

# Mandatory Counselling and Mediation The Child Focused Resolution Centre (“CFRC”)

## Mandatory post-filing divorce mediation and counselling on child matters

*“Custody and care are the most intractable of post-divorce problems. The issue often is not that the couple are unaware that the interest and welfare of the child is paramount – they are, but that one party feels that the other is not fit to look after the child properly in the interest of the child’s welfare. ... the Women’s Charter has been amended to make counselling and mediation mandatory in such cases.”*

Chan Sek Keong, The Honourable The Chief Justice, at the Subordinate Courts Workplan 2011, 18 February 2011.

In the last decade, the number of divorce cases rose by nearly 60 per cent – 4,144 applications in year 2000, rising to 6,572 in 2010. More than half of these couples wanting to divorce had at least one child under the age of 21 at the time of divorce. A vast majority of them did not have an agreed care arrangement for their children. Families are the bedrock of society. When families fall apart, the well-being of the children are most affected and this in turn leads to grave social concerns. The social and economic repercussions are significant.

### The Changes to the Women’s Charter: Mandatory Counselling and Mediation

To better safe-guard the interests of the children, and to assist divorcing couples resolve children related issues, changes were made to the Women’s Charter. The amendments to s 50 of the Women’s Charter<sup>1</sup> now provides for mandatory counselling and mediation for couples who have filed for divorce, and who have minor children. Hence, the setting up of the Child Focused Resolution Centre (“CFRC”) of the Family Court. CFRC began operations on 26 September 2011 at Central Mall, 1 Magazine Road.

The CFRC is staffed by Family Court Judge-Mediators from the Family Resolutions Chambers, Family Counsellors from the Family Court’s Counselling and Psychological Services unit (“CAPS”) and Court Administrators.

### The Role of CFRC

The CFRC aims to help divorcing parents make a paradigm shift: from being self-focused to being child-focused, from marital discord to parental accord, and from being adversaries to being collaborators.

By having counselling and mediation and addressing the issues relating to the children early in the divorce proceedings, it is hoped that this would lessen the acrimony and bitterness otherwise felt by parents in protracted divorce proceedings and consequently, the children are protected. They would feel less stressed, insecure and triangulated. Better relationships with each parent and significant others could then be built upon.

### The CFRC Programme

Starting off, there will be mandatory post-filing counselling and mediation for couples who have at least one child aged below eight years. For example, if a couple have three children, aged 12, 10 and five, and they file for a divorce, their case would be identified for mandatory counselling and mediation. This will be extended in phases over a period of time to couples with older children at a later stage.

Each case is different, and the counselling and mediation programme will be tailored according to the needs and situation of each family. The Court is also mindful that proceedings should not be prolonged unnecessarily. This means that a couple could be referred to the CFRC at different points in the divorce process, with minimal interruptions to their case if it is uncontested.

Generally, identified cases will go through one or several of the following :

1. CFRC Conference (plus Intake & Assessment):
  - a. Presided by Deputy Registrar and Family Counsellor;
  - b. Attended by parties and their counsel, if represented;
  - c. Objective of Conference is to crystallise issues for counselling and mediation;
  - d. Intake & Assessment session (on the same day immediately after the Conference) between the parties and a counsellor; and
  - e. Objective of session is to establish rapport between assigned counsellor and parties and lay the ground work for subsequent counselling session(s);

2. Counselling:
  - a. Conducted by assigned family counsellor;
  - b. Counsellor will assist both parties towards a better understanding of their children's needs and help parties build a consensus on the interim and future care arrangements for their children; and
  - c. Attendance of counsel not required;
3. Mediation:
  - a. Conducted by Judge-Mediator;
  - b. Judge-Mediator will build upon the framework structured at counselling;
  - c. Involvement of a Judge-Mediator at this stage would lend a strong legal perspective to the case;
  - d. Judge-Mediator may also facilitate an agreement on other divorce or ancillary issues if children issues are resolved; and
  - e. Attendance of counsel with the parties is required;
4. Joint Conference:
  - a. Conducted when there are complex psychological and relational issues, between the parties, or between parent and child;
  - b. Family counsellor and a Judge-Mediator will co-mediate to address the legal and psychological dimensions of a case;
  - c. More time is usually allocated for a Joint Conference; and
  - d. Attendance of counsel with the parties is required.

When necessary, the CFRC could refer couples to external service providers for follow-up services where longer term counselling is required, and parenting workshops.

Divorcing couples will be sent formal notices to attend the necessary sessions. Should either parent refuse to attend or to co-operate, the Court may, amongst other things, stay the proceedings until the required attendance is achieved, or order costs against the party who fails to comply.

Where it is not in the interest of the child or the parent to go through the counselling or mediation process, the Court may exempt the parties.

The services provided by the CFRC will be free of charge.

## Benefits of CFRC Programme

The Programme assists the parties to formulate a realistic, workable and practical outcome, which is consonant with the interests of the parties and their children.

