

## **CIVIL MEDIATION COUNCIL INDIVIDUAL REGISTRATION SCHEME**

### **Guidance Notes**

1. Please read these Notes carefully care before completing the application form.
2. This new scheme is open initially to individual mediators who provide civil and commercial and / or workplace mediation although it is intended that it will apply in due course to other areas of mediation e.g. community. For consistency and ease of application, the scheme requirements closely follow those of the previous CMC Registered Mediation Provider scheme, at least during this launch phase of the scheme, although they will be kept under regular review and are subject to revision at the discretion of the CMC.
3. Please note the requirement that each mediator must personally sign and date the declaration to certify that the information given on the application form is correct.
4. By completing the application form you are authorising the CMC to hold all data both electronically and otherwise in accordance with the provisions of the Data Protection Act 1998. (If you have any concerns about this, please contact the Registrar).
5. It is the CMC's intention / policy to publish on the CMC website the name and contact details of each Registered Mediator, along with basic information about his / her mediation practice as provided on the application form. (If you do not wish this to happen, or for certain information not to be listed, please inform the Registrar).
6. Please complete the application form and return it, together with the payment due by post to the Registrar, Civil Mediation Council, 70 Fleet Street, London EC4Y 1EU and / or email to [registra@civilmediation.org](mailto:registra@civilmediation.org). All applications will be acknowledged by email and processed on a timely basis. The current fee (including the membership fee of £90 inclusive of VAT) is £120 for panel members of a CMC Registered Mediation Provider and £180 for non-panel members).

## **THE INDIVIDUAL REGISTRATION SCHEME**

### **Background**

1. The Individual Registration Scheme is being introduced following the earlier consultation with the CMC membership and its subsequent approval by the AGM.
2. The CMC Articles of Association call (at Article 2.4) for the CMC to:  
  
“encourage standards of good practice in relation to mediation and other dispute resolution techniques and methods.”
3. This is taken forward at Article 14.1 which states:  
  
“The Directors may make such standards, schemes, policies and terms of reference in relation to mediation and other forms of dispute resolution as they see fit (including but not limited to registration or accreditation schemes for individuals, organisations or courses).

### **Registration Requirements**

4. The CMC believes that the characteristics to be expected of a competent mediator can be crystallised. Such characteristics engender trust, efficiency and professionalism, and reinforce neutrality and confidence.
5. The characteristics to be examined when assessing an individual mediator for registration are:
  - (a) **Adequate mediator training** – whether the applicant has successfully passed a training course that meets the minimum standards of the Scheme. The CMC has based its criteria on practice within the civil and workplace mediation community in the UK and abroad, but it will refine and may revise its requirements in due course.
  - (b) **Code of Conduct** – whether the applicant follows an appropriate Code of Conduct. The CMC endorses and has adopted the EU Model Code of Conduct for Mediators and expects that this Code, or a Code of equivalent rigour, should be embraced by an individual mediator.
  - (c) **Complaints Handling** – whether the applicant has a published complaints procedure and keeps written records of all complaints.
  - (d) **Supervision and Mentoring** – whether the applicant has completed observations following training, has undertaken, or has a plan in place to undertake, continuing professional development (CPD) annually, has the opportunity for peer review and the opportunity to debrief with other mediators and how comments and feedback are received from consumers.
  - (e) **Insurance** – whether the applicant can demonstrate that he or she has adequate insurance in place for the activities he or she undertakes.
  - (f) **Efficient Administration** – whether the individual can demonstrate that he or she has suitable and sufficient administrative arrangements in place that are proportionate to and for the work and workload he or she undertakes.(e.g. the handling of enquiries, the recording of calls, the accurate accounting for fees and proper rendering of bills to the consumer).
  - (g) **Mediation Work** – the method by which the applicant can demonstrate that he or she ensures that they are appropriately trained, experienced and skilled in the disputes they mediate.
6. In order to be a Registered Mediator an individual must meet the following minimum requirements:

#### 6.1 Mediator Training

- (1) A Registered Mediator must have successfully completed an assessed training course.
- (2) That course must include training in ethics, mediation theory, mediation practice, negotiation, and role play exercises.
- (3) If the mediator is not professionally qualified in a discipline which includes law, the mediator must demonstrate a grasp of basic contract law if he or she is to undertake civil or commercial mediations. In workplace mediation a mediator must have an understanding of anger and conflict in today's workplace.
- (4) For mediators who attended a training course up to 31<sup>st</sup> March 2011 for civil and commercial, or 31<sup>st</sup> March 2015 for workplace training courses, the course and its assessment must have complied with the following requirements:
  - i) Performance during or on completion of training must be assessed.

- ii) The training course will include not less than 24 hours of tuition and role-play followed by a formal assessment.
- (5) For mediators who have attended a training course from 1<sup>st</sup> April 2011 onwards for civil and commercial, or 1<sup>st</sup> April 2015 for workplace training courses, the course and its assessment must comply with the following requirements:
- i) Assessors are to meet the criteria of the CMC Registration Scheme in terms of training, observations, CPD and practice requirements. Assessors are to be separate from those delivering the training.
  - ii) Performance during or on completion of training must contain at least one separate assessment of at least one hour where the assessment is continual, and at least two separate assessments of at least one hour each where the assessment is carried out on separate days.
  - iii) Assessment criteria are as a minimum to include:-
    - a) an appropriate and safe environment is set by the participant-mediator which is conducive to problem-solving;
    - b) the role of mediator to be fully and properly articulated;
    - c) the principles of confidentiality, neutrality and facilitation be evidenced;
    - d) trust and rapport be established;
    - e) necessary skills to explore issues, interests and options to be applied;
    - f) the ability to manage parties and the process be clear;
    - g) the ability to advance resolution through the application of negotiation and communication skills be seen;
    - h) proper consideration of ethical issues as they arise.
  - iv) The training course will include not less than 40 hours of face to face tuition and role-play followed by a formal assessment. Lunch and coffee breaks are excluded.
  - v) The training course will include not less than 50% role plays with 50% of these supervised.
  - vi) The classroom/lecture setting should not exceed 30 delegates.
- (6) The CMC maintains a list of recognised mