



FMSB Mediation Screening and Assessment: Guidance and Resource

Foreword

I am pleased to commend this resource to all family mediators. It is the product of an important collaboration between the mediation profession and experts in the field of domestic and child abuse. It is therefore informed by best practice in both mediation and the identification and management of abuse within families. I am most grateful to the Working Group that has overseen its development, to Adrienne Cox and Liza Thompson who have crafted it with such care, to the Domestic Abuse Commissioner who has supported the work, and to the Family Mediation Trust, which has generously sponsored the production of and training in this resource.

Its starting point is the recognition of the overriding importance of identifying risk and avoiding harm in the process of mediation, which is enshrined in the FMC's Standards, particularly those for MIAMs. This resource has been commissioned by the FMSB to support mediators in the implementation of those Standards. It is founded on the ethos of professionalism that underpins the FMSB's approach to regulation, which places emphasis on mediators internalising the expectations of their performance and incorporating these in ways that are consistent with their own practice. By offering a rigorous and comprehensive framework for good practice it is a key contribution to the FMSB's suite of guidance documents for mediators.

The resource is in two parts. In the first part is the guidance, which describes and discusses the principles, the challenges and the proposed approaches to them in three sections. The second part – the Appendix, described as the toolkit – provides a structure that mediators can choose to use for addressing all the issues that they need to take into account. By doing so they will not only ensure that their clients are appropriately safeguarded but also will have demonstrable evidence of their adherence to Standards in case of need.

To reinforce this we propose that the resource becomes a key component of mediators' CPD, such that they can show their familiarity with it during their current three-yearly cycle for re-accreditation. To back that up we are establishing a programme through which established trainers can develop and provide courses to support mediators in making best use of it.

I very much hope that all mediators will quickly take notice of this resource and will find value in it.

As with all our guidance we will keep it under review in light of its use across the profession, so will always welcome suggestions for improvement.

With best wishes,
Robert Creighton
Chair, Family Mediation Standards Board

The development of this resource was supported with funding from





FMSB Mediation Screening and Assessment: Guidance and Resource

To assist in assessing the safety and suitability of family mediation in the context of domestic abuse

Contents

Introduction	3
Using the toolkit.....	5
Assumptions.....	5
Opening the conversation.....	5
A non-linear approach	6
If it becomes clear that mediation is not safe or not suitable	6
Record keeping.....	6
Section A - Assessing for Suitability in Relation to Domestic Abuse	7
Part One – Relationship Dynamics	7
Part Two – Indicators and Escalation	9
Part Three – Safety Planning and Consideration of the Impact of the Abuse on the Participant	15
Part Four – Suitability Assessment: Outcome.....	17
Part Five – Signposting	18
Section B - Assessing for Suitability: Other Factors.....	20
Section C - Ongoing Assessment	21
Appendix A - Toolkit	23

Introduction

The FMC's MIAMs Standards say, at part 7.2:

For accurate assessment, signposting and consideration of appropriate options, mediators must obtain information from participants about their circumstances and the issues arising from separation; and in order to build the necessary rapport mediators must give potential participants both the time and opportunity to be heard.

Mediators must obtain sufficient information about the relationship before and after separation, how potential mediation participants are likely to behave towards each other in a mediation meeting and afterwards, and the impact on any children of a mediation process, in order to assess safety and suitability for mediation.

This resource is to be used as part of the MIAM and is designed to assist you, as a mediator, to meet those standards. Specifically, this resource aims to assist you:

1. Assess whether the participant has been or is in a relationship where abuse has occurred, and where it has, to understand and evaluate the impact of the abuse on that participant and their children in the context of safety and suitability for mediation.
2. Assess whether mediation can proceed safely and on an equal basis for all participants and if not, what the next steps could be.
3. In on-going safety and suitability monitoring during the mediation process if mediation proceeds.
4. Signpost to other support and services where this would benefit the participant whether or not mediation proceeds.
5. Use this resource alongside other non-domestic abuse factors relating to the suitability of mediation.

It is essential that all mediators remain alert to and aware of the increased risk to individuals as a result of separation. Whilst the use of the DASH checklist by specialist domestic abuse advisers will conclude with a risk assessment of either 'standard, medium or high' it was designed to highlight individuals who are at risk of death and serious injury/harm. This resource is specific to mediation assessment. It helps you to assess any potential indicators of risk so that you and the participant can decide whether mediation would be safe, appropriate and suitable. Where any element of abuse is suspected or disclosed the resource also assists in the consideration of whether, with appropriate safety planning, mediation may proceed and to signpost and/or make appropriate referrals to ensure the protection of that individual and any child(ren).

This resource is intended to provide a structure for your assessment. It is not a checklist and does not replace the importance of building rapport nor the need to listen carefully and provide an empathic, caring and professional approach in the MIAM.

Before using this resource, you should attend training specified by the FMSB which will cover its use and ensure an in depth understanding of domestic abuse and the impact on victims/survivors and children.

The guidance is divided into different sections.

- Section A relates to the initial assessment of safety and suitability of mediation, as well as providing you with key behaviour information and risk indicators that will also be relevant to the ongoing risk

assessment if mediation proceeds. Section A part 3 assists you, through a conversation with the participant, to evaluate the impact of any abuse on the participant and consider with them what measures (if any) could be implemented to facilitate safe and effective participation in the mediation process.

