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MII CHILD INCLUSIVE MEDIATION (CIM) POLICY

Introduction to Child Inclusive Mediation

Child Inclusive Mediation practice is underpinned by Article 42A, 4.1 of the Constitution of Ireland as amended by 31st Amendment of the Constitution (Children) Act 2012. 'Provision shall be made by law that in the resolution of all proceedings – (i) brought by the State, as Guardian of the common good, for the purpose of preventing the safety and welfare of any child from being prejudicially affected, or (ii) concerning the adoption, guardianship or custody of, or access to, any child – the best interests of the child shall be the paramount consideration. Article 42A, 4.2 'Provision shall be made by law for securing, as far as practicable, that in all proceedings referred to in subsection (1) of this section in respect of any child who is capable of forming his or her own views, the views of the child shall be ascertained and given due weight having regard to the age and maturity of the child.

The Children and Family Relationships Act 2015 provides legislative support to this Constitutional provision by the amendment to the Guardianship of Infants Act 1964 inserting Part V, Sections 31 & 32.

Child Inclusive Mediation practice is further informed by Articles 3,5,9, and 12 of the 1989 UN Convention on the Rights of the Child (signed by Ireland in 1990 and ratified on 28th September 1992), which states that the child who is capable of forming his or her own views shall have the right to express those views freely in all matters affecting them, the views of the child to be given due weight in accordance with the age and maturity of the child.

Child Inclusive Mediation (CIM): principles, practice and process

Child-Inclusive Mediation (CIM) provides opportunities for children and young people to have their voices heard directly during the process of mediation, to help them feel respected and listened to and, at their request, to assist parents/guardians to receive, understand and take account of the ¹child or young person's messages

regarding decisions and arrangements for the child or young person to be made by their parents/guardians.

All mediators should explain to parents/guardians at initial information and assessment meetings, as well as subsequently, that children and young people capable of forming their own views - aged from around 10yrs, depending on the maturity of the individual child/children, should be offered the opportunity to have a conversation with a professionally qualified mediator or child consultant in which they are invited to give their perspectives in order that their parents/guardians may take account of those perspectives in any decisions and arrangements that are being made for them.

Younger children should not be excluded from having a similar opportunity for CIM, since they are equally important members of the family.

Exceptions include where there are safeguarding concerns or where a child has learning difficulties or mental illness which would make CIM inappropriate.

Mediators should remember the following principles apply:

Voluntary participation: The child or young person participates voluntarily. With the informed consent and support of both parents/guardians. Child-Inclusive Mediation cannot be ordered by the Courts. Mediators/child consultants must ensure that they have invited the child or young person to participate and that it is for the child or young person to choose whether they accept any invitation.

Confidentiality: Conversations with a child or young person in the course of mediation are confidential and are not reportable to the court or to third parties except **a)** where there are safeguarding/child protection concerns or **b)** where, in exceptional circumstances, the law (or a court) imposes an overriding obligation of disclosure upon the mediator/child consultant or **c)** where the child or young person requests the mediator to share specific messages with their parents/guardians. Mediators/child consultants must ensure that they have explained confidentiality (including in relation to safeguarding from harm) in an age-appropriate manner and have checked as far as is possible and practicable that the child has understood.

Impartiality and Neutrality as to outcome: The mediator/child consultant must remain impartial in a meeting with a child or young person and must remain neutral

as to the outcome of the mediation. The mediator/child consultant does not represent the child or young person or act as the child or young person's advocate.

Decisions remain with the child or young person's parents or guardians:

Children and young people may make requests and offer suggestions, but they are not asked, or given power, to make choices or decisions.

In order to see children and young people in mediation, a mediator must meet the requirements set out below for carrying out CIM practice. If a mediator is not CIM trained, the mediator must make arrangements with a registered CIM practitioner or other suitable appropriate, qualified and competent professional (child consultant) who meets the requirements as may be laid down by the MII from time to time, who will carry out the consultation with the child or young person and the preparation and feedback with the parents/guardians.

