

The Curious Things That Happen On The Road To Resolution

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Reflection:

What kind of **conflict behaviours** can you imagine on a road trip with - let's say 2 people you "get" and 2 people you "find annoying"? *Give specific examples from experience.*

Does **conflict behaviour** look different when it is "simmering"? When it is "boiling over"?

While on the road trip, what strategies would you use to address the conflict behaviour?

Do you anticipate disagreement with your road trip "friends" on how to address conflict?

_____ yes _____ no _____ I'm afraid to say!

What do you hope will be better in your life if you are able to manage conflict more meaningfully and productively?

Are you curious about how curiosity can help?

_____ yes _____ no _____ What's the question again?

Cultivating Curiosity to Find Resolution

In Collaborative Practice and Mediation, we have to manage the financial, practical and deeply emotional aspects of separation in order to help our clients reach workable and meaningful agreement. Our clients are often strongly defensive and feel challenged in ways that threaten their very identities. Their behavior can seem demanding, conflictual and “unreasonable”. When we try to *help* them see things from a different perspective, or use active listening to acknowledge the strong feelings, it is often not enough to calm the conflict. What the heck is going on and how can we help?!

Separation deeply affects our clients’ *relational* values and they are feeling threatened and judged – by themselves, each other and the many people who are *trying to help*. Think about it: When you are feeling judged, how do you react?

If we are to deliver a client-centered process that enhances our clients’ abilities to focus on *what matters* and to make good decisions for their futures, we need to be aware that we, just like everyone else, bring our judgments and assumptions to our cases. Clients pick up on these judgments, and defend against our efforts to *help*.

Trying to direct, guide or *tell* someone anything when they are feeling judged and defensive is ineffective and sometimes leads to a further escalation of conflict.

**A shift from judgment to curiosity is vital.
Here’s some evidence as to WHY!**

[Dr. Megan Price](#) explains it this way in an article published in [Revista Mediacion Journal](#):
(available in Spanish and English online)

Becoming Curious about How We Use Our Minds in Conflict

The investigator needs a well-stocked mind, else he will see but not perceive; but the mind needs to be well- stocked more with questions than with answers, else it will be closed and unable to learn.
(Lonergan, 1985, p. 17)

In conflict ... we are wired to use our minds less well. We are contracted, constrained by threat, and pulled down by meanings riddled with error and bias. We resort to uncritical thinking, reactive valuing, limited deliberating, rash evaluating and constrained deciding aimed at defending ourselves against threat. The result is conflict behavior –the kind of stress-based behavior that ignites the conflict cycle that Picard (2016) characterizes as defend-attack-defend patterns of relating. The Insight approach proposes that if we become curious in a targeted way about how we and others are using our minds to make decisions that result in conflict behavior, then change becomes possible.

Dr. Price continues: **On Feeling Really Understood**

Researchers have been studying the effects of both being curious –of asking questions and wondering– and the effects of being on the receiving end of curiosity –of being wondered about. What they are finding is that when we are wondered about and when we feel understood by others, transformative shifts take place. Three decades ago, Prilleltelsky and Lobel (1987) replicated a 1969 study by van Kamm on the experience of “really feeling understood”. They discovered that when individuals have the experience of another’s understanding of them ... three emotions pre- dominate: satisfaction, security and tension relief. These emotions are the opposite of the anxiety, fear and stress that accompany threat. When we feel understood, we relax and we open up; we make connections that feel good, ease threat, and temper defense.

Part of this is due to the fact that people have an inherent desire for self-disclosure. According to Tamir and Mitchell (2012), 30-40% of conversation communicates personal experiences and feelings. Through a series of five studies, they showed what people have experienced for ages – that sharing about ourselves with others has intrinsic value. In fact, self-disclosure is associated with the reward and social bonding centers of our brains and “may serve to sustain the behaviors that underlie the extreme sociality of our species”. (Tamir & Mitchell, 2012, p. 1842). On the flip side, when we do not have the opportunity to self disclose and as a result feel misunderstood, the experience is associated with negative affect and social pain (Morelli, Torre & Eisenberger, 2014)

This is particularly true in conflict. Conflict escalates when we feel misunderstood, because feeling misunderstood activates a sense of threat (Picard, 2016). But, Gordon and Chen find that when individuals perceive that their “thoughts, feelings and point of view” are understood in a conflict situation, that perceived understanding acts as a “buffer against the deleterious effects of conflict” (2016, p. 255). These findings hold true in relationships that range from intimate partners to strangers (Morelli et al., 2014). The satisfaction, security and relief that we feel when we are understood make us feel good, support clear thinking and help us connect with others.