- Section B covers the additional areas mediators will need to consider with the participant that are not directly related to domestic abuse issues, and which are set out in [part 7 of the FMC's Standards Framework, which covers professional standards for MIAMs](#).
- Section C highlights indicators for mediators to assist in ongoing assessment once the mediation has started.
- Appendix A is the practical 'toolkit' for mediators to use with each client. It has been included as a separate document for ease of use and reference.

Using the toolkit

This resource consists of two linked parts - the guidance in three sections and a practical “toolkit” in the Appendix.

The toolkit provides a structure to encourage consistency, by gathering the information which is required in order to assess whether mediation is a safe process for the participant. The order of the questions asked, and the language used, is a decision for you. This resource does not replace the ability to ask follow up questions and explore issues raised by the participant.

Assumptions

The use of this toolkit assumes that you have:

- Obtained preliminary basic information about the participant and family prior to the MIAM such as relevant dates, family member details. This resource recognises that mediator practice is varied in relation to the extent to which preliminary information is gathered and does not prescribe how you should obtain that information.
- Explained all the main principles of mediation to the participant (i.e. at the start of the MIAM) including in relation to the principle of voluntariness, confidentiality and the exceptions to that confidentiality
- Considered whether the participant has particular communication needs that require you to adjust your usual approach.

Opening the conversation

Participants who have experienced domestic abuse may find it re-traumatising to talk about their experiences. You can help participants feel more comfortable by prefacing the conversation, letting them know the reasons for the questions and explaining they do not have to answer them, for example by saying: *‘I have a responsibility to make sure that the mediation process is safe and suitable for you. I’ll be asking some questions to help me understand what might make you feel safe and supported during this process. You only need to share what you are comfortable with – you are always in control of what you choose to tell me, and if you find anything upsetting you can let me know you don’t feel comfortable talking about a topic.’*

In order to build and maintain rapport with participants, aim to gather the information set out in this resource organically, through conversation with the participant. For example, you can open the conversation by inviting them to share what is happening/going on for them at the moment.... (i.e. *‘I would really like to hear now what is happening for you at the moment?’* or similar). Actively listening to the participant’s story, and prompting them to expand where relevant (see prompt questions in section A, part one below), as well as carefully observing body language, will provide you with a lot of the information needed to make an assessment of suitability for mediation.

A non-linear approach

The MIAMs Guidance says, at section 5:

Engaging each participant in the meeting is vital, and is achieved by building rapport, remaining sensitive to the participant's needs, and working through the meeting at the pace of the participant.

For this reason, this resource does not list questions to be asked by a mediator. Rather it provides a framework to ensure you gather all the information necessary to assess safety and suitability and to keep participants safe in mediation if it proceeds. The sections listed are inevitably set out in a particular order. **You may prefer to use the sections in a different order.**

If it becomes clear that mediation is not safe or not suitable

It may become clear to you at any point during the MIAM that mediation is not safe or not suitable at the present time. If that is the case, you may decide not to cover the remaining sections of parts 1-3 and move to part 4 of the resource, helping the participant identify their next steps and then part 5, signposting.

If you decide that mediation
is unsuitable

- Go to Section A, Part Four (next steps)
- See Section A, Part 5 (signposting)

Record keeping

This resource does not prescribe how to take and keep records of the MIAM, although it does help identify what information it may be useful to you to record. Mediators should refer to guidance issued by the FMSB from time to time for any further guidance on record keeping.

Section A - Assessing for Suitability in Relation to Domestic Abuse

Part One – Relationship Dynamics

Notes:

This part helps you understand the dynamics of the relationship before, during and after separation. It will help you ascertain whether any uneven power dynamics, and in turn any abusive behaviours, have ever been – or are currently – present within the relationship. This will help you to assess whether the participants are likely to be able to negotiate on a sufficiently level playing field to enable mediation to take place safely. When assessing whether mediation is safe and suitable, information shared by the participant in this section is to be considered alongside information shared by the participant throughout the MIAM.

Many of the relationship dynamics in the following section may have been shared by the participant following your opening question of '*what is happening for you at the moment?*' Or factual details (such as dates) might have been provided in the preliminary information form. **If so, there is no need to ask about them again.**

On the following page, there is a list of nine aspects that can help you understand the dynamics of a relationship (on the left-hand side). Wherever possible, these should be worked through in conversation. By each aspect are a series of prompt questions to help you understand the different dynamics. The first question for each aspect is a suggested opening. The subsequent questions could be asked to help further your understanding of the relationship dynamics.

The prompts are not a checklist. You do not need to ask each prompt, and they are not an exhaustive list. They are to assist you in understanding the relational dynamics and the information that will be needed to make a safe assessment.

As each mediation is specific to the individuals, there should never be a 'one size fits all' approach. You will need to remain flexible as to **when** you feel it is a suitable time within the assessment meeting, to provide relevant information to the participant, for example, about supporting children following separation, the impact of conflict and how finances are dealt with within the mediation process.

