

Code of Practice

1.0 Eligibility of Mediators

- 1.1 A person is not eligible to act as a mediator unless he or she has undergone such training as required by the Society and engages in appropriate continuing education and/or practical experience in mediation.
- 1.2 If a mediator or a partner or employee of the mediator has represented one of the parties to the mediation during the three years preceding the mediation, the mediator shall not act as a mediator.
- 1.3 Neither the mediator nor a partner or employee of the mediator shall represent any party to the dispute after the mediation in any matter relating to the subject matter of the mediation.
- 1.4 The mediator shall not act as mediator if any party to the dispute would reasonably apprehend a bias on the part of that mediator.

2.0 Introduction of the Mediator

- 2.1 After appointment, the mediator should introduce himself or herself to the parties and the parties shall have an obligation to satisfy themselves as to his or her suitability as mediator.
- 2.2 The mediator should outline the principles of mediation as a voluntary and confidential dispute resolution process in which an impartial mediator facilitates negotiations between the parties with the object of concluding a voluntary and mutually acceptable settlement.
- 2.3 The mediator should establish with the parties the amount of disclosure which will be required for the mediation and that the parties are aware of the possible admissibility or inadmissibility in subsequent proceedings of information disclosed in the mediation.
- 2.4 The mediator should advise the parties of the desirability of their being able to present a brief outline of their case at the start of mediation.
- 2.5 The mediator should advise the parties that they are not legally required to make concessions or to reach an agreement.
- 2.6 The mediator should discuss any possible conflict of interests and disclose to the parties any facts which may be reasonably regarded as having a bearing upon his or her impartiality
- 2.7 The mediator should discuss the costs of the mediation with the parties.
- 2.8 The mediator should ensure that each of the parties is aware of their right to legal representation during the mediation.
- 2.9 The mediator should ensure that the parties at the mediation hearing have authority to settle the matter.

3.0 Conduct of the Mediation

- 3.1 The mediator has a duty of impartiality to the parties and should not behave in any way which displays partiality or bias to either party.
- 3.2 The mediator should adopt an approach which is entirely free of any discrimination on the basis of race, gender, religion or political belief.
- 3.3 In discussing settlement proposals with the parties, the mediator should be sensitive to the fact that one of the parties may be under pressure to settle the dispute.
- 3.4 The mediator has no authority to impose a solution on the parties.

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- 3.5 The mediator may attempt to define or to assist the parties to define the issues involved and to enable the parties to focus upon the underlying issues, interests and needs.
- 3.6 The mediator may propose possible solutions but it is desirable that the parties should first be encouraged to generate their own solutions.
- 3.7 Any proposals made by the mediator as possible solutions should be put forward as a suggestion for the parties' consideration and not as the mediator's preferred settlement.
- 3.8 The mediator has a duty to the parties not to breach confidences entrusted to him.
- 3.9 The parties are free to have legal representation at each part of the mediation process.
- 3.10 The mediator may adjourn the mediation if he or she reasonably considers it to be appropriate.
- 3.11 The mediator shall be under an obligation not to use any information gained from the mediation for personal gain.

4.0 Termination

- 4.1 Each party has the right to withdraw from the mediation at any time.
- 4.2 The mediator should terminate the mediation if at any time he or she believes that the parties are abusing the process, that there is no reasonable prospect of reaching a settlement or if a miscarriage of justice is likely to arise.
- 4.3 If the mediation results in a settlement, the mediator should seek to ensure that the terms of the settlement are put into writing and that the parties are advised as to the legal effects thereof.

5.0 Complaints and Discipline

- 5.1 The mediator shall submit to such complaints and disciplinary procedures as the LSMS may establish from time to time.