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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

|  |  |
| --- | --- |
| **Performance Evidence** | **C/NYC** |
| **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 party to legal advice and other professional resources where appropriate |  |
| **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 could not 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 (if a child would be impacted) |  |
| **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 |
|  |
| Minor  |
| Major |

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| **Additional Evidence Required?** |  |

## Preparation and 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 property in a safe environment |  |
| **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**  |  |
|[ ]  **Duty of Disclosure** full and frank disclosure |  |
|[ ]  **Best Interest of the Child(ren)** – If applicable |  |
|[ ]  **Time Frames e.g.,** Defacto 2 years after separation, Married 12 months from divorce (Divorce min 12 months from separation) |  |
| **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 Statements2 Determine Asset Pool3 Considerations and Discussions4 Options and Proposals5 Private Sessions6 Negotiation7 Capturing and Documenting Agreements8 Confirming Next Steps and Closing the Mediation  |  |
| 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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## Determined Asset Pool

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| **Item** | **S** |
| **Transition –** explained this step to parties  |  |
| **Assisted** the participants to identify all their assets and liabilities |  |
| **Assisted** the participants to agree on values for assets and/or process to value assets  |  |
| **Prompted discussion** where necessary to assist in undisclosed assets or liabilities or other information not disclosed  |  |
| **Answered** questions and provided legal information without providing legal advice  |  |
| **Facilitated** respectful communication and exchange of information  |  |

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| **Tools used** **effectively** | **S** |
| Excel Spreadsheet, Legal Tech product e.g., Family Property, A3 or Whiteboard. Calculator if not included in tool. |  |

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| Overall Comments |
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## Considerations and Discussion

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| **Item** | **S** |
| **Transition** – explained the **purpose and process** for discussion of considerations including how the court decides (The Four Steps – **Step 1** Covered Above) |  |
| **Guide** parties to discuss their considerations and document their responses based on both legal advice and their needs and interests |  |
| **Step 2- Contributions** |
| At Beginning of Relationship |  |
| Financial Contributions |  |
| Indirect Contributions |  |
| Non-Financial Contributions |  |
| Negative Contributions |  |
| **Step 3- Future Needs** |
| Age / Health |  |
| Earning Capacity |  |
| Childcare Needs |  |
| New Partners and their Financial Circumstances |  |
| **Step 4- Is it Just and Equitable** |  |
| **Ensured** each participant has equal opportunity to speak, be heard and present needs, interests, and concerns  |  |
| **Facilitated** the consideration of the needs of any children or other dependents  |  |
| **Recorded** or displayed considerations for later reference |  |
| **Encouraged** active listening (clarifying questions / summarising / restating) |  |
| **Encouraged acknowledgement** of understanding and/or agreement of each other’s points of view  |  |

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| **Tools used** **effectively** | **S** |
| Excel Spreadsheet, Legal Tech product e.g., Family Property, A3 or Whiteboard. Calculator if not included in tool. |  |

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| Overall Comments |
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## Options and Proposals

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| **Item** | **S** |
| **Transition** – explained that the parties would now be speaking directly to each other. Asked the parties to keep in mind the considerations as they discuss the possible options as they make their proposals. (interest-based negotiation)  |  |
| **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 |  |
| **Managed** power imbalances and gave both parties the opportunity to have their proposals considered  |  |
| **Assisted** the parties to explain their proposals and preferred options and encouraged questions about how the proposals would work in practice  |  |
| **Reality tested** proposals and options including asking about **tax, legal, or other implications** of options |  |
| **Facilitated** brainstorming of additional options as required |  |

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| **Tools used** **effectively -** documented proposals accurately including: | **S** |
|[ ]  **calculated** percentages and dollar differences |  |
|[ ]  **encouraged and documented** any points of agreement, as they are reached |  |
|[ ]  **recorded** any information in document format that cannot be recorded in the spreadsheet or other modelling tool |  |

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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 |  |

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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 Time |  | Total Time |  |

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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 |  |
| **Helped** - the parties to negotiate towards a realistic resolution for their property settlement 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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| **Tools used** **effectively** | **S** |
| Continued to model proposals using Excel Spreadsheet, Legal Tech product e.g., Family Property, A3 or Whiteboard, wrote down points of agreement or action steps agreed by the parties. Calculator if not included in tool. |  |

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| Overall Comments |
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## Capturing and Documenting Agreements

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| **Item** | **S** |
| **Transition** – determined when parties were ready to confirm the points of agreement reached |  |
| **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  |  |
| **Identified and explained** legal status of their agreement |  |
| **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  |  |

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| **Tools used** **effectively** | **S** |
| 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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## Confirming next steps and closing the mediation

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| **Item** | **S** |
| **Transition** told the parties the mediation is over  |  |
| **Another Mediation** Check if required to finish agreement (if not finalised) |  |
| **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 / negotiation |  |
| **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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**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.