Aspects the mediator may want to ask about to understand relationship dynamics	Prompt questions the mediator may want to ask
The participants' living arrangements and whether the participants are still living together or living in separate homes.	<ul style="list-style-type: none"> • Where are you and your ex living? • How was this decision made? • Was there anything stopping you from leaving the relationship sooner? • When did you separate?
What led to the separation and how the participant feels about it.	<ul style="list-style-type: none"> • What led to the separation and how do you feel about it? • Who made the decision? • Did anything specific happen which led to the separation?
How does the participant describe the relationship before and after the separation.	<ul style="list-style-type: none"> • Has the relationship changed since separation? • Would you describe the relationship as healthy or unhealthy? • Have you ever been scared or wary of your partner, during the relationship or since it ended? • What happened to make you feel this way? Are you still afraid?
What the participant's relationship is like with wider family members.	<ul style="list-style-type: none"> • How would you describe your relationship with wider family members?
How decisions in the relationship were made.	<ul style="list-style-type: none"> • Who made decisions in your relationship? • Were you able to express your own opinions? • If you disagreed with your ex-partner, what would happen?
What happened when things went wrong.	<ul style="list-style-type: none"> • Was responsibility shared?
Whether the participant has changed their behaviour to keep themselves or children safe.	<ul style="list-style-type: none"> • Do you think you have changed since the relationship began? • How has your social and support network changed? • Has your employment status changed? • Has your physical and/or mental health changed? • Have you ever changed behaviour to keep yourself or children safe?
How finances were dealt with in the relationship.	<ul style="list-style-type: none"> • How were finances arranged? • Do you feel you were financially independent? • Do you have debts that you didn't agree to or know about? • Do you feel that your ex-partner used finances to make you do something that you didn't want to do?
If participants have children: how the children are coping with the separation or the current situation	<ul style="list-style-type: none"> • What are the arrangements in place for the children to spend time with you both? How are they working? • How do the children feel about spending time with each of you? • Do you have any concerns about their safety or well-being? • Do you feel your ex-partner has ever used the children to make you do something that you didn't want to do?

Part Two – Indicators and Escalation

Notes:

This section provides prompts for you to identify risk indicators.

The risk indicators allow you to understand whether coercive and controlling behaviour, including risks of physical harm, are, or have been, present, and **how these behaviours may impact the safety of mediation taking place and the ability of the participants to negotiate safely.**

The indicators are not an exhaustive list.

Some of the indicators may have already been mentioned but you may feel that more detail is required; if so, you may want to introduce these questions with a sentence such as “You mentioned that...”

Even if nothing has been mentioned to flag up that there are any issues of domestic abuse in part 1, it is important that you establish whether the participant is in fear of their partner as this would affect their ability to participate in mediation on an equal basis. A question such as *‘How do you feel about mediating with your ex-partner?’* may prompt the participant to talk any about anxieties that arise as a result of abuse.

If nothing in the conversation has raised any concerns about abuse at the end of part one (assuming that you have explored this section first), it is still recommended that you obtain the information sought by the questions below to ensure a complete and effective assessment. You may want to introduce this to the participant as follows: *‘There is nothing that you have mentioned so far, that makes me feel that these might be relevant, but I have a duty as a mediator to check these things with everyone, to ensure that should mediation go ahead, it would be safe.’*

There are some suggested questions below to assist you.

Use the tables below to help you identify if behaviours in the relationship and the impact of those behaviours would result in mediation being unsuitable.

Where abusive behaviour is identified, it is important for you to also understand the impact of this behaviour on the participant, therefore a question like *‘how did that make you feel?’* or *‘how has this affected you?’* should supplement any discussions about these indicators. If there are children in the family, it is important to remember that domestic abuse between their parents/carers is a child protection concern. It will be important for you to understand the impact of the behaviours on the children before deciding if mediation may be suitable as well as to consider whether you should make a referral to relevant authorities. Remember the exceptions to confidentiality in the [FMC Code of Practice](#) and to seek the support of your Professional Practice Consultant (PPC).

Identifying the frequency of abusive behaviours, and how this is changing, will help you assess safety and suitability for mediation.

The frequencies used are:

- Always or often = daily or weekly
- Sometimes = every so often, every few months or on specific dates or days
- Never

You should use a common-sense approach and think about patterns of behaviour.

If you are seeing the client in person, you may wish to print off the toolkit in black and white so that the colours are not highlighted. Alternatively, you may prefer to take out the colours and just retain the words.

Once you have considered the potential risk indicators, you will be able to summarise the risks.

If any of the answers to the questions below are '**red/always/often**' or '**amber/sometimes**' it is recommended that you discuss with the participant that this indicates a risk of harm, that these behaviours are abusive, and that the abusive behaviours may indicate it is unsafe to proceed with the mediation, subject to the conversation that takes place in part 3, safety planning. The suggested questions set out in the safety planning can be used to help you with the decision of suitability.

If you decide that mediation is unsuitable

- Go to Part 4 (next steps)
- See Part 5 (signposting)

Emotional abuse

Listen for	If the initial conversation did not raise this issue, here are some suggested ways of asking about emotional abuse:
<ul style="list-style-type: none"> • Gaslighting • Belittling them or humiliating them • Calling them names • Withholding affection, sulking or ignoring them • Shouting • Playing mind games/lying to them • Mood swings • Threatening to share intimate images • Using the court system to threaten them • Using their relationship with children to control/threaten them • Being made to feel guilty 	<ul style="list-style-type: none"> • How did your ex-partner make you feel about yourself? • Do you feel that your ex-partner/anyone's behaviour had a negative impact for you or others and if so, how?

