

## TRAINERS' CHECKLIST

### 40-HOUR FAMILY ARBITRATION TRAINING PROGRAM

#### 1. Review of Legal Concepts Impacting Family Arbitration

- a. Procedural – an understanding of the family arbitration process, the commencement of a family arbitration, the conduct of a hearing, and the preparation of an award.
- b. Substantive – an understanding of legal rights and entitlements of spouses and other cohabiting partners on separation and divorce.

Time Allocated: \_\_\_\_\_ minutes

Location in agenda and handbook:  
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#### 2. Arbitration Legislation

##### Procedural

- a. Arbitration Act, 1991
  - Family Arbitration Regulation
- b. Courts of Justice Act
  - Rules of Civil Procedure
  - Family Law Rules
- c. Evidence Act
- d. Family Law Act
- e. Statutory Powers Procedure Act

##### Substantive

- f. Divorce Act
  - Federal Child Support Guidelines
  - Spousal Support Advisory Guidelines
- g. Children's Law Reform Act
- h. Family Law Act
  - Child Support Guidelines
- i. Succession Law Reform Act

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#### 3. Introduction to Conflict and Disputes Some Suggested Topics Include:

- a. Nature of conflict and conflict management
- b. Nature of disputes and dispute resolution
- c. Overview of ADR
- d. The ADR Spectrum
- e. Mediation and family mediation
- f. Arbitration and family arbitration
- g. Mediation-arbitration and family mediation-arbitration
- h. Family arbitration for parenting coordinators
- i. Family secondary arbitration
- j. Arbitration awards and enforcement

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#### 4. Commencement of a Family Arbitration

##### Some Suggested Topics Include:

- a. Initial contact
- b. Informed process choice
  - Arbitration (TW indent)
  - Mediation-arbitration
- c. Screening
  - By someone other than the arbitrator (TW indent)
  - By the mediator-arbitrator

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## 5. Family Arbitration Agreement

### Some Suggested Topics Include:

- a. Statutory / regulatory requirements
  - Family Law Act
  - Arbitration Act, 1991 / Family Arbitration Regulations
- b. Screening and screener report
- c. Independent legal advice
- d. Certificate of Independent Legal Advice
- e. Certificate of Arbitrator

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## 6. Pre-arbitration Hearing

### Some Suggested Topics Include:

- a. Purpose of pre-arbitration hearing
- b. Framing the issues
- c. Agreed facts
- d. Statements
- e. Arbitration Briefs – content and delivery
- f. Nature of proceeding – oral evidence, documents only, final offer
- g. Date, time, and place of hearing – considerations
- h. List of witnesses and summaries of anticipated evidence
- i. Expert evidence – qualifying experts, delivery of reports, neutral experts of the arbitrator
- j. Transcription of evidence
- k. Motions for interim awards and directions

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## 7. Conduct of the Arbitration

### Some Suggested Topics Include:

- a. Treat parties a. equally and fairly
- b. Application of principles of natural justice
  - Opportunity to present case (TW indent)
  - Opportunity to respond to other's case
- c. Opening the arbitration

- d. Witnesses

- Notice
- Oath or affirmation

- e. Expert witnesses

- Party experts – reports and qualifications
- Arbitrator-appointed expert

- f. Documents

- g. Admissibility of evidence

- h. Argument

- Oral
- Written

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## 8. The Award

### Some Suggested Topics Include:

- a. Law and equity
- b. Jurisdiction of arbitrator
- c. Form of award
- d. Reasons for award
- e. Delivery of award
- f. Changes
- g. Assessment of costs
- h. Arbitration Record
- i. Arbitrator Report
- j. Termination of arbitration

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## 9. After the Award

### Some Suggested Topics Include:

- a. Appeals
- b. Setting aside award
- c. Enforcement of award

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## 10. Professional Skills and Knowledge

### Some Suggested Topics Include:

- a. Conducting initial contact
- b. Screening for domestic violence and power imbalances
- c. Preparing the Family Arbitration Agreement
- d. Facilitating a pre-hearing meeting with the parties and counsel
- e. Managing the hearing
- f. Drafting the Award

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## 11. Ethics and Practice Issues

### Some Suggested Topics Include:

- a. Committing to FDRIO Family Arbitration Section Standards of Practice
- b. Informing prospective family arbitration participants of their ADR process options
- c. Upholding the obligation to screen for domestic violence and power imbalance
- d. Being sensitive to parties' values and culture
- e. Establishing the jurisdiction of the family arbitrator
- f. Understanding family arbitrator impartiality and independence
- g. Obtaining party compliance with statutory requirements of complete financial and other disclosure
- h. Maintaining process confidentiality and explaining its limits to parties
- i. Applying the principles of natural justice in the conduct of a family arbitration hearing
- j. Dealing with common ethical dilemmas
- k. Considering liability issues
- l. Appreciating need for errors and omissions insurance coverage

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## 12. Mock Arbitration and Role-playing (minimum 10 hours)

- a. At least one major mock arbitration hearing is held, attended by all course participants. At the conclusion, each participant must write and submit an award.
- b. A number of interactive exercises that allow examination of a number of practical concerns/ issues related to arbitration.

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