Feeling understood happens when we are listened to and wondered about on our own terms, and the effects are powerful.

So, if curiosity calms, we need to do more of it. For our own sakes as well as for our clients!

Given that curiosity has this positive effect on the giver *and* the receiver, how can we use curiosity to productively engage with our clients? We need to ask better, and more authentically curious questions, and not to assume what the answer might be.

Practice this in very day life. Notice when you are leaning to judgment or assumption.

Pause. Reflect. Wonder. Ask.

FINDING OUT WHAT MATTERS – AND HOW MUCH

“CARES” - VALUES:

Understanding the role of **values** play in conflict can help explain a common situation in family law: **Clients who are not satisfied with outcomes based solely on entitlement.** They “trade” something that matters less to “get” something that matters more.

People act and decide based on what matters to them, and their values matter a lot.

The Insight Approach uses the word “Cares” to describe the values underneath or motivating the conflict behaviour. There are **3 levels of value** – from less important to more important:

INDIVIDUAL – Lowest Level Values: Needs and desires at the individual level, including many of the things we call “interests”. Example: My need for a flexible schedule, a budget for vacation, enough money to pay rent, accommodation that can house my children.

RELATIONAL – Higher Level Values that are about relationship or identity: This is my sense of what it means to be a “good mother”, “good spouse”, “good co-worker”. How good” people behave in a “good relationship”. *Who I am* in relationship with others. How I expect a good friend to treat me. Example: A good co-parent shows respect by a courteous greeting.

SOCIETAL – Highest Level Values: What is good and just in society, including social relationships, social institutions, justice. When these values are threatened, people might give up relational and individual values to fight.

People will “give away” a lower level value to meet a higher level value:

