

CONFIDENTIAL SCREENING REPORT FOR FAMILY ARBITRATION

PART ONE: Information about the screener

Name: _____

Address: _____

Phone: _____ Occupation: _____

I have the following training in Screening for Power Imbalances and Domestic Violence in Mediation Arbitration:

PART TWO:

I confirm that I have met with _____ on _____ and
with _____ on _____ for the purpose of conducting a screening process
for power imbalances and domestic violence in (check one):

Mediation/Arbitration with _____ (name of Arbitrator)

Arbitration with _____ (name of Arbitrator)

PART THREE:

The following screening recommendations are based on responses to a questionnaire, specific questions asked by me and my assessment, based on my skills and experience, of the information given by each party.

Yes, Family Arbitration is recommended (provided the Standard Procedures attached here to apply)

Only with the following provisions (in addition to the Standard Procedures) is Family Arbitration recommended:

No, Family Arbitration is not recommended at this time

NOTE:

This report is provided in strict confidence to the Arbitrator alone. It may be used only to determine suitability for arbitration and any procedural requirements for the arbitration. The report is not to be used to decide any issue in arbitration, including credibility of the parties.

Signature of Screener: _____

Date report completed: _____

(This report is not to be provided to counsel or parties, but to the Arbitrator alone.)

CONFIDENTIAL RESULTS OF SCREENING FOR POWER IMBALANCE AND DOMESTIC VIOLENCE

Client #1: _____

Counsel: _____

Client #2: _____

Counsel: _____

Some of the things that a Third Party Screener might assess include:

Concerns Regarding Domestic Violence:

- Indicators of coercive control
- Indicators of situational couple violence
- Indicators of separation instigated violence
- Escalation
- Stalking/harassment/threats/ cyber risks
- Fear

Power Imbalance (Real or Perceived):

- Financial power/knowledge/understanding/ vulnerability/sophistication
- Readiness—emotional, legal, data-disclosure
- Status quo
- Capacity to understand process and substantive rights and obligations
- Fear/anxiety
- Ability to fund process, withstand uncertainty, risk aversion
- Addiction/substance misuse
- Signs of mental illness/depression
- Who has the children and control over children's time
- Cultural concerns
- Ability to understand process
- Ability to negotiate rationally

Possible Adaptations of to the Process:

- Staggered arrival and departure (most vulnerable arrives last & leaves first)
- Presence of counsel
- Presence of support person(s)
- Use online technology
- Different days/ locations
- Referral to domestic violence program, shelter, counselling etc.
- Delay arbitration
- More disclosure/information

1. Any details or comments regarding assessment of power imbalance that would assist the arbitrator in complying with their duty to determine whether this is an appropriate case for private adjudication, and if so, how to manage those power imbalances throughout the process:

2. Any details comments regarding assessment of risk arising from any form of family violence that would assist the arbitrator in complying with their duty to determine whether this is an appropriate case for private adjudication, and if so, how to manage those power imbalances throughout the process:

3. Any suggested adaptations to the process:



STANDARD ARBITRATION PROCEDURES

The following process shall be applied to the conduct of all arbitration hearings:

1. Counsel shall be present for all arbitration hearings, if the parties have Counsel.
2. Neither party shall speak to the other party at the hearing, whether before the commencement of the hearing each day, during breaks or following the end of the hearing each day, except with the permission of the other party's lawyer if the parties have counsel.
3. Both parties will treat the other, the Arbitrator and opposing counsel with respect throughout the arbitration process and neither party will attempt, directly or indirectly, to intimidate the other party or their counsel, whether by looks, words, gestures, symbols or physical proximity.
4. While either party may have non-parties available for support during an online or in-person hearing, the only people permitted in the hearing room will be the parties, their lawyers, the court reporter (if the parties elect to have the evidence transcribed), the Arbitrator and the witness testifying at that moment.
5. All witnesses, including the parties, will sit directly across from the arbitrator while testifying if the hearing is conducted in person.
6. Neither party will speak out loud while a witness is testifying, whether to their lawyer, to the arbitrator, the witness or other party. If a party wishes to comment to their lawyer during the testimony of a witness, they shall do so by-passing notes to their lawyer if they are physically in the same room as their lawyer, or by an online communication method if it is an online hearing.
7. Each party undertakes to not communicate, by any means, with their counsel or a third party while they are under oath and giving evidence in chief or being cross-examined.
8. The arbitrator may require the parties and their counsel to comply with procedural adaptations for the purpose of meeting their obligations under Ont. Reg. 134/07.