

**Family**

# More the merrier: Two-person parenting co-ordination model

By **AJ Jakubowska and Maytal Michaelov**

AJ Jakubowska



Maytal Michaelov

(December 4, 2023, 11:46 AM EST) -- Parenting co-ordination is garnering increasing attention as a viable family dispute resolution modality. For co-parents experiencing sustained post-parenting-plan conflict, it is an option that could serve to mitigate, if not altogether eliminate, the risk of harm to children resulting from exposure to ongoing strife between their parents.

This esteemed publication has already featured several articles on the potential benefits of parenting co-ordination. As part of the ongoing conversation on this topic, their authors have explored what parenting co-ordination actually is and is not, how it functions in practice, and whether courts can order the appointment of a parenting co-ordinator (PC) if one or both parents object. In a recent article, one of the co-authors noted that when family court judges order PC involvement, it is most often based on an adjusted model — one that does not include transferring arbitral powers into the hands of the PC. In fact, parenting co-ordination is malleable to an extent, broadening its possible application to a variety of situations that need ongoing, sophisticated conflict management.

In this piece, we explore the recent emergence of another permutation of the model — one that continues to include both mediation and arbitration but has those functions performed by two distinct professionals — the two-person model.

In classic parenting co-ordination, there is a single professional selected by the parents to assist them with the interpretation, implementation, monitoring and management of their existing parenting arrangements. Based on their multifaceted designation, the PC assumes a role akin to that of a case manager. The PC's overall goal is to help the parties disengage so they can co-parent more effectively, and over time, hopefully require less assistance from the PC to do so. Through coaching and education, conflict management, discussion and negotiation, as well as co-ordination with other service providers involved with the family, this professional tackles not only everyday parenting issues, but also more substantial and substantive topics (all within the PC's jurisdiction as spelled out by the parties). This stage of the classic model is highly mediative in practice, and is often referred to as the consensus-building phase.

Many parents are attracted to the classic parenting co-ordination model because it also offers and delivers resolution, as part of a single process, for irreconcilable issues on which the co-parents cannot agree. This happens in the second stage of parenting co-ordination, when the PC becomes a decision-maker in the context of a "secondary arbitration." Here, issues on which there is no consensus are arbitrated by the PC, resulting in a final and binding "award." Importantly, such awards can be made expeditiously and often by way of summary procedure. The PC's ability to dispose of contentious issues through awards, following an effort at resolution through consensus, can mean an overall reduction in the level of conflict between parents. In turn, less parental conflict means less risk of harm to children.

## **Redefining parenting co-ordination: Two-person model**

In the two-person parenting co-ordination model, two professionals are involved, and they have very separate and distinct roles in the process. Both are trained PCs, but one presides over the consensus-building phase and the other over the decision-making phase. Such pairings often (but not always) involve a mental health professional for the mediative stage and a lawyer for the arbitration stage. The two-person model is to be distinguished from mediation/arbitration where the professionals are involved to deal with issues at a slice in time. In the two-person model, both PCs remain involved with the parents for the duration of the service contract (PC Agreement) but the PC/arbitrator takes an active role only on issues that cannot be resolved on consent.

In selecting this model, the co-parents will need to turn their minds not only to the selection of the two professionals, based on their areas of expertise perhaps, but also to the flow of information, if any, between the PC/mediator and the PC/arbitrator. In other words, how much information gathered in the consensus-building phase, if any, is to be made available to the PC/arbitrator for the purposes of the award being made on a contested issue. This is an area open for discussion and negotiation.

### **Pros, cons of two-person model**

As expected, there are pros and cons to the two-person model. The involvement of two professionals whose rates may vary could be seen as both a strength and a weakness of this model. If one of the professionals is more expensive than the other, based on their qualifications and experience, for example, this translates to increased costs for the parents. It also requires the parties to consider that two professionals will often result in two initial retainers. Despite these factors, a PC/arbitrator's added, and potentially higher rate, may serve as incentive for the parents to resolve more issues through dialogue.

We support the two-person model and practise it as well. It has an important selling feature that may not be appreciated by the parents at the outset, but can make a tangible difference to the conduct of parenting co-ordination over time: the PC/mediator is shielded from any chilling effect the parents may experience after an award is made. We state the obvious when we say that parenting co-ordination awards are made when they are required to address an issue in dispute. When such an award is issued, often one parent is pleased and the other is not. The parent who is not pleased may perceive the decision-maker as "having sided with" with the other parent. But life is expected to go on, meaning that the parents are to return to working with the PC once again on consensus-building. This can be a challenge. Over time, and as successive awards are issued, a difficult parent may begin to disengage from the process based on their perception that the PC is not neutral. This "disengagement-creep" is avoided altogether in the two-person PC model.

### **Towards new parenting co-ordination model**

By highlighting the merits and drawbacks of the two-person model, we do not mean to suggest that a mental health professional cannot competently arbitrate as part of the PC process nor are we implying that a lawyer/PC cannot coach and educate the parties on the effects of their conflict on a child. However, there is something to be said for areas of expertise and experience. Many family law lawyers, for example, do not have experience interviewing children, and would not be comfortable conducting such interviews without some further training. On the other hand, health-care professionals are generally wired to help people through dialogue rather than by making a decision for them. The two-person model addresses this directly. More than giving the professionals the ability to work in their areas of comfort and competence, it grants parents some added assurance that the functions performed by each PC are uniquely suited to their knowledge and training.

In this model, the co-parents still benefit from a single modality addressing their conflict on parenting issues — and with the successive stages of consensus-building and decision-making (if necessary). But they may also perceive less risk in expressing their genuine settlement positions to the PC if they know a different professional will make a decision on the issue, if required: someone whose award will be based solely on the evidence presented.

*AJ Jakubowska is a family law lawyer, mediator and parenting co-ordinator. She practises in Newmarket, Ont. Maytal Michaelov is a clinical social worker who brings 10-plus years of experience*

*working with children and families. She is an accredited family mediator and parenting coach, whose primary area of focus is dispute resolution and supporting clients in high conflict situations, separation, and divorce.*

*The opinions expressed are those of the author and do not reflect the views of the author's firm, its clients, Law360 Canada, LexisNexis Canada, or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.*

*Photo credit / bagira22 ISTOCKPHOTO.COM*

*Interested in writing for us? To learn more about how you can add your voice to Law360 Canada, contact Analysis Editor Peter Carter at [Peter.Carter@LexisNexis.ca](mailto:Peter.Carter@LexisNexis.ca) or call 647-776-6740.*

---

© 2023, Law360 Canada. All rights reserved.