Qualifications, Training and Practice Requirements for CIM-recognised mediators.

1. Requirements for a family mediator to apply for CIM Training

A mediator may apply for training in CIM provided the mediator:

- a) Is currently a fully accredited member of MII in Family Mediation/Separating Couples and has completed the 32/40 hr specialist Separating couples training.
- b) Has attended a one-day CIM Awareness and Understanding Course run by an MII approved foundation or CIM course provider.

2. Requirements for CIM practice

MIl Family mediators may undertake CIM provided that are registered to do so with the MII. Family Mediators may register with the MII to undertake CIM provided that they:

- a) Have at least 100 hours solo family mediation post accreditation, including 6 cases, which included parenting agreements and evidence of regular clinical supervision of their work with a Professional Practice Consultant.

- b) Have attended an MII-approved CIM foundation training course ** (having fulfilled the requirements for participation in such a course, set out above) and been assessed by the trainers as having attained the competencies required for CIM practice.
- c) Have appropriate safeguarding policies and procedures in place for carrying out CIM as outlined in the CIM foundation training course.
- d) Basic Garda Vetting renewed every three years.
- e) Have a Professional Practice Consultant (PPC) trained in CIM for consultation and discussion of their CIM practice. This PPC may be separate from and additional to their regular PPC, if s/he is not CIM trained and practising CIM.
- f) Complete Tusla approved training in Children First policy every three years.
- g) All mediators/child consultants practising CIM must conduct a risk assessment and prepare, retain and display a 'Child Safeguarding Statement' in keeping with Children First guidelines.
- h) Have met any other requirements as may be laid down by the MII from time to time.

3. Ongoing requirements for CIM trained mediators

CIM trained mediators must continue to meet the following requirements in addition to the required professional development hours specified for continued recognition as an MII family mediator or PPC.

CIM trained mediators should:

- a) Complete the equivalent of at least 10 hours CIM specific professional development every 3 years, 5 hours of which should normally be attending a course advertised as suitable for CIM professional development. The remaining 5 hours professional development can be acquired in a number of ways, according to what a Mediator decides is most appropriate for their own development. This could include:
 - Attending further training courses advertised as suitable for CIM specific professional development which are designed to further develop and update skills and knowledge in aspects of CIM.
 - Attending training courses that will enhance their skills and knowledge to consult and engage with children and young people at different stages of development and with different needs.

- Specific reading or study to expand theoretical, legal or practical knowledge relevant to CIM.
 - Attendance at conference workshops or lectures relevant to the theory and practice of CIM.
 - Developing, writing or delivering new material relevant to CIM, for example delivering a workshop or lecture on aspects relevant to CIM or writing or publishing an article.
- b) Have at least 3 CIM cases over 3 years. These should be discussed in supervision with their PPC who will confirm for MII specialist practice purposes whether the requirement has been met. If this is not possible, then mediators should attend refresher training in CIM to ensure their practice is up to date. Such training can be counted towards their specific CIM professional development requirement; and
- c) Continue to ensure that they have appropriate safeguarding policies and procedures in place; and
- d) Ensure they each have a PPC who continues to be an MII CIM-registered mediator her/himself.

N.B. CIM mediators will be required to provide MII administration with evidence of the requirements to practise as a CIM Mediator as set out in sections 2 and 3 above when annually renewing their practising certificate.

4. Facilities and Conduct of Child Inclusive Mediation.

When conducting Child-Inclusive Mediation:

- a) Mediators offering child inclusive mediation should refer to CIM and this policy in their 'Agreement to Mediate' prior to mediation beginning and the Agreement to Mediate signed by both parents.
- b) The mediator/child consultant should have access to suitable rooms and facilities for meetings with children and young people, where children and young people are safe at all times and can feel comfortable and at ease. For the purpose of the point below the meeting room interior should be visible from the outside hall/corridor e.g. glass panel on the room door or other means.

