

# Mediation Now: Child Protection Mediation Pilot TIDieR

## Why?

### **RATIONALE:**

The Family Court child protection process is an adversarial system in which decisions are made that are life-changing for families.

The nature of this system can create unnecessary tension, suffering and trauma for families who are already under immense strain.

There is widespread support amongst family professionals (eg social workers, CAFCASS, legal professionals and the judiciary) for a more dialogical system which works in partnership with families to achieve the best outcomes in a fair and timely manner for children.

Children benefit from a reduction in conflict between all parties involved in the process including parents, other involved individuals and professionals.

Child Protection Mediation aims to reduce conflict between parties and improve outcomes for children.

Child Protection Mediation has been used in other countries such as Australia, Canada and the United States, but not in the jurisdiction of England and Wales.

The Nuffield Family Justice Observatory has conducted a Rapid Evidence Review Summary ("The Impact of Child Protection Mediation in Public Law Proceedings on Outcomes for Children and Families" October 2020) which summarised some positive outcomes of Child Protection Mediation and detailed data gaps and future priorities.

The Family Justice Council has highlighted the need for Child Protection Mediation to be considered and, after reflection upon the Rapid Evidence Review, it feels that an initial pilot should be run in this jurisdiction.

This pilot would involve 50 families and run for an 18 month period.

Research clearly indicates that children benefit from having their voice heard in the process. A Child Consultation will be included where appropriate.

Research suggests the mediation process by itself has proved disappointing in significantly improving communication between parties. Therefore, this pilot will be run by mediators who have been internally trained to provide communication skills coaching.

There will be a Steering Group consisting of senior representatives from the Judiciary, CAFCASS, the Local Authority and family law firms.

### **PURPOSE:**

Initial pilot to ascertain whether:

Child Protection Mediation indicates a positive effect on outcomes for children and families by:

- i. Reducing the adversarial nature of the process
- ii. Improving short term outcomes for children

Definition of Child Protection Mediation for the purposes of the pilot:

Child Protection Mediation is a confidential process in which a specifically trained neutral third party who has no authoritative decision-making power (the mediator) assists the child's parents (and where appropriate other interested parties such as the child's extended family, caregiver, social workers and lawyers) to discuss their concerns and establish a way of moving forward in the best interests of the child.

Child protection mediation can take place as many times as needed at any point in the child protection process (including during care proceedings and/or after step down/discharge).

### Who with?

*Which group/demographic is the intervention aimed at?*

The intervention is aimed at all interested parties involved in the child protection process including parents, child's extended family, caregiver, social workers and lawyers.

*How will people be referred?*

People will be referred by local services:

- The Family Court
- CAFCASS
- Children Services
- Other agencies which are part of the Local Authority (Portsmouth, Southampton, Hampshire, Isle of Wight)
- Other local agencies/charities involved in child protection including family law firms.

Local services will refer families by completing a Child Protection Mediation referral form. Upon receiving the referral, Mediation Now will contact each individual and Children Services.

Individuals will each receive a separate appointment for safeguarding purposes – to ensure that mediation is appropriate and ascertain whether parties feel safe to be in the same room as each other, if not shuttle mediation (where each party is in a separate room) will be considered.

*How will people be identified by the referrers?*

Mediation Now will visit The Family Court, CAFCASS, Children Services and key stakeholders to provide leaflets and information about Child Protection Mediation, the referral process, the benefits it can offer and the type of cases which might be suitable. The District Judges (at Portsmouth Family Court), Children Services and CAFCASS have expressed interest in the potential pilot.

*How many can receive the intervention at any one time?*

The pilot would involve 50 families and run for an 18 month period. We anticipate that each family will benefit from 1 to 4 mediations, with an average of 2-3 mediations per family. These would generally be expected to take place over a 16 week period.

Each Child Protection Mediation would involve 2 parties or more – this could be any combination of separated parents, parents in a couple, extended family, caregiver, Children Services and/or other agencies.

Mediation Now is a large mediation provider and receives over 1,000 referrals each year. It has the capacity to deliver Child Protection Mediation to 50 families at any one time if necessary, although we expect that the referrals will be spread out fairly evenly over the pilot period.