If emotional abuse is identified

How does the participant describe how this makes/made them feel?	How does the participant feel that their children have been affected by their ex-partner's behaviours?	Frequency: Always/often Sometimes Never	Frequency change: Increasing No change Decreasing
--	--	---	---

Intimidation/harassment			
Listen for		If the initial conversation did not raise this issue, here are some suggested ways of asking about intimidation and harassment:	
<ul style="list-style-type: none"> • Thrown things at them • Damaged things in the home • Threatened harm including children • Threatened to harm themselves • Generating fear by actions or body language • Using children to get at them/generate fear • Turning up unexpectedly e.g. workplace • Using technology to stalk/follow them • Pressured to give up job/made working difficult • Calling/messaging constantly • Been angry if they did not answer the phone • Controlling daily routines • Threatening to share intimate images 		<ul style="list-style-type: none"> • Have you ever felt harassed or intimidated? What happened to make you feel that way? • What would happen if you disagreed with each other and either of you didn't do what the other wanted? • Do you think that things are always your fault? • Did you change your behaviour to keep things safe and calm? 	
If intimidation/harassment is identified			
How does the participant describe how this makes/made them feel?	How does the participant feel that their children have been affected by their ex-partner's behaviours?	Frequency: Always/often Sometimes Never	Frequency change: Increasing No change Decreasing
Isolation			
Listen for		If the initial conversation did not raise this issue, here are some suggested ways of asking about isolation:	
<ul style="list-style-type: none"> • Stopping them from seeing family or friends or making it easier not to see them • Moving away • Locking them in the house • Manipulating them to stay home • Making them lose their job 		<ul style="list-style-type: none"> • How often did you see family and friends? • If you had different views about seeing family and friends what would happen? • Did your ex-partner/anyone's behaviour have an effect on your relationships with family and friends? 	
If isolation is identified			
How does the participant describe how this makes/made them feel?	How does the participant feel that their children have been affected by their ex-partner's behaviours?	Frequency: Always/often Sometimes Never	Frequency change: Increasing No change Decreasing

Physical abuse			
Listen for		If the initial conversation did not raise this issue, here are some suggested ways of asking about physical abuse:	
<ul style="list-style-type: none"> • Hitting, kicking, pushing, shoving, pinching • Smashing things close to them • Breaking personal items • Behaving in a way that made them feel afraid of being harmed • Strangling or suffocating • Hurting a pet 		<ul style="list-style-type: none"> • In all the time you've known your ex-partner, has there ever been violence, like anyone ever hitting anyone, pushing/shoving/grabbing, things thrown or smashed, walls punched... • Has your ex-partner/anyone done anything to hurt anyone, or make them feel afraid? <p>Follow up questions may include:</p> <ul style="list-style-type: none"> • Does [the person causing fear] have access to weapons? 	
If physical abuse is identified			
How does the participant describe how this makes/made them feel?	How does the participant feel that their children have been affected by their ex-partner's behaviours?	Frequency: Always/often Sometimes Never	Frequency change: Increasing No change Decreasing

Sexual abuse			
Listen for		If the initial conversation did not raise this issue, here are some suggested ways of asking about sexual abuse:	
<ul style="list-style-type: none"> • Being forced to have sex • Being forced to watch pornography • Inappropriate sexual behaviour in the presence of children • Hurting or harming them during sex • Degrading actions or language during, or linked to sex • Withholding physical affection as a form of control • Not allowing the use of contraceptives • Strangulation • Coercion/emotional manipulation in relation to sex 		<ul style="list-style-type: none"> • Has your ex-partner/anyone done anything sexual, or related to sex, which made you feel uncomfortable, or hurt you/others? • As regards intimacy between you, has your ex-partner asked you to do things you felt uncomfortable with? Did you feel able to say no? 	
If sexual abuse is identified			
How does the participant describe how this makes/made them feel?	How does the participant feel that their children have been affected by their ex-partner's behaviours?	Frequency: Always/often Sometimes Never	Frequency change: Increasing No change Decreasing

Financial abuse		
Listen for	If the initial conversation did not raise this issue, here are some suggested ways of asking about financial abuse:	
<ul style="list-style-type: none"> • Reducing or completely taking away financial independence • Having control over finances • Forcing expenditure/debt • Generating guilty feelings about affordable spending 	<ul style="list-style-type: none"> • Were you comfortable with the way financial decisions were made during your relationship? 	
If financial abuse is identified		
How does the participant describe how this makes/made them feel?	<p>How does the participant feel that their children have been affected by their ex-partner's behaviours?</p> <p>Frequency: Always/often Sometimes Never</p>	Frequency change: Increasing No change Decreasing

Abuse focused on specific factors			
Listen for the participant's ex-partner using, or threatening to use a circumstance or a characteristic to scare or control the participant, for example:		If the initial conversation did not raise this issue and it is or may be relevant in the circumstances, consider asking the following:	
<ul style="list-style-type: none"> • Using their sexuality or their gender identity to scare or control them • Using their immigration status to scare or control them • Using something linked to their, or their partner's culture or religion, which have been used to scare or control them 		<ul style="list-style-type: none"> • Has your ex-partner/anyone ever threatened to use sexuality/immigration status/culture to make you/others do something you didn't want to do? 	
If emotional abuse focused on specific factors abuse is identified			
How does the participant describe how this makes/made them feel?	How does the participant feel that their children have been affected by their ex-partner's behaviours?	Frequency: Always/often Sometimes Never	Frequency change: Increasing No change Decreasing

Summarising the risks:

Following the discussions with the participant, you should now have a clear understanding of the dynamics within the relationship, and of any risk indicators.