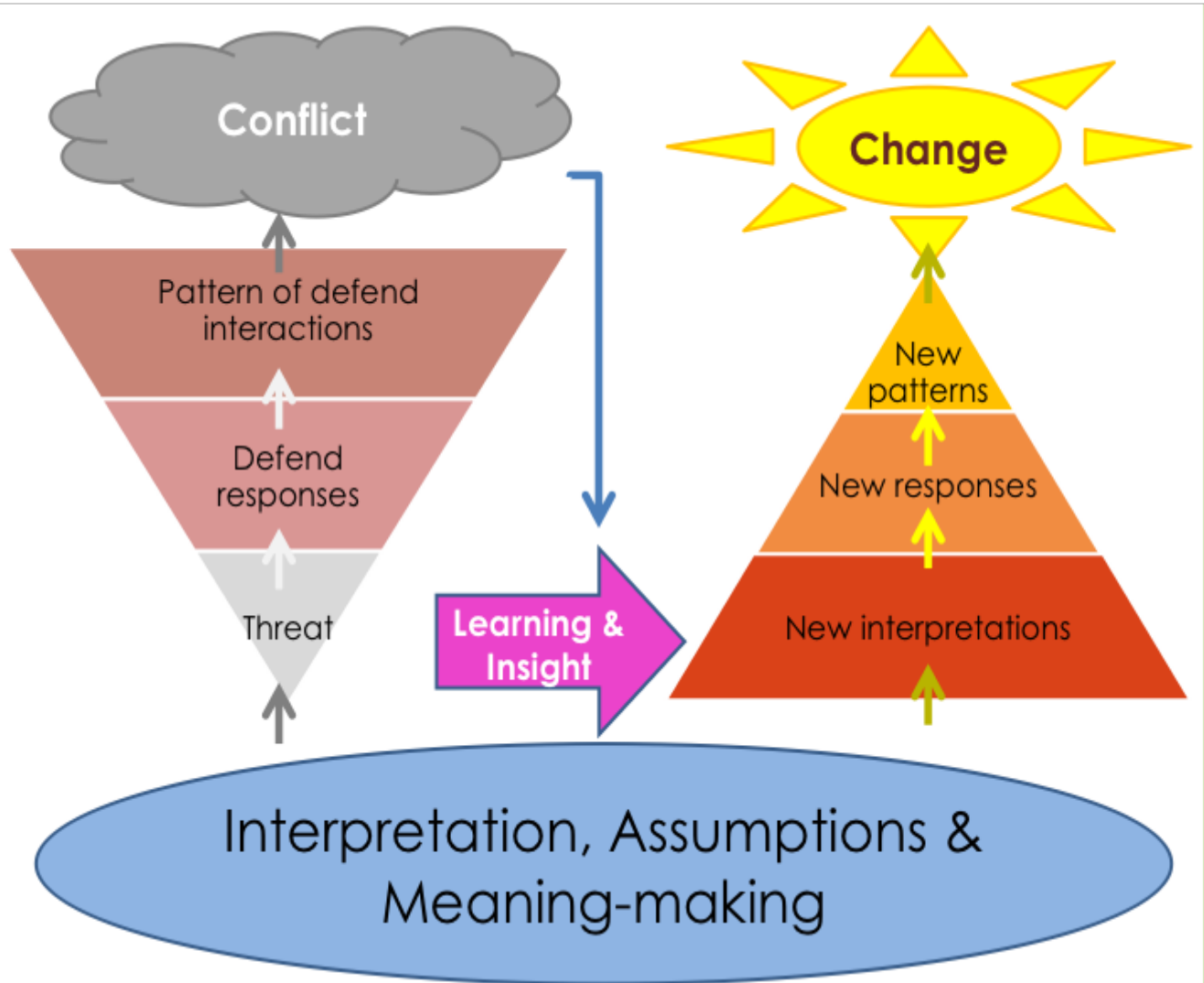
I will accept less child support in order to have a positive co-parenting relationship.
OR *I will accept your proposed schedule, because I know the structure is better for our children and building a cooperative working relationship is more important than winning.*

I will pay more spousal support because I am a good person who honours my commitments.
OR *I will not ask for as much spousal support because I see myself as an independent, competent and optimistic person.*

I will not unilaterally make this parenting decision, even though I am entitled to, because I value a cooperative relationship with our children’s other parent

CONFLICT THEORY IN THE INSIGHT APPROACH

1. Conflict emerges from defensive responses to threat: I respond defensively because of my interpretation that your actions will have unwelcome or dire consequences. You react defensively to my defending.
2. Conflict escalates through our ongoing defensive reactions to interpretations of threat.
3. The Insight Approach encourages dialogue that helps parties discover new interpretations and engage in less threatening patterns of behavior.
4. This leads to learning and insights that can change the conflict situation for the better.



WE EXPERIENCE SOMETHING AND MAKE MEANING OF IT

THE SKILL OF NOTICING

In the Insight Approach, we first want to learn to NOTICE conflict behaviours.

Conflict behaviours (also called defending behaviours) include:

- trying to persuade or “prove it “
- justifying
- interrupting – “yeah, but...”
- repeating details, arguments, statements
- rejecting ideas before they have been fully presented
- reassuring (surprisingly, this can be a defending behavior)
- body language that demonstrates “I’m not listening”
- other examples you can think of

These defending behaviours tell us that someone is *defending from a threat*, and that *what feels threatened matters a lot*.

When we experience these behaviours, we often reassure parties that things will get better, or we might remind them of their previously agreed communication guidelines and ask them to stop the behaviour. But often this leads to **more defending!**

Some examples of conflict (defending) behaviours you have noticed:

Some typical responses to these behaviours:

Thoughts on the effectiveness of these responses:

LISTENING TO UNDERSTAND

Listening to understand is similar to active listening, but it emphasizes the importance of the intervenor “learning” something from the speaker, and then “verifying” that what they learned is correct. It is about how I interpret what you say or do, and then verifying that my interpretation is actually what you intended – before you go further with questioning.

