



Model for children's participation in the mediation process

Developed by Gjertrud Jonassen, Grenland Family Welfare Centre



MODEL DESCRIPTION FOR CHILDREN IN MEDIATION (CIM)

History

'Children in Mediation' [Norwegian: Barn i mekling, BIM] was developed in 2012 at the Grenland family counselling office by Gjertrud Jonassen. The programme arose from professional research in the form of conversations with children and parents about problems in the family. The content of the conversations was systematised, showing that the vast majority of children were affected by conflicts linked to the break-up of their parents' relationship. The CIM model was developed on the basis of this work. The aim of the model is to include children in the current mediation process. The model provides for the children to have a separate conversation with the mediator; they do not participate in the actual mediation conversation with the parents. The model subsequently became part of the 'High-Conflict Project' initiated by the Norwegian Directorate for Children, Youth and Family Affairs [Bufdir], and has been further developed locally and in collaboration with other family counselling offices.

The model has been rolled out to family welfare services across Norway and is being used by many offices.





LEGAL FRAMEWORK FOR THE CIM MODEL

Constitution of Norway, section 104

Children have a right to be heard before decisions are made regarding parental responsibility, their place of residence, and access and contact arrangements.

The Children Act, section 31

Children's views shall be heard before decisions are made regarding parental responsibility, their place of residence, and access and contact arrangements.

This means that the parents have a duty to listen to the child before making decisions.

Mediation regulations, section 2

The mediator is required to make the parents aware of the child's right to be heard and his/her own duty to listen to what the children have to say.

The Children Act, section 30

Both parents must give their consent to the mediator talking with their child(ren).

UN Convention on the Rights of the Child, Article 12

The State has a special responsibility to give the child the opportunity to be heard in any legal or administrative proceedings that concern the child.

OBJECTIVE

The purpose of CIM is to offer all children between the ages of 5 and 16 the chance to participate in all types of mediation: mediation in accordance with the Marriage Act, mediation in accordance with the Act relating to Children and Parents in the event of relationship breakdown where the parents are not married to each other, and mediation in accordance with the Act relating to Children and Parents if the case is to go to court.

The mediation process gives the children opportunity to talk about their own reactions to and feelings about the break-up. They will also be able to have their say on their parents' break-up and any conflicts between their parents. The children can also say how they would like things to be going forward. Accordingly, they will have chance to be heard by having their say, and expressing their own wishes, concerns and hopes for the future. The mediator is the children's messenger: Whatever the children want to communicate from their conversation with the mediator is written down and taken into the parents' mediation session.

This enables the parents to take the children's wishes into account in the agreement on access. They will also be helped to consider whether the children need additional support in a difficult situation.

TARGET GROUP

CIM is available to all children between the ages of 5 and 16 whose parents are required to attend mandatory mediation in accordance with the Marriage Act or the Act relating to Children and Parents. Both parents must give their consent to the children attending. If parents consider younger children to be sufficiently mature to take part, children under 5 can also be invited to mediation. This is particularly relevant in the case of siblings.

It is also possible for children over the age of 16 who live at home to take part in the mediation if they and their parents want this.