If any of the information shared by the participant indicates that they are currently in fear of their ex-partner – whatever that fear looks like for the participant – it is very unlikely that mediation would be safe to proceed. **It is recommended that you discuss concerns with your PPC.**

The fear may be of physical or emotional harm, threats from third parties, wider communities, fear for their children's welfare, or fear of homelessness or finance related issues.

The presence of fear will destabilise the mediation process, and therefore if this is a factor within the relationship, steps should be taken to mitigate this fear before mediation is considered. This will likely require the involvement of specialist services.

If the participant's fear cannot be mitigated, for example if they fear for their or their children's physical or emotional safety, mediation should not take place.

Please see the part 3 of the toolkit, safety planning, for assistance regarding mitigation of fear.

Part Three – Safety Planning and Consideration of the Impact of the Abuse on the Participant

Notes:

Once you feel that you have all the relevant information from the participant, and the participant is considering proceeding to mediation notwithstanding that issues of abuse have been discussed, the following questions can assist you in making the final assessment of safety, suitability for mediation and signposting. It is very important that you consider the impact of the abuse and whether the behaviour was or is a means of controlling the victim, as well as other indicators like severity of harm and how often the abuse occurred.

This is not a checklist, and it is for you to use your professional judgement to decide which of these questions would be helpful to explore with the participant before decisions about next steps are made.

You may have answers to some of the questions below already, as a result of the discussion about relationship dynamics or through other discussion in the MIAM.

It is important that if you are discussing shuttle mediation, you explain that this does not eliminate all potential risks for the participant. The participant needs to understand any possible risks to safety and emotional wellbeing for all models of mediation, including the risk of re-traumatisation if the participant has experienced abuse.

It is also vital that you never put pressure on a participant to mediate or to go into a joint session where they have requested shuttle.

If the participant is currently frightened of their ex-partner, mediation is not suitable.

	Information for the mediator to explore with the participant	Notes
1.	How does the participant feel about the idea of sitting down to talk through these issues with their ex-partner?	
2.	Is the participant concerned about how their ex-partner or others may behave if they disagree? E.g., that there may be negative consequences in some way for them or their children?	
3.	How would the participant feel if they were in the same room or on the same screen as their ex-partner? E.g., would they feel anxious or worried that they would feel ill or freeze up?	
4.	Can the participant share what matters to them and what they feel is important in the mediation? If no, would this feel differently if they were in a shuttle/ separate space mediation?	

FMSB Mediation Screening and Assessment: Guidance and Resource Section A, Part Three – Safety Planning and Impact of Abuse

5.	Does the participant feel 'emotionally ready' to take part in mediation and negotiate with their ex-partner? E.g., do they still want to get back together, are they feeling guilty or taking the blame, do they have difficulty ordering their thoughts or coping with day-to-day activities?	
6.	Does the participant feel like they have no choice but to do the mediation? Eg What would happen if they didn't mediate?	
7.	How would the participant feel if they were unable to mediate? What would their next steps be?	
8.	Does the participant consider that mediation may increase their risk of harm? If so, in what way, or what do they think might happen?	
9.	If the participant is still living with their partner, have they considered what it might be like in the home once mediation has started?	
10.	What support does the participant have in place during mediation? E.g., do they have friends, family, legal support, therapeutic support?	
11.	What model does the participant feel would best promote their safety?	

Part Four – Suitability Assessment: Outcome

Notes:

It is recommended that at this stage, you record your assessment of mediation suitability so far, i.e. after seeing either one participant or both. The information recorded will vary depending on whether you have seen one or both clients. It will be useful to keep a record of any safety measures that might be needed, if a decision to proceed with mediation is being made where domestic abuse issues have been highlighted.

Suitability Assessment Outcome	
Is mediation suitable to proceed to next stage at this point?	Yes/No
Does the participant want to try to mediate?	Yes/No
If yes to both , next steps:	
If no to either , next steps:	
Does the participant understand next steps and the reasons why mediation may or may not proceed?	
Safety measures If both participants have been seen, and you have assessed it could be safe to proceed, are any safety measures required to ensure safety of participants and what model of mediation is to be adopted? This might include same room/ in person, same screen/online, shuttle/in person, shuttle/on line or solicitor supported mediation (separate spaces or same space)	

Part Five – Signposting

Notes:

It is not unusual in a MIAM for a participant to hear for the first time, that what they have experienced is abusive behaviour.

The FMC Code of Practice **requires** mediators to provide a Participant with information about available support services where abuse has or is alleged to have taken place.

If you have identified issues of domestic abuse during your assessment of suitability for mediation, you should check whether the participant is receiving support from a domestic abuse specialist, and if not, signpost accordingly.

Signpost the participant to a local domestic abuse service, wherever possible. Local domestic abuse services can support participants on an individual basis and it is therefore better for you to signpost to a local service rather than a national one.

The easiest way for you to signpost to a local domestic abuse service is for you to have up to date details of local services to hand so that these can be shared with the participant before the end of the meeting.