## What?

All appointments can take place by Zoom if required by Government restrictions.

## Family's journey

1. Referred into Mediation Now on Child Protection Mediation Form.
2. Individuals invited to Mediation Intake Assessment Appointment ("MIAM"). Information about Child Protection Mediation sent.
3. Each MIAM takes place at date, time and office (or virtual platform) which works best for participant. (Telephone option also available if preferable). This appointment lasts for about 30 minutes. Covers: explanation of the process/limits of mediation and safeguarding – has there been abuse, should participants sit in different rooms, is it safe for mediation to take place at all?
4. First mediation session. Checking understanding of, and signing of, Agreement to Mediate (attached). Discussion around ground rules, confidentiality and recording outcome, background, hopes and expectations of all parties.
5. Subsequent mediations as required.
6. Evaluation taken at beginning and end of journey.

## What is dealt with in Child Protection Mediation?

Discussions are based around the needs and concerns of all participants. Examples of issues which could be covered are:

- Contact arrangements for the parents, siblings and other relatives and arrangements for supervision and transport
- Concerns about the child (e.g., behaviour, education, medical, mental health)
- Support for child (e.g., counselling, medical services, mentoring)
- Support for parents (e.g., counselling, drug or alcohol assessment and treatment, parenting classes, employment and housing referrals, financial assistance, transport)
- Temporary and permanent placement of the children
- Goals for children (e.g., reunification, adoption)
- Problems in implanting case plans and court orders

All mediations are likely to include additional support for parents in their understanding of the impact of conflict and trauma on children, communication and conflict management skills, developing a positive and consistent approach to parenting, motivational interviewing to support engagement with domestic abuse agencies (for victims and perpetrators).

## Who by?

### Background

Founded in 2007, Mediation Now is a family mediation practice with five offices across South Hampshire. Mediation is a non-adversarial process through which participants collaborate to make decisions about their future.

There are six mediators who work across the different offices, depending on which is most convenient for the clients. There is one administrator.

Mediation Now has a contract with the Legal Aid Agency. The majority of families it supports have a low income and are living in relative poverty. Most have complex needs, about 20% of parents have mental health issues such as anxiety and depression and it is common for at least one parent to have a history of substance abuse. Children Services are involved with the child in many cases.

In 2014 Mediation Now was one of the first organisations to be awarded the Help & Support for Separated Families Mark. The HSSF Mark is based on a set of government standards. Holders take a cooperative and collaborative approach to resolving family issues and focus on the children's best interests.

Mediation Now is an innovative practice and regularly adopts new and more effective ways of reducing conflict between parents.

In 2015 Mediation Now developed a court referred programme which supported parents in improving their communication and conflict management skills after separation. Portsmouth County Court estimated that this programme had saved 1 month of a judge's time in a 12-month period. DJ Ackroyd (Head of Family) said it was "an indispensable and vital tool available to us... it is important to emphasise just how successful it has been".

In 2018, Mediation Now was awarded funding from the Department of Work and Pensions to develop and run the New Foundations programme. This expanded some of the Changing Lives programme and brought the voice of the child into the process.

Mediation Now is a trauma informed practice.

Claire Webb, the Managing Director, is a member of the UK's Family Justice Council, an advisory body sponsored by the Ministry of Justice which promotes an inter-disciplinary approach to family justice for the best possible results for families.

Child Protection Mediation is likely to be delivered by all of the five mediators. Each mediator:

- Was previously a family lawyer, family law lecturer, or continues to work part time as a family lawyer. They all have expert knowledge of child protection law.
- Has over 10 years' experience of mediation
- Is trained to deliver Child Inclusive Mediation
- Is a member of Resolution and the Family Mediation Council

## How?

1. MIAM – the individual information and safeguarding appointment will take place with one mediator, either in the office, by virtual platform, or on the telephone if participants prefer.
2. Mediation sessions – will take place in person at the office most suited to the participants. Participants can be in different rooms if required (shuttle mediation). If preferred, separate waiting areas are provided.