By agreeing on the parenting and access plans which best suit their respective parties' needs and schedule, this drastically lowers the risk of the children being triangulated and caught in the bitterness between warring and insecure parents. The children will be more secure and less traumatised by the breakdown of their parents' relationship.

An adversarial outcome leaves the ultimate decision to the Judge and effectively disempowers the father and mother as parents. This may lead to greater resentment between the parties and the children become vulnerable victims.

Charlie, 10 years' old, was a bubbly boy until his parents decided to divorce.

His parents, Meng and Connie, had been married for 10 years. Their relationship broke down due to frequent quarrels over finances and their different lifestyles.

Meng's contracting business failed about three years ago and he could not find work after that. Connie, who had been a homemaker, turned to selling insurance to support the family.

Connie soon became very successful in her career. However, her work frequently took her away from home. This frustrated Meng. Their relationship came to a head when Meng accused Connie of adultery. Although Connie denied the allegations, the unresolved suspicion festered. This severely affected all other areas in their marriage and led to a divorce filed by Connie.

The couple was referred for Court counselling to help them with the custody dispute over Charlie.

Meanwhile, Charlie knew that his parents had not been talking to each other. He thought something "bad" was going to happen to them when they had to go to Court. In his young mind, he was deeply troubled by the possibility of being separated from his parents, his grandparents and the friends in his neighbourhood. He also felt guilty thinking that his mischievous behaviour might have been the cause of his parents' break up.

At the counselling session, the counsellor asked Charlie to draw a picture. Charlie drew himself as a sad "puddle" of water. He told the counsellor how he was a little cloud who turned into rain, became a puddle on the ground, and

caused his parents to slip and fall. In his next picture, he drew a complete family.

Meng and Connie were visibly affected by their son's picture story. The turning point of the counselling came when they realised the depth of unspoken pain and fear that young Charlie was carrying.

Through counselling and subsequent mediation, Meng and Connie were able to put Charlie's interests in the forefront of their discussions. With more insight into their son's feelings, they were better able to co-operate on parenting arrangements. Assuring him that he was loved, and that his relationship with his father, mother and grandparents would continue, gave Charlie a renewed sense of security.

## The Vital Role of Counsel

The Family Bar has been very supportive of the counselling and mediation at the Family Resolution Chambers. Counsel can play a similarly vital role in the CFRC counselling and mediation programme. It is incumbent on counsel to prepare the client for the CFRC Programme by explaining to the client the purpose and rationale. Counsel should also stress to the client the importance of participating constructively and advise the client of the consequences of failing to do so.

### CFRC Conference

Counsel should prepare a summary of the case, and prepare the client for the Conference explaining to them the objective of the Conference. Once the appropriate pathway is mapped out, counselling, mediation, or joint conference sessions, or a combination of two or three, would be fixed. After the Conference, on the same day, the parties would meet with a Family Counsellor for an individual Intake and Assessment session. Counsel do not need to attend the Intake and Assessment session.

### Counselling

For the counselling aspect of the programme, Counsel need not attend. Counsel should however explain to the client the rationale for this aspect of the programme, its objectives and the process. Relevant informative materials will be available at the CFRC.

## Mediation and Joint Conferences

Mediation and joint conferences will build on what was achieved at counselling. Counsel should come with the client with a detailed summary of issues for mediation and proposals. Counsel are expected to be present for the duration of the mediation and joint conference sessions.

## Concluding Remarks

It has been said that the practice of family law is a vocation. Let us work together to protect the children.

**District Judge Kevin Ng**  
Family Court

### Notes

1. (3A) A court before which any proceedings under Part X are being heard shall, where the proceedings involve such classes of persons (being persons who have children to the marriage) as may be prescribed by the Minister, do either or both of the following:
  - (a) order the parties to attend mediation conducted by such person as the court may appoint;
  - (b) order the parties or their children or both, at any stage in the proceedings, to attend counselling provided by such person as the Minister may approve or as the court may direct.
- (3B) Notwithstanding subsection (3A), the court may, in any case where it considers that it may not be in the interests of the parties or their children to attend mediation or counselling, as the case may be, dispense with an order requiring such mediation or counselling.
- (3C) Where the court has made an order under subsection (3A), the parties concerned shall comply with it.
- (3D) Where a person fails to comply with any direction or advice given by the court under subsection (2) in any proceedings under Part X or any order made by a court under subsection (3A), the court may make such further orders as it thinks fit.
- (3E) Without prejudice to the generality of subsection (3D), the further orders that may be made by a court under that subsection shall include the following orders:
  - (a) an order that proceedings shall be stayed until the parties have attended such mediation or counselling as may be specified in any advice or direction made by the court under subsection (2) or an order made by the court under subsection (3A); and
  - (b) such order as to costs as the court thinks appropriate against the party who fails to comply with any advice or direction made by the court under subsection (2) or an order made by the court under subsection (3A).