

GUIDELINES ON THE PRACTICE OF MEDIATION

Adopted by the Policy Committee of the Scottish Mediation Network on 26.5.04

Preamble

These Guidelines are intended to form a baseline for the conduct of all forms of mediation in Scotland. It is expected that the different strands of mediation will, if they have not already done so, develop complimentary and more detailed guidance.

Mediation is a process in which disputing parties seek to resolve their differences with the assistance of a trained mediator acting as an impartial third party. Mediation is voluntary and aims to offer the disputing parties the opportunity to be fully heard, to hear each other's perspectives and to decide how to resolve their dispute themselves.

Voluntary participation and self determination

A mediator shall recognise that mediation is based on the principle of voluntary participation and un-coerced self-determination by the parties.

Impartiality, independence and neutrality

A mediator shall remain impartial, independent and neutral. If a mediator becomes aware of any reason which may diminish her/his impartiality, independence or neutrality, he/she shall disclose this to the parties at the earliest opportunity and withdraw from the mediation unless the parties do not wish her/him to do so.

Conflicts of Interest

A mediator shall disclose all actual and potential conflicts of interest reasonably known to the mediator whether before or during a mediation and shall withdraw from the mediation unless the parties do not wish him/her to do so.

Competence

A mediator shall be responsible for undertaking sufficient training, supervision and continuing professional development to maintain necessary mediation skills. A mediator shall mediate only when she/he believes that he/she has the necessary skills to carry out the mediation.

Confidentiality

Confidentiality in mediation is important to encourage all participants to speak truthfully and candidly, and to enable a full exploration of issues in dispute. Unless compelled by law, a mediator shall not disclose any of the information given during the mediation process.

Understanding of mediation

A mediator shall ensure that the parties understand:

- the purpose and procedure of the mediation;
- the role of the parties and the mediator;
- any fee arrangement;
- the obligation of confidentiality.

Advertising and solicitation

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

Gifts and favours

A mediator must not accept from or exchange any gift or favour with any party in any mediation. A mediator must use judgement that reflects the high ethical standards which mediation requires.

Discrimination

People should always be treated with respect and without discrimination.

Complaints and Professional Indemnity Insurance

A mediator shall provide information about the process for handling any complaint made about their conduct or service, and about any professional indemnity insurance cover they may have.