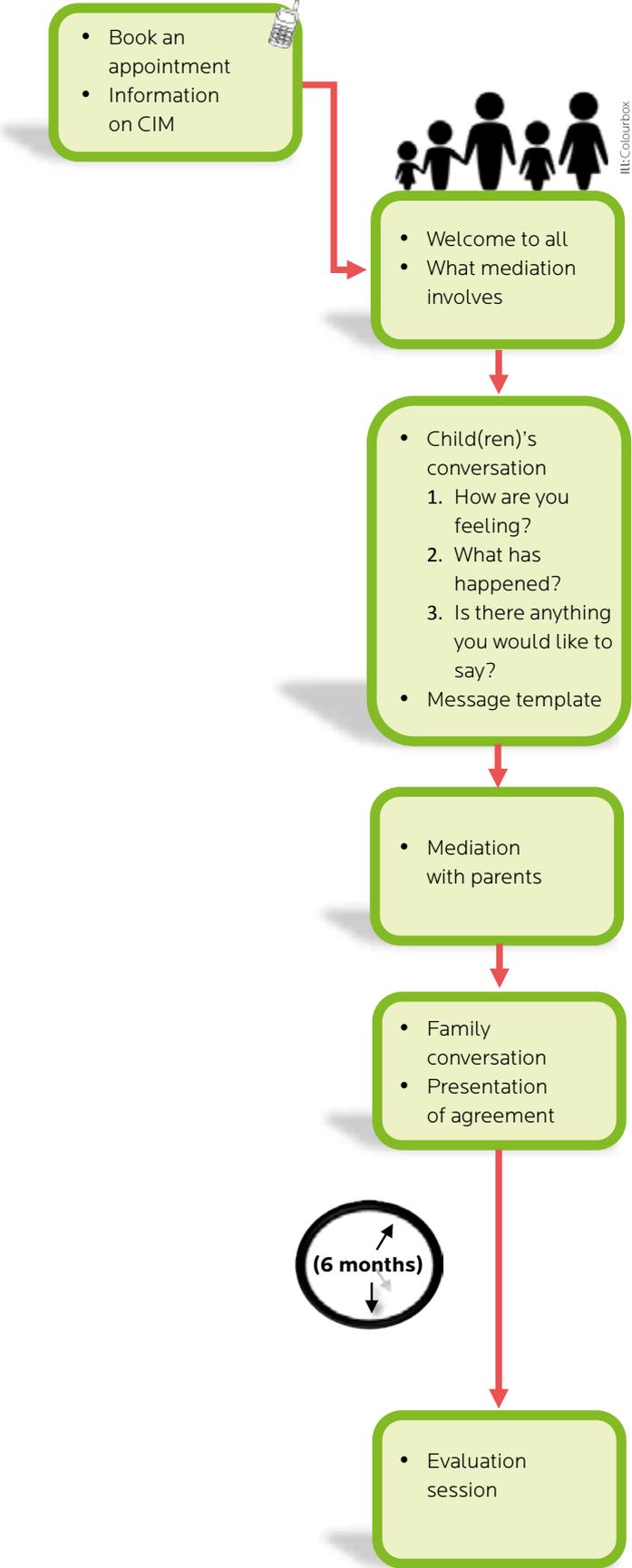
CIM is offered by mediators at family counselling offices in Norway and by external mediators. The model can also be used in connection with issues surrounding parental cooperation and family conflict.

THE CIM MODEL: COMPONENTS AND STEPS

The CIM model comprises three different components: 1) information, 2) implementation and 3) evaluation. There are four steps in the actual implementation of the CIM model:

- Introduction to the CIM process with child(ren) and parents present
- Mediator’s conversation with the child(ren)
- Mediation between the parents without the child(ren) present
- Summing up with both child(ren) and parents.

The CIM model is illustrated in the graphic alongside, with more detail on the different components and steps provided on the following pages.



PART 1 – INFORMATION

The CIM model is introduced to the parents when they ring the family counselling office to make an appointment for mediation. Presenting the model is the responsibility of client-facing employees, so it is important that they are familiar with it. The model is presented as the children's opportunity to participate so that they can say how they feel and how they would like things to be going forward. Both parents will receive an identical invitation to mediation stating that they must both consent to the children attending the mediation session. The invitation to the mediation session will include special brochures for the children explaining what mediation is about. These brochures are sent to both the mother and father.



PART 2 – IMPLEMENTATION OF CIM MEDIATION

When the family arrives for the mediation session, they will meet initially in the waiting room, which is child friendly with toys, books and games.

Most family counselling offices that offer CIM have dedicated mediation rooms fitted with meeting furniture. The mediator sits on the one long side of the table and the family on the other, with the child(ren) between the parents.

Introduction to CIM mediation

The mediator welcomes the family to mediation, addressing him/herself initially to the children and asking if they know why they are there. The mediator then explains what the CIM mediation will involve:

1. Conversation with the child(ren) – child(ren)'s conversation
2. Mediation session with the parents – parental mediation
3. Concluding conversation with all the family – family conversation

The message template in which any wishes from the children are written down is presented. It is made clear that it is up to the parents to decide, but that the children are entitled to have their say.

Finally in this sequence, the parents are asked if there is anything they want to tell the mediator about before the children speak to the mediator alone.

Siblings attend together but are given the chance to have individual conversations with the mediator.

