



# MEDIATION REFERRAL & PROCESS

## **Complimentary and Confidential Telephone Consult:**

1. Each parent contacts me by email, to book a confidential, no-obligation 20-minute telephone consultation, the purpose of such consultation being, to give each parent a chance to ask some preliminary questions about the mediation process.

## **Court Orders and Other Documents:**

2. The parents may send me their Separation Agreement/Parenting Plan/Court Order, including any other relevant Court Orders or Agreements, copying each other. Any such documents sent to me by one parent and/or lawyer must be copied to the other parent and/or lawyer.

## **Screening for Domestic Violence & Power Imbalances:**

3. Once both parents have had their telephone consult, and assuming both parents are willing and I am available, I book an individual face-to-face, confidential intake meeting with each parent, such meeting to take place at my office. Both parties are informed of the booking and date of the individual intake meeting, although the parents may not each be made aware of the exact time of each other's intake session. The goal of the individual intake meeting is to ensure that the parents both feel that they can present their views/participate in the mediation process, without compromising their safety, and/or the safety and well-being of their child(ren). Any concerns each parent may have about meeting jointly with the other parent are addressed, and solutions/adjustments to the mediation process considered, as well as the possibility that mediation may not be a suitable process.
4. Also during the individual intake session, I go over the Mediation Agreement, and answer any questions regarding the Agreement and mediation process. I may also review relevant documents with each parent, such as existing Parenting Agreements/Plans or Court Orders. Most screening sessions take 2 hours, some taking as long as 3 hours.
5. If it is determined that Parenting Mediation is *not* a suitable option, the mediation may not proceed after this point. Under these circumstances, I may refer the parents to other relevant services.

6. Subject to the limits of confidentiality, described in Paragraph 17 below, any information obtained from the initial 20-minute telephone consult and the individual screening/intake session is kept confidential, and is not disclosed to the other parent or anyone else.

### **Closed Mediation:**

7. The mediation process is usually (but not always) a confidential or “closed” process, i.e. what goes on during the process itself, including all the mediator’s notes and/or communications between the mediator and the parents and/or their lawyers is inadmissible in Court. Some parents prefer an “open” mediation process, which allows the mediator to write a report with specific parameters, should the parents fail to come to an agreement. I do not offer open mediation at this time.

### **Signing of Mediation Agreement:**

8. Following the parents’ individual intake sessions with me, the next step is to sign the Mediation Agreement. Although parents are entitled to withdraw from the mediation process at any time, they are nevertheless asked to commit to the process, by signing the Agreement.

### **Independent Legal Advice (ILA)**

9. The parents are encouraged to obtain ILA before signing the Mediation Agreement, and especially before making any important decisions (such as moving out of the matrimonial home and/or settling on a particular parenting schedule). Many parents are eager to proceed with the mediation process, without obtaining ILA, however it is generally wise for parents to get informed about family law as it applies to their particular situation before proceeding. If the parents prefer to proceed with mediation without ILA, they will be urged to obtain ILA before signing a Parenting Agreement.

### **Moving Forward:**

10. Once each parent has met with me for the individual intake session, and the parents’ Mediation Agreement is fully executed, the Mediation process begins, which typically means an initial joint session is booked. Although most first sessions are joint, depending on the results of the screening, some parents may meet separately with me, at least initially. Lawyers may or may not be present, this matter having been discussed and worked out prior to the first session.
11. At the first joint session, areas of conflict are identified, an agenda is drafted and goals are set. Both parents are presented with the rules of appropriate conduct during the mediation process. Agenda items may include: decision-making for children, i.e. how major parenting decisions are made, parenting schedules, arrangements for holidays, special days, schooling,

day care, extra curricular activities, as well as other issues.

12. During this first session, I may go into some detail about what led to the particular conflicts, to enable me to gain insight into the nature and dynamics of the conflict between the parents, as well as the particular issues over which the parents agree and disagree.
13. Moving forward in the mediation process, the parties may be seen together or separately throughout the mediation process, and lawyers may or may not be present, depending on the circumstances and the parties' preferences/needs.

#### **Written Parenting Plan:**

14. Most parents would like to leave the Parenting Mediation process with a written parenting agreement, or an amendment to an existing agreement. The drafting of the Parenting Agreement is a process, which generally begins with the resolution of the issues which require immediate resolution and the issues over which there is least amount of conflict, progressing to other parenting matters. As the issues get addressed and resolved, the content of the written Agreement is developed. A successful mediation process not only results in a written Parenting Agreement, but also provides the parents with tools/skills to make future decisions about their child(ren) so that they can function as independently as possible as a separated family.
15. Most joint mediation sessions take 2 to 3 hours, although some may be shorter, particularly as the parents move forward. Parents should plan accordingly when making appointments.

#### **Interviewing the Child(ren):**

16. As long as the parents are able to resolve their conflicts, I generally do not interview the child(ren). If they reach an impasse, however, I might consider seeking collateral information, through consultation with the child's therapist, day care provider or significant other person. I may also interview the child(ren) to obtain the child's "voice" or input regarding the parenting arrangements being contemplated. The purpose of the interview, and the approach I take with child(ren) are thoroughly discussed with the parents prior to such interview taking place. I may also interview the child on more than one occasion. Generally speaking but with some exceptions, I do not interview children under the age of 6.

#### **Limits to Confidentiality – Duty to Report:**

17. I have a duty to report to the appropriate officials if I have reason to believe that a child is in need of protection, in accordance with the Child Youth and Family Services Act. In addition, I may disclose information to authorities or relevant others if I feel that either party is a danger to him/herself, or to someone else, or if ordered to do so by a judge.