- c) The mediator/child consultant must ensure that when he/she is meeting with a child or young person there is another colleague nearby in the building for safety and safeguarding purposes.
- d) Each parent/guardian should first attend an initial information and assessment meeting that includes assessment of and screening for domestic abuse and child protection issues and safeguarding concerns.
- e) The mediator/child consultant should check whether any other professional(s) are involved with the child or family, either currently or previously, and if so, assess whether it is appropriate for the CIM to go ahead.
- f) The mediator/child consultant should discuss the objectives and possible options with each parent/guardian both separately in the assessment meetings and then together in a joint mediation meeting (or shuttle if this has been judged appropriate), to explore the appropriateness of the child's direct involvement and how best to conduct the CIM for the benefit of the child or young person.
- g) The mediator's role and that of any colleague mediator/child consultant who will see the child or young person must be clarified with and accepted by both parents/guardians. Confidentiality and its limits should be explained carefully and understood by all concerned. Both parents/guardians need to understand and accept the principles and objectives of involving their children directly. They should sign an Agreement confirming their consent and willingness to receive messages or feedback that the child or young person requests the mediator/child consultant to give them. The agreement should include an undertaking that the parent/guardian has not briefed, and will not brief, the child or young person beforehand on what the child or young person should or should not say to the mediator or child consultant, not question the child or young person afterwards as to what the child or young person actually did, or did not, say.
- h) Mediators/child consultants should offer a range of options for CIM (e.g. one mediator or two, siblings together as well as separately). The child or young person's involvement, structure of meetings and timeframe should be planned carefully with parents/guardians to maximise the benefits and minimise any potential difficulties.

- i) It must be made clear to children and young people themselves that they are free to accept or decline the invitation to meet the Mediator or child consultant. They may respond directly if they wish, or via a parent or guardian.
- j) Mediators/Child Consultants must have careful regard to timeframes for children and young people, arranging dates and scheduling immediate follow-up meetings with parents/guardians and, if needed, with the children and young people, to avoid delay and ensure the children and young people are kept informed.
- k) Mediators/Child Consultants should offer and arrange ongoing support and further meetings with the child or young person as appropriate for the duration of the mediation process.
- l) Mediators/Child Consultants must ensure that they have checked with any child or young person the content of any message or feedback the child or young person wishes shared with their parents/guardians and keep a professional record of their meetings with children and young people, but they should not provide reports, written notes or written feedback to parents/guardians (or to anyone else). Mediators/child consultants should give verbal feedback **only** to parents/guardians, without giving additional information, interpretations or comments beyond what the child or young person has specifically requested the mediator/child consultant to convey. Should either or both parents/guardians take issue with the verbal feedback provided by the mediator/child consultant these issues must only be raised with the mediator/child consultant and never with the child or young person themselves.

5. COMPETENCIES REQUIRED OF MII REGISTERED FAMILY MEDIATORS WHO WISH TO PRACTISE IN CIM AS PART OF A DISPUTE RESOLUTION PROCESS. – [these competencies are those stipulated by the Family Mediation Council in the UK and are covered in the MII accredited FMA 3-day foundation CIM course; other courses and content will be considered for equivalence by APC]

These competencies are divided into two categories: **Knowledge and Performance Skills**. These categories are further divided into sub-sections as set out below:

A. KNOWLEDGE

1. Theoretical Knowledge

CIM Mediators must have knowledge of:

- i. Relevant theoretical framework such as
 - a) Family systems theory and working with sibling groups
 - b) Attachment theory
 - c) Child development theory (physical, cognitive, moral development)
 - d) Risks and resilience theory
- ii. Core Research into the effects of divorce and separation on children and young people, the significance of their involvement in decision-making and models on CIM practice.
- iii. The potential effect of power imbalance between parents and children and young people in CIM practice
- iv. The range of communication and behaviours that may result from culture, age, gender, ability, additional needs, racial or religious diversity and how to respond to these.

