



CODE OF PROFESSIONAL CONDUCT FOR MEDIATION IN SCOTLAND

1. Document Purpose

A mediator must use judgement that reflects the high ethical standards which mediation requires.

This Code is intended to give a framework for the conduct of all forms of mediation in Scotland. In doing so it seeks to serve as a guide for the conduct of mediators; to inform the mediating parties; and to promote public confidence in mediation as a process for resolving disputes.

2. Definition of mediation

Mediation is a process in which an independent third party (the mediator) facilitates the resolution of a dispute(s) between two or more parties by promoting the parties' voluntary agreement (or self-determination) of the dispute(s). The mediator facilitates communications, promotes understanding, focuses the parties on their interests and seeks creative solutions to problems that enable the parties to reach their own agreements. The nature of mediation is such that it can take in person or online.

Before the mediation

3. Advertising and solicitation

In advertising or offering services, the mediator shall not guarantee settlement or promise specific results. All information provided by the mediator about their education, background, mediation training and experience shall be accurate.

4. Terms of Engagement

Appropriate for context, the mediator shall provide parties in writing with comprehensive terms of engagement including but not limited to information on the process, any fees, complaints, and indemnity.

The mediation

5. Competence

The mediator must be competent to carry out the mediation.

The mediator shall be suitably qualified and undertake supervision and continuing professional development to maintain necessary mediation competencies. A mediator shall mediate only when he/she has the necessary competencies to carry out the mediation. This is outlined in the documents Practice Standards for Mediators in Scotland and Practice Standards for Family Mediators in Scotland.

6. Independence and Conflicts of Interest

The mediator must be free of any conflict of interest or other factor that could compromise independence. If the mediator becomes aware of any reason which may diminish their independence, they shall disclose this to the parties at the earliest opportunity and withdraw from the mediation unless the parties do not wish them to do so.

7. Confidentiality

Unless compelled by law, or as necessary to avoid harm, or with the consent of all the parties, a mediator shall keep confidential any information given during the mediation process.

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8. Voluntary participation and self determination

The mediator must ensure that the parties understand the meaning and nature of the process and are voluntary participants in it.

The mediator must ensure that the parties are able to give informed consent to the mediation, throughout the process, and to any agreement reached.

9. Impartiality

The mediator must act with impartiality and serve the parties equitably.

10. Power Imbalance

The mediator must be alive to power imbalances between the parties. If such imbalances are affecting the ethical conduct of the mediation, the mediator must take reasonable steps to address them.

If the mediator believes that, because of power imbalances, the mediation cannot ethically be conducted, the mediator is under a duty to terminate the mediation.

General

11. Professional Conduct

Mediators who find themselves in situations which might involve bringing mediation into disrepute should recuse themselves. Where a complaint is made against a mediator the mediator will cooperate fully in any subsequent investigation.

12. Equality and Diversity

The mediator shall understand and promote an inclusive approach recognising the diversity of participants, taking account the needs of the parties and make reasonable adjustments based on those needs.

13. Sustainability

The mediator shall have regard to best practice to try and ensure, wherever reasonable, their practice is environmentally sustainable.

Other related documents

Additional guidance and support to mediators offering case studies and advice on behaviours and practices required shall be published by Scottish Mediation. Current documents

[Practice Standards for Mediators in Scotland](#)

[Practice Standards for Family Mediators in Scotland](#)

[Scottish Mediation Complaints Procedure](#)

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