to organisation policy and legal requirements |  |
| **Confirmed** mediation will proceed (with possible dates) or waiting on 2nd pre-mediation |  |
| **Confirm Confidentiality on closing** |  |

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| **Tools used effectively** | | | |
|  | **Intake form** used to document relevant information |  |
|  | **Risk Screening tool** such as DOORS 2 Aide Memoire used, or standard protocols incorporated into the intake form |
|  | **To Do List** for the party |
|  | **Guides, diagrams,** or other pre-prepared information to facilitate party understanding (if used) |

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| --- |
| **Overall Comments** |
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