The child(ren)'s conversation

This covers three areas:

- **How are you feeling?**

The responses to this question provide the mediator with a certain insight into how the children perceive the situation in which they find themselves, namely that their parents are to part or that there is conflict surrounding the children that may end up in court.

- **What has happened?**

This gives the children the opportunity to tell their 'divorce story' and talk about their perception and experience of it. A follow-up question is whether they can relate what happened the day they found out that their parents were to part. This gives the children the chance to explore how that felt for them.

- **What kind of things do you wish for the future?**

This allows the children to speak freely about how they would like things to be when they are to live with parents who do not live together. The children are not asked where they want to live.

Towards the end of the conversation, the children are asked whether there is anything they have talked about that they would like the mediator to pass on to their parents. If there is, this is noted in a message template, using the child's own words. The emphasis in the child(ren)'s conversation is on open questions and the negotiator asking the children to talk about things. The mediator avoids yes/no questions and encourages the children to elaborate on their responses by saying 'tell me more'. The mediator will ensure all the siblings are given the chance to speak by addressing each one individually.

Parental mediation

The mediation starts with the mediator providing the parents with feedback from the conversation with the children. The mediator says something positive about the children as a way of 'honouring' the parents. In addition, the mediator thanks the parents for allowing the children to be involved in the mediation. The mediator then reads out what the children have said in the message template.

The mediator continues using the standard format for the mediation. When it comes to drawing up the agreement on access, the parents are asked if anything in the children's messages should be incorporated in the agreement by way of an 'imprint of the children'. If further mediation sessions are required, this is clarified in this part of the session. It is also clarified with the parents whether they will agree to an evaluation session after six months.

The family conversation

The whole family takes part in the final part of the mediation session. If the agreement on arrangements for the children is ready, the mediator will read it aloud to the children, with the parents commenting on and explaining the content if necessary. If the agreement is not ready, the children will be told that the parents have been given another appointment because they need more help and time to finalise the agreement. The children will then be told about the evaluation session after six months. Right at the end of the conversation, the mediator will give the children his/her business card and tell them that they can get in touch via their parents if they need further help at the family counselling office at a later stage.

Some parents need several mediation sessions. It is highly unusual for the children to attend these sessions but there is scope for this if the family wish.



PART 3 – EVALUATION SESSION

The evaluation session after six months follows the format of the initial mediation session.

In the child(ren)'s conversation, the mediator shows the child(ren) the message template from the first mediation session and asks how they are feeling now, what has happened since last time and whether there are things they would like to change that can be communicated to the parents.

In this conversation too, the message template is used to give the children opportunity to communicate things to their parents.

The parents' part of the evaluation session includes both a review of and possible changes to the agreement on arrangements for children and discussion of various cooperation issues.

In the final part of the session, the family conversation, the mediator reads aloud any changes to the agreement or other subjects that the parents wish to communicate to the children. If the children need other forms of support, for example the chance to attend a children's group or services from other public bodies, this can also be discussed in the evaluation session.

GUIDELINES FOR CIM FACILITATORS

In collaboration with the Office for Children, Youth and Family Affairs, Region South, Grenland family counselling office has compiled a brochure entitled 'MEDIATOR GUIDE: CHILDREN IN MEDIATION'.

A film in Norwegian, SimsalaBIM, has also been produced for use in training CIM facilitators.

Use of the film is regulated by Grenland family counselling office.

MATERIALS FOR PARTICIPANTS IN MEDIATION BASED ON THE CIM MODEL

Grenland family counselling office has also compiled a brochure entitled 'WHAT ABOUT ME?' for children participating in CIM.

In addition, a message template is used in all child(ren)'s conversations to record anything the children want to communicate to their parents.

In 2016, the Office for Children, Youth and Family Affairs, Region South in collaboration with Grenland family counselling office published a book called 'MY DIVORCE BOOK', which can be used for children after the mediation process, either at home or in children's groups. The book was edited by Gjertrud Jonassen.

TRAINING PROGRAMME FOR CIM FACILITATORS

The developer of the CIM model has devised a two-part training programme: the first part for new and the second for experienced CIM facilitators. Several mediators in Norway are qualified to offer training pursuant to this programme in collaboration with the developer of the model.





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