EXAMPLE:

Speaker: *She is pushing the kids too hard to accept this separation and move on. They need time to heal and she needs to back off!*

Intervenor: Acknowledge/paraphrase **what you interpreted** from what you heard:

“Ensuring the kids have a healthy adjustment to the separation is very important to you.”

Or acknowledge the feeling: *“You seem really worried about the kids.”*

Then Verify before moving on. If your interpretation is right, you move to the next step. If it isn’t, then the speaker gets a chance to clarify.

Then explore through genuine, curious, open questions, such as:

“What are you worried will happen if the kids don’t have a healthy adjustment?”

“How are the kids doing?”

“What are you most concerned about?”

**Listening to understand differs from active listening because
*it is focused on ensuring that my interpretation of what you said is accurate.***

Simply paraphrasing is not enough. If I expertly paraphrase what you said without stating what I interpreted you to mean, *then I can never be sure I have it right.*

The listening response must be what you interpret from what was said or done. Then the other person has a chance to verify or explain what was truly intended.

ASKING ABOUT THREATS

First Step:

Notice conflict / defending behavior.

Second Step:

Genuinely wonder about what is behind the strong emotion and defend behavior. (This is your internal work). Drop assumptions. Do not “diagnose”. Be internally curious.

Third Step:

Use bridging and/or a curious questions **to discover what is feeling threatened.**

You might start with a bridge and then a question:

- *You seem hesitant about her suggestion (bridge), please talk about your doubts so we can better understand.*
- *You seem frustrated even looking at this latest proposal (bridge). What’s holding you back from even being able to discuss it?*
- *After noticing an eye-roll of exasperation you say: Her suggestion is clearly frustrating you.(bridge) What’s your worry if that were to happen?*

You might go straight to a curious (theat-based) question:

- *What concerns you most?*
- *What is threatening about this plan?*
- *What are the dangers of doing this now?*
- *What is making you so uneasy?*
- *What’s blocking you from moving forward?*
- *What worries you about the draft plan?*
- *If you can’t agree, what are you worried will happen / or not happen?*

Remember: Conflict behaviours tell us something of importance is being threatened. Asking about the threats helps us reveal and address the threat causing the behavior.

THE HOPE QUESTION

In the Insight Approach, we begin by asking the parties how they imagine a productive or meaningful discussion will change their lives for the better. It is called the “Hope Question”.

While many of us know the importance of asking about the parties’ hopes, the Insight Hope Question is purposefully focused on each party’s motivation to participate in meaningful discussion. Instead of asking about issues or problems that need to be solved, the Hope Question asks parties to imagine how being able to engage in dialogue today will improve their situation tomorrow. This is not a question about individual interests or needs. It’s a question that aims to bring out the higher-level relational values and the underlying motivation for engaging in discussions to work things out.

The Hope Question

What do you hope will be better in your life if you are able to work this out in collaboration?

What do you hope will be better tomorrow if you are able to have a productive conversation together today?

The structure and content of the Hope Question makes a difference. We need to ask the clients what impact they hope a productive conversation will have on their lives.

And we often will have more work to do as each person answers. Bridging, layering, verifying interpretation, asking about threats – all of these interventions may be needed while working with the Hope Question. See the examples later in the Workbook.

When to Ask the Hope Question

At the beginning of the process:

The Insight Approach says **start here**. The structure of the Hope Question is more likely to result in reflection and response that is about relational (second level) values. It can be helpful to tell the clients in your individual preparation meetings that you will be asking them this question, and why. Transparency works well with this question.

Communication Flare-ups:

As the parties’ conversation goes on to other topics, you may find an opportunity to ask the Hope question again. For example, if one party begins interrupting (a conflict behaviour), and

and the other party complains, instead of calling on a communication guideline and asking the “offender” to stop, you could go deeper by asking Jack:

If Diane allows you to express yourself without interrupting, what do you hope will be better as a result?