It is recommended that you establish links with your domestic abuse agencies, to understand the services they offer and how potential service users can contact them. **Time spent doing this counts towards your continuing professional development** as a mediator and can be listed as CPD on your Training and Development Plan for the purposes of your portfolio or on your CPD log for re-accreditation.

You can list contact details of local domestic abuse services in your personalised toolkit. If you list multiple addresses on the FMC website, be aware that service users may come to you from around your listed locations, so you may need different lists depending on the offices you have listed.

If you do not have details of services local to the client because they are not near to one of your listed FMC locations, you can either look up local services online, or signpost to national domestic abuse agencies. Local councils often list local and national support services on their websites.

In some cases, where high risk of harm has been identified, you may need to make a referral directly to a **Multi-Agency Risk Assessment Conference (MARAC)** and this would need to be discussed with the participant so that they are fully aware of this need.

Where there is a clear disclosure of current safeguarding issues, particularly around children, you must share the participant's concerns with their local authority safeguarding teams.

If you are unsure about signposting or referrals, contact your PPC.

Signposting	
Where domestic abuse has been highlighted, it is recommended that you consider the following:	
Does the participant have any support now or have they had support in the past from a domestic abuse specialist?	Yes/No
If the participant is not receiving current support from a domestic abuse specialist, have you signposted to a service?	Signposted to:
Consider contacting the domestic abuse service, with the participant's consent, whilst you are in a MIAM together (See section C about separate discussions if considerations arise in a joint mediation session).	Contact made with:
Consider a direct referral to police, legal advisor, adult social care or DA specialist if high risk of serious harm is identified with participant consent where appropriate. Contact details can be listed by the mediator in their personalised toolkit.	Referral made: Consent obtained:
Where relevant, informing the participant about the availability of legal aid for family law. Contact details can be listed by the mediator in their personalised toolkit.	Signposted to:
Consider referring to other NCDR processes. Contact details can be listed by the mediator in their personalised toolkit.	Signposted to:

Section B - Assessing for Suitability: Other Factors

The following elements should have been covered during the previous conversations. If not, please specifically ask them, as they are linked to the MIAM Standards – however if this information has already been shared, you do not need to go through them as a checklist.

1	Has there been any previous or current Children's or Adult Social Care involvement?	Yes/No	Referral or signposting by mediator?
2	Has there been any previous or current Police involvement?	Yes/No	Referral or signposting by mediator?
3	Have there been any previous or current alcohol or drug issues?	Yes/No	Referral or signposting by mediator?
5	Have there been or are there any concerns in relation to physical or mental health issues?	Yes/No	Referral or signposting by mediator?
6	Have there been any prior court orders or court involvement? For example, non-molestation orders, occupation orders, or undertakings made in respect of related court applications? Do you feel it would be helpful to obtain copies? (NB be aware these orders may prevent you from contacting a second participant)	Yes/No	Referral or signposting by mediator?

Section C - Ongoing Assessment

Notes:

Mediators will be aware that risk is fluid and can change for many reasons. Remember that it is known that the risk of abuse/harm is raised at the point of separation and afterwards. The separation and the progress of mediation may therefore prompt abuse/harm even though there have been no known issues before. Remember too that participants may not consider that they have suffered abuse or may have chosen not to have disclosed this during a MIAM.

Therefore, all of the risk behaviours and indicators that are listed above need to be kept in mind by you as ongoing risk monitoring. You are not expected to ask all the above questions again during the process but should be alert to the potential need to re assess risk after the mediation has started.

It is recommended that you check with each mediation participation separately, at the start of each mediation session, whether anything has happened since the previous session, that would make mediation more difficult or unsafe and do they still wish to continue. This should not be asked whilst the clients are together. If the mediation is held jointly and in person, you should either contact the participants prior to the meeting (phone or text) to check if there has been a change in their circumstances or ensure that participants know that they should let you know, prior to any meeting, if circumstances have changed. Alternatively, you may choose to spend a few minutes with each participant prior to the joint session, to ascertain the current situation.

The following provides some examples of behaviours that might indicate a change of risk. **This is not an exhaustive list AND IS NOT A CHECKLIST.**

If you notice any of the following, you should consider whether mediation is still safe to continue:

- Uneven power dynamics, which might manifest in the following ways:
 - A participant seems as though they do not have a voice
 - A participant seems afraid, withdrawn, unusually nervous and/or watchful
 - A participant seems to have agreed to something very suddenly and very quickly
 - A shift of opinion or initial ideal outcome from a participant seems unusual or extreme
 - Unexpected financial disclosure e.g. loans in joint names that one participant did not know about
 - The presence of the other person (direct or indirect) seems to impact the other's emotional well being
 - A participant agreeing to things to conclude the process quickly or to appease the other party
- That the discussions in mediation are causing emotional distress to a participant

If you notice any unusual changes, such as those mentioned above, you should check with the participant separately whether:

- they or their children have been physically harmed since the session or any threats of violence have been made since the last session
 - if yes, mediation should come to an end
 - if no, does the participant want to continue to mediate?
 - if yes, you should consider whether you can use your skills in the session to support the participants to mediate safely and effectively in the circumstances and if not, you should consider bringing the mediation to an end
 - if no, mediation should come to an end

If the mediation is brought to a premature end, you should speak to the participant separately about signposting and referrals to specialist services to support with ongoing risks of harm. It is essential that the mediation is brought to an end as safely as possible for all participants.