2. Legal Knowledge

CIM Mediators must have knowledge of:

- i. Relevant law and legislation in private law children's matters
- ii. Relevant legislation in relation to
 - a) The child and young person's right to be heard (including Article 12 UNCRC)
 - b) Equality and inclusion
 - c) The rights of children and young people
- iii. The legislation and statutory requirements relating to: safeguarding and Children First Child Protection policy; principles and practice in relation to Domestic Abuse/Violence.

3. Understanding and Application of Process

CIM Mediators must have an understanding of:

- i. The Definition, Principles and Requirements as set out in the Standards framework.
- ii. The CIM process including a range of practice models to include when CIM may and may not be appropriate.
- iii. The location of mediation and CIM within Dispute Resolution and its relationship with other family justice agencies e.g. Guardian at Litem/children's services/child psychotherapists and other agencies and professionals.
- iv. The principles and practice of anti-discrimination and inclusion for working with children and young people and the relevant policies relating to this.
- v. The procedures and documents required for the recording of issues related to children and young people's views.
- vi. The principle of confidentiality and its application in relation to younger and older children, young people, the parents/guardians and the mediator.
- vii. The principles and practice of safeguarding and the need to protect children and young people from harm.

B1. PERFORMANCE SKILLS: working with parents/guardians

CIM Mediators must be able to demonstrate an ability to:

- i. Explain the process of CIM to parents/guardians, including the principles of confidentiality and any exceptions to this as regards safeguarding concerns, identify indicators and contra-indicators, and consider the appropriateness of CIM with parents/guardians, in the light of information shared by parents/guardians, including any safeguarding concerns.
- ii. Identify an appropriate model, and plan and agree a structure with parents/guardians, taking into account the child or young person's needs.
- iii. Obtain the informed consent of parents/guardians in accordance with the principles set out in the Standards Framework.
- iv. Work in partnership with a co-mediator, child consultant or other professionals as appropriate.

- v. Following a meeting with a child or young person, refocus parents/guardians on co-operative decision-making, considering any feedback from their children.
- vi. Consider with parents/guardians, and, if necessary, provide further feedback and support to children and young people, regarding parental responses or decisions made.

B2. PERFORMANCE SKILLS

CIM Mediators must be able to demonstrate an ability to:

- i. Identify and plan for the most appropriate approach to work directly with the child, young person and sibling groups.
- ii. Engage empathically with the child or young person, create a safe, friendly environment and utilise the most appropriate means to create an age-appropriate relationship, including the use of books, toys and other resources.
- iii. Explain the CIM process to children and young people sensitively and appropriately including:
 - a) Providing age-appropriate explanations of principles of confidentiality, privacy and any exceptions
 - b) Explaining the options for giving feedback to their parents/guardians
 - c) Negotiating and agreeing what will be part of the feedback process
 - d) Obtaining the informed consent of the child/young person
- iv. Communicate with a child or young person, actively listen to their views, respond appropriately and have an awareness of the potential impact on the child or young person.
- v. Work with diverse needs to take account of any factor concerning cultural background, age, gender, ability, racial or religious considerations.
- vi. Provide age-appropriate information to children and young people where appropriate in relation to:
 - a) the effects of family separation, transition and change
 - b) sources of help and support

c) signposting to other resources

- vii. Support children and young people to consider what they want their parents/guardians to hear, understand, and think about possible outcomes.
- viii. Explore with children and young people any concerns about feedback to their parents/guardians and assist them to consider ways in which a difficult message can be communicated while ensuring that they are aware of their right to confidentiality (except in relation to harm).
- ix. Support the child or young person to decide the feedback they want to give and undertake to ensure that this is given without interruption.
- x. Support the child or young person to communicate with their parents/guardians where appropriate.

**** The CIM training course (NFQ level 6)**

1. The course must be at least 40 hours of learning and development.
2. 21 hours (3 days, 7 hours per day) of this must be at an attended course. The attended part of the course must demonstrate that at least 50% of the course time is spent on skills development, including role-play and small group exercises.
3. The remaining 19 hours of course time may be spent on a combination of:
 - 'directed' or pre-course reading
 - Pre-course assignments
 - Post-course assignments

Polly Phillimore

MII Family Committee

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