As Jack responds, ask again about what he hopes will be better if they can have a productive discussion. Then notice how Diane is reacting as she listens to what Jack hopes will be better. Ask Diane and interpretation question and loop as needed to help each party hear and understand the other.

At Impasse:

In so many cases, we feel hopeless at impasse. Pause, Breathe, and Ask what will be better in Jack’s and/or Diane’s life if they are able to have a meaningful conversation to work things out. The Hope Question is about their motivation to “do the work” to work this out and its purpose is to bring to their Cares to the surface, and reveal the threats that are under the surface and fuelling the impasse. Then we can work to change the defending patterns of behaviour and open up learning.

If the clients are not motivated to do the work to work things out, it is probably time for a break. Their answers to Hope Question will tell us. We don’t need to guess.

In the Midst of Conflict:

Noticing the conflict behaviour will help you know when to ask the Hope Question, but be careful not to ask about “hopes and dreams”. This will escalate the parties’ frustration! Ask what the parties hope will be better *if they can work through the conflict*, rather than focusing on the problem to be solved. This can lead them to reflect on their higher level - relational values about how they want to be treated, or what it means to be a “good person” in this moment. Ask, don’t assume.

PRACTICE:

What do you hope will be better tomorrow if _____

What do you hope will be better in your life if _____

PRACTICE WHAT YOU HAVE LEARNED

A CONFLICT BEHAVIOUR I NOTICED: _____

*My reflection (inner work):*WHAT I WAS CURIOUS ABOUT WHILE NOTICING?

DID I MAKE ANY ASSUMPTIONS? _____

Building my bridge

THE BRIDGE (an acknowledgement that contains my interpretation of what was expressed):

FOLLOWED BY A CURIOUS QUESTION:

A CONFLICT BEHAVIOUR I NOTICED: _____

*My reflection (inner work):*WHAT I WAS CURIOUS ABOUT WHILE NOTICING?

DID I MAKE ANY ASSUMPTIONS? _____

Building my bridge

THE BRIDGE (an acknowledgement that contains my interpretation of what was expressed):

FOLLOWED BY A CURIOUS QUESTION:

GETTING UNDERNEATH POSITIONS – WHAT’S THE *WHY*?

My **position** is my plan for what will solve the problem as I see it. It’s my preferred solution. In negotiation, this will often come across to the other party as a **demand**.

The **WHY** beneath my position or demand is related to many things, including:

- my values
- my “interests”
- the underlying needs I hope to meet
- the concerns I want to address
- the fears I want to avoid
- the hopes I have for the future

If we can facilitate dialogue that helps our clients unearth and articulate **what matters** – in a productive way - we can help them make decisions that meet their needs, address their concerns and give them the best chance to “get” what they hope for.

It offers the best chance of achieving **GOOD SOLUTIONS** and **GOOD RELATIONSHIPS**.

Individual - Substantive Interests relate to the concrete needs and concerns of the parties. Scheduling, budgetary, housing and educational needs are all substantive needs. Asking about and articulating these interests creates a detailed criteria for the best outcome.

Examples:

1. Enough money to pay expenses in two homes
2. Children able to participate in meaningful activities
3. A schedule that responds to changes in work schedules
4. Shared responsibility for children’s extracurricular commitments
5. Balance need for structure *and* flexibility in parenting schedule
6. A comfortable, workable home for the children with each parent
7. Reduce interest payments / make more money available for expenses
8. Budget for retraining costs
9. Plan for responding to changes in career commitments
10. Budget that allows for retirement savings

We also learn what matters in relation to *how* parties make decisions, or about the *process* they will use to reach agreement. If you are wondering how important these interests are, notice how often people say they “can accept the outcome, but they just didn’t like *the way* it happened.”

Examples:

1. Time to think/reflect before deciding
2. Help to fully understand the financial information
3. Being heard.
4. Ensuring all perspectives will be considered
5. Scheduling collaborative meetings around my work / travel commitments
6. Recognition and accommodation of different communication styles
7. Respectful tone in discussions

Relational Values = “Cares” are the values that inform how I want (or expect) to be treated, my sense of identity, what it means to be a good parent, spouse, friend, colleague. These show up in our work and cannot be ignored.