Mediation Screening and Assessment: Guidance and Resource

Appendix A- Toolkit

The development of this resource was supported with funding from



Part One – Relationship Dynamics

Seek to find out from the participants	Prompt questions you may want to ask participants
The participants' living arrangements and whether the participants are still living together or living in separate homes.	<ul style="list-style-type: none"> • Where are you and your ex living? • How was this decision made? • Was there anything stopping you from leaving the relationship sooner? • When did you separate?
What led to the separation and the participant feels about it.	<ul style="list-style-type: none"> • What led to the separation and how do you feel about it? • Who made the decision? • Did anything specific happen which led to the separation?
How does the participant describe the relationship before and after the separation.	<ul style="list-style-type: none"> • Has the relationship changed since separation? • Would you describe the relationship as healthy or unhealthy? • Have you ever been scared or wary of your partner, during the relationship or since it ended? • What happened to make you feel this way? Are you still afraid?
What the participant's relationship is like with wider family members.	<ul style="list-style-type: none"> • How would you describe your relationship with wider family members?
How decisions in the relationship were made.	<ul style="list-style-type: none"> • Who made decisions in your relationship? • Were you able to express your own opinions? • If you disagreed with your ex-partner, what would happen?
What happened when things went wrong.	<ul style="list-style-type: none"> • Was responsibility shared?
Whether the participant has changed their behaviour to keep themselves or children safe.	<ul style="list-style-type: none"> • Do you think you have changed since the relationship began? • How has your social and support network changed? • Has your employment status changed? • Has your physical and/or mental health changed? • Have you ever changed behaviour to keep yourself or children safe?
How finances were dealt with in the relationship.	<ul style="list-style-type: none"> • How were finances arranged? • Do you feel you were financially independent? • Do you have debts that you didn't agree to or know about? • Do you feel that your ex-partner used finances to make you do something that you didn't want to do?
If participants have children: how the children are coping with the separation or the current situation	<ul style="list-style-type: none"> • What are the arrangements in place for the children to spend time with parents? How are they working? • How do the children feel about spending time with each of them? • Do you have any concerns about their safety or well-being? • Do you feel your ex-partner has ever used the children to make you do something that you didn't want to do?

Part Two – Indicators and Escalation

Types of Abuse and Associated Behaviours

Physical Abuse

- Hitting, kicking, pushing, shoving, pinching
- Smashing things close to them
- Breaking personal items
- Behaving in a way that made them feel afraid of being harmed
- Strangling or suffocating
- Hurting a pet

Sexual Abuse

- Being forced to have sex
- Being forced to watch pornography
- Inappropriate sexual behaviour in front of children
- Hurting or harming during sex
- Degrading actions/language during, or linked to sex
- Withholding physical affection as a form of control
- Not allowing use of contraceptives
- Strangulation
- Coercion/emotional manipulation in relation to sex

Isolation

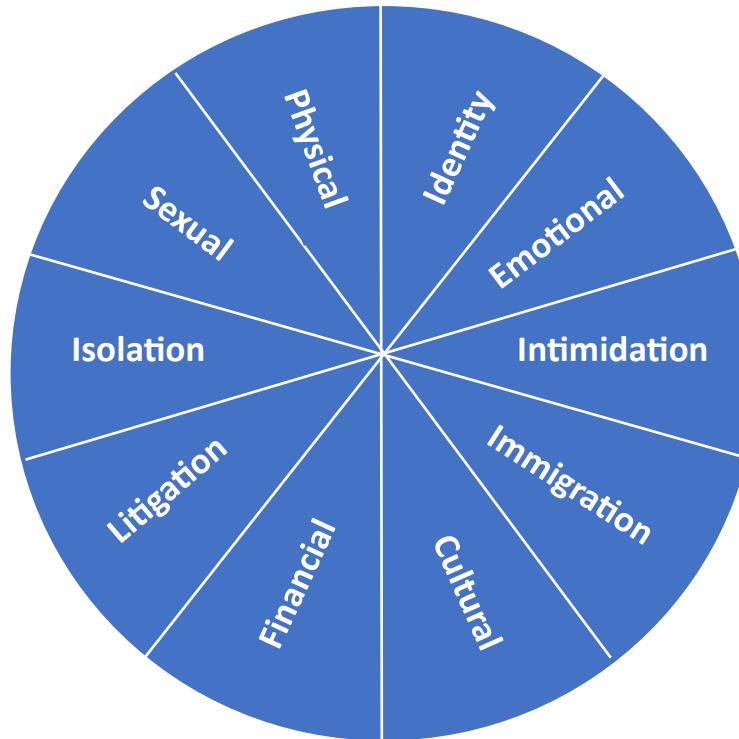
- Stopping someone seeing family or friends or making it easier not to see them
- Moving away
- Locking in the house
- Being manipulated to stay home
- Manipulating loss of job

Litigation Abuse

- Use of solicitor letters
- Threats of court action
- Non-compliance with consent or court

Financial Abuse

- Reducing or taking away financial independence
- Controlling finances
- Forcing expenditure/debt
- Generating guilty feelings about affordable spending



Identity Abuse

- Threats to “out” sexuality or gender identity
- Using sexuality or gender identity to belittle