Each session can be attended by a different mix of people as the case develops. Each party will need to sign the Agreement to Mediate.

If cases are complex or involve large numbers, the mediation will be co-mediated ie run by two mediators working together.

As a general rule mediation is delivered in person however all sessions can take place on Zoom if Government restrictions require. Breakout rooms are used if parties prefer to be separated.

## Materials

### **After referral/prior to MIAM**

Individuals are sent the following:

- Letter containing information about Mediation Now and process of mediation
- Mediation Information form to complete about their family (these details are taken at the appointment if client prefers/does not like completing forms)
- Flyers/information sheets about Child Protection Mediation and Child Consultation

### **At MIAM:**

Individuals given information/signposted to suitable local services and web resources for children and adults.

### **Prior to the first mediation:**

- i. Agreement to Mediate and Terms and Conditions
- ii. Top tips for a constructive mediation

During mediation sessions:

Depending on needs of the participants and the content of the mediation sessions, participants could be given a selection of material about:

- positive parenting techniques
- understanding ACE's
- impact of abuse and neglect on children
- developing resilience
- communication skills
- using "I" messages
- STOP and HALT signs
- tips for working with a social worker
- understanding the child protection process
- BIFF responses (Brief, Informative, Friendly and Firm)

Apart from the Agreement to Mediate, all material is written in an "easy read" style with simple, jargon free language, shorter sentences and supporting images.

There is an alternative option of explanatory YouTube videos available for participants who are uncomfortable with written materials.

## Where?

Mediation Now has offices in Havant, Fareham, Southampton, Petersfield and Emsworth with:

- private mediation rooms

- separate waiting areas
- are fully accessible including wheelchair access
- have a manned reception (apart from Emsworth)
- are easily reached on public transport (apart from Emsworth)

There is no childcare available.

### When, and how much?

The pilot would involve 50 families and run for an 18 month period.

Each family is likely to benefit from 1 to 4 mediations, with an average of 2-3 mediations per family. These would generally be expected to take place over a 16 week period.

Each mediation session lasts 1.5 hours. If sessions last longer, there is a risk that parties start to feel overwhelmed, become less productive and feel pressured into making decisions.

Child Protection Mediation can be held at any stage in the child protection process including during child protection proceedings and after (step down/discharge).

### Tailoring?

Mediation is very flexible. All discussions are led by the wishes and needs of the parties. Content of discussions will depend on which parties are in attendance and the nature of their situation.

The mediator provides support for the parents, caregiver and extended family in helping them place the interests of the child first at all times.

In Child Protection Mediation it is inevitable that some discussions during the mediation will, by necessity, be based on matters which Children Services, CAFCASS and/or the Court want covered. The mediator will encourage all participants to engage with these topics.

Consistent aspects of delivery include the use of: the Agreement to Mediate; ground rules; managing expectations; consideration with all parties of the child's needs; communication skills.

All mediations must be delivered in line with general mediation principles ie the mediator must:

- remain impartial between the participants and conduct the process in a fair and even-handed way
- have no conflict of interest
- be neutral to the outcome and not seek to influence the participants
- seek to prevent manipulative, threatening or intimidating behaviour by any participant
- be alert to power imbalances between the participants
- keep discussions confidential (apart from safeguarding purposes)

### Monitoring?

We will use a Gantt Chart to ensure that everyone in the organisation is clear about timescales for outputs.

Outputs will be monitored using our ResolveIT case management system. This records client information (type of mediation required, name, gender, ethnic origin, disability or illness, occupation and outcome of safeguarding checks, children's names and ages, Universal Credit/benefits and legal aid status) together with all case activity.

ResolveIT is completed after every mediation to show the date of mediation, the office, who attended, whether the mediation took place together or in separate rooms.

The mediator provides an Outcome Summary after every mediation session (normally 2-3 pages) which records the decisions reached at the mediation. This is sent to the parties.

The mediator's manuscript notes from each mediation are kept on file.

ResolveIT shows the numbers of parents who have attended sessions within a particular time period. This means we can monitor outputs easily on a monthly basis.

There will be monthly whole organisation meetings to check we are on target for delivery.