You can learn more about Cares by reading Cheryl Picard’s book [Practicing Insight Mediation](#).

Examples:

- Having input into parenting decisions
- Respect for different parenting styles and priorities
- Acknowledging our different contributions to our family’s health and wealth
- Opportunities for fulfilling career
- More balance in work and family life
- Peacefully interacting at milestone events for our children
- Autonomy in future financial decision-making
- Strong relationships with children and both parents
- Ensuring children have meaningful contact with both extended families
- Healthy communication to address change
- Showing respect – being respected

The Products of our Curiosity

EXAMPLE: Listing By Topic

Our Children

- Spending structured and unstructured time with our children
- Taking part in decisions affecting our children
- Being a positive influence and role model for our children
- Healthy adjustment for children
- Improving communication between parents
- Supporting strong relationships with children and both parents
- Managing introduction of new partners sensitively
- Respecting different parenting styles
- Having consistent discipline approach on important issues

Managing Expenses

- Shared responsibility for meeting the children's needs
- Ensuring children participate in meaningful extracurricular activities
- Support both parents' needs for balance in work-life and child-rearing
- Finance retraining expenses
- Respond to changes, as children grow
- Autonomy in individual spending choices
- Saving for retirement
- Planning for kids' educational costs

Assets & Debts

- Feel that we have been fair to one another
- Ensure children have a comfortable home with both parents
- Recognize contribution of extended family to our wealth
- Balance need for current cash flow with desire for retirement planning
- Maintain familiar neighbourhood for the children
- Plan for post-secondary costs
- Recognize different ways we each contributed to our family
- Reduce interest payments / make more money available for expenses
- Have autonomy in retirement decisions (timing)

HOW TO KEEP WHAT MATTERS “ON THE TABLE”

Ask NEW questions and create a Decision-making Agenda that incorporates what matters to lead the parties and the team in option generation.

*Remember: What was an issue at the beginning might now be resolved.
And new issues often arise.*

The Decision-Making Agenda is created after the parties have identified their interests and values, and gathered all the necessary information - and before option generation.

Steps to create Decision-Making Agenda

- 1. IDENTIFY: Identify categories of issues / problems to be solved.** For example:
 - parenting arrangement
 - managing household expenses in two homes / financial support
 - dealing with property and debt
- 2. DISCUSS: Review the relational values and substantive interests that have been identified.**
 - Think about which interests relate to which issues – there will be overlap as some interests apply to more than one issue.
 - Identify the priority interests and values. You might find that some can be summarized into one or two broader phrases but do not revert to “world peace” statements! Be sure to articulate what the parties said is important. Choose the priority interests related to each issue.
- 3. CREATE: Create the Decision-Making Agenda – a carefully articulated question that summarizes:**
 - the issue to be solved (broadly stated in a mutual, constructive way); and
 - 3 or 4 interests and values related to that issue
 - always include the priority common interests that are related to the issue
 - include separate interests if they are a priority to one client (i.e. a parenting schedule that balances flexibility with the need for structure.)
 - Always include at least one **common relational value** to ground the parties in focusing on what they both hope for.

EXAMPLE - Parenting Issues

Broadly state the issue: Making a Parenting Plan for our Children.

Review and discuss the values and interests that relate to this issue:

- Ease children's stress as they transition into two homes
- Recognize children's need for time to adapt to new family reality
- Provide routine and structure
- Allow flexibility to respond to changes in parents and children's needs
- Demonstrate cooperative parenting relationship
- Reduce stress in parental interactions
- Support strong relationships between children and both parents
- Ensure connection with extended families
- Minimize disruption to children's activities, friendships and schools
- Value input and perspectives of both parents
- Provide consistent discipline on important issues\

Create Decision-Making Agenda: Choose the priority values and interests and create a Decision -making Agenda that tasks the parties to find solutions that meet their needs, values and interests:

Example One: Breakdown the issues to workable sub-issues (i.e. scheduling and communication) and add related values and interests:

How will we schedule time with our children in a way that supports strong parent child relationships, provides structure and is responsive to changes?