Emotional Abuse

- Gaslighting
- Belittling / humiliating
- Calling names / shouting
- Withholding affection / Sulking/ Ignoring
- Playing mind games/lying
- Mood swings
- Threatening to share intimate images
- Using the court system to threaten them
- Using relationship with children to control/ threaten them
- Being made to feel guilty

Intimidation / harassment

- Throwing things
- Damaging things at home
- Threatening harm including children
- Threatening to harm themselves
- Generating fear by actions or body language
- Using children to get at them or generate fear
- Turning up unexpectedly e.g. workplace
- Using technology to stalk or follow them
- Pressuring to give up a job/made working difficult
- Calling /messaging constantly
- Being angry if they do not answer the phone
- Controlling daily routines
- Tracking movements, social media, emails, texts
- Threatening to share intimate images

Cultural / Ethnic Abuse

- So called honour-based violence
- Threats to ostracise from the community, or from their place of worship
- Involvement of community elders or extended family

Immigration Abuse

- Threats about deportation
- Financial control linked to the participant’s recourse to public funds
- Using immigration status to keep someone in a relationship

Part Two – Indicators and Escalation Continued

Consider the possibility of		If abuse is identified			
	Mediator notes	How does the participant describe how this makes/made them feel?	How does the participant feel that their children have been affected by their ex-partner's behaviours?	Frequency	Frequency change
Emotional abuse				Always/often Sometimes Never	Increasing No change Decreasing
Intimidation/harassment				Always/often Sometimes Never	Increasing No change Decreasing
Isolation				Always/often Sometimes Never	Increasing No change Decreasing
Physical abuse				Always/often Sometimes Never	Increasing No change Decreasing
Sexual abuse				Always/often Sometimes Never	Increasing No change Decreasing
Financial abuse				Always/often Sometimes Never	Increasing No change Decreasing
Abuse focused on specific factors				Always/often Sometimes Never	Increasing No change Decreasing

Part Three – Safety Planning and Consideration of the Impact of the Abuse on the Participant

	Information for the mediator to explore with the participant	Notes
1.	How does the participant feel about the idea of sitting down to talk through these issues with their ex-partner?	
2.	Is the participant concerned about how their ex-partner may behave if they disagree? Eg that there may be negative consequences in some way for them or their children?	
3.	How would the participant feel if they were in the same room or on the same screen as their ex-partner? E.g. would they feel anxious or worried that they would feel ill or freeze up?	
4.	Can the participant share what matters to them and what they feel is important in the mediation? If no, would this feel differently if they were in a shuttle/ separate space mediation?	
5.	Does the participant feel 'emotionally ready' to take part in mediation and negotiate with their ex-partner? E.g. do they still want to get back together, are they feeling guilty or taking the blame, do they have difficulty ordering their thoughts or coping with day-to-day activities?	
6.	Does the participant feel like they have no choice but to do the mediation? Eg What would happen if they didn't mediate?	
7.	How would the participant feel if they were unable to mediate? What would their next steps be?	
8.	Does the participant consider that mediation may increase their risk of harm? If so, in what way, or what do they think might happen?	
9.	If they are still living with their partner, have they considered what it might be like in the home once mediation has started?	
10.	What support do they have in place during mediation? Eg, do they have friends, family, legal support, therapeutic support?	
11.	What model does the participant feel would best promote their safety?	

Part Four – Suitability Assessment – Outcome

Suitability Assessment Outcome	
Is mediation suitable to proceed to next stage at this point?	Yes/No
Does the participant want to try to mediate?	Yes/No
If yes to both , next steps:	
If no to either , next steps:	
Does the participant understand next steps and the reasons why mediation may or may not proceed?	
Safety measures	
If both participants have been seen, and mediator has assessed it could be safe to proceed, are any safety measures required to ensure safety of participants and what model of mediation is to be adopted? (In person/online, shuttle/joint sessions, third party/solicitor supported)	

Part Five – Signposting

Signposting Where domestic abuse has been highlighted, it is recommended that you consider the following:	
Does the participant have any support now or have they had support in the past from a domestic abuse specialist?	Yes/No
[Insert here details of local or national services to signpost to]	Signposted to:
Consider contacting the domestic abuse service, with the participant's consent, whilst you are in the meeting together	Contact made with:
Consider a direct referral to police, legal advisor, adult social care or DA specialist if high risk of serious harm is identified, and whether consent is required. [Insert here details of referral agencies]	Referral made: Consent obtained:
Where relevant, informing the participant about the availability of legal aid for family law [Insert here details of legal aid providers]	Signposted to:
Consider signposting to other NCDR processes [Insert here details of other NCDR services available locally]	Signposted to:

Section B - Assessing for Suitability in Relation to MIAM Standards and Other Factors

1	Has there been any previous or current Children's or Adult Social Care involvement?	Yes/No	Referral or signposting to
2	Has there been any previous or current Police involvement?	Yes/No	Referral or signposting to
3	Have there been any previous or current alcohol or drug issues?	Yes/No	Referral or signposting to
5	Have there been or are there any concerns in relation to mental health issues?	Yes/No	Referral or signposting to
6	Have there been any prior court orders or court involvement? For example, non-molestation orders, occupation orders, or undertakings made in respect of related court applications? Do you feel it would be helpful to obtain copies? (NB be aware these orders may prevent you from contacting a second participant)	Yes/No	Referral or signposting to