How will we communicate effectively so that we can make joint parenting decisions, reduce the stress of our interactions and model cooperative parenting to our children?

Example Two: Create one Decision-Making Agenda that incorporates all:

How will we parent our children in two homes in a way that:

- supports strong relationships between the children and both parents
- provides for consistency and routine
- allows for change as the children grow
- values each parent's perspective and parenting style.

EXAMPLE - Financial Decision-Making Agenda

Broadly state the issue(s):

Managing incomes and expenses in two homes or reaching a financial settlement.

Review and discuss the values and interests that relate to this issue:

Managing Expenses

- Meeting household needs in two homes
- Utilizing both parents' resources to benefit the children
- Ensuring children participate in meaningful extracurricular activities
- Support both parents' needs for balance in work-life and child-rearing
- Ease children's adjustment to both parents' working
- Support Jane's retraining and return to work plans
- Autonomy in individual spending choices
- Saving for retirement
- Planning for kids' education
- Enabling family vacations for each household

Assets & Debts

- Fairness – that our agreement feels fair to both of us
- Recognize contribution of extended family to acquiring wealth
- Balance need for current cash needs with desire for retirement planning
- Maintain familiar neighbourhood for the children
- Allocate resources for post-secondary education costs
- Recognize different ways we each contributed to the wealth
- Reduce interest payments/make more money available for all

Create Decision-Making Agenda: Incorporate key interests into task-oriented statement.

How can we manage expenses in two homes in a way that supports a healthy adjustment for the children, acknowledges our different career paths and plans, enables shared financial and parenting responsibilities for our children, and independent financial decision-making in other areas.

How can we allocate our assets and debts in a way that maintains our children's connection with their neighborhood, supports career and family life balance for both of us, and recognizes the different ways we each contributed to our family.

PRACTICE SHEET – DECISION-MAKING AGENDA

HOW WILL WE i.e.) create a parenting plan _____ **IN A WAY THAT**

(interest) _____,

(interest) _____,

AND

(relational value) _____.

HOW WILL WE i.e.) manage expenses in two homes _____ **IN A WAY THAT**

(interest) _____,

(interest) _____,

AND

(relational value) _____.

HOW WILL WE i.e.) divide our property and deal with our debt _____ **IN A WAY THAT**

(interest) _____,

(interest) _____,

AND

(relational value) _____.

Asking Questions

Broadening Questions: *Invite more comment. Get at hidden messages*

Examples:

- What else happened when _____?
- How did you respond to that?
- Tell me more about _____?
- How would that help?

Clarifying Questions: *Clear up ambiguities, terminology*

Examples:

What do you mean when you say _____?

Can you give an example of a time when _____?

When you say _____, I'm not sure I understand. Can you say more?

What kind of agreement was involved?

Where do you see the challenge with _____?

Consequential Questions: *Outcome Oriented Questions – to reflect on potential outcomes*

Examples:

What do you think will happen if _____?

Who do you think will be affected?

How might that affect your concern about _____?

How would that help with your concern about _____?

Which of your concerns would that address?

What needs would be met with that proposal?

Exploring What Matters *Get at underlying needs, concerns, hopes, fears*

Examples:

What do you hope will be better if you are able to have a productive discussion about this?

What concerns you about _____?

What do you worry will happen if you are unable to agree?

What is it about _____ that is important to you?

What needs, or hopes, could be met by implementing that plan?

Articulating What Matters *Name it and verify it (watch and listen to the response you get)*

Examples:

Sounds like _____ is something you really value.

So you need an agreement that addresses your concern about _____.

I see that _____ really matters to you.

You're hoping that reaching agreement will help you _____.

You're really concerned about _____.

Being acknowledged for _____ is important to you.

Acknowledging – Bridging - Asking: *Bridge and ask a question related to the bridge.*

This proposal is drawing a strong reaction from you. What are you worried will happen if this financial arrangement is put into place?

You're really worried about how the new schedule will affect the kids. What are you most concerned about?

Talking about this has been difficult. What are you hoping will get better if you and Diane are able to have a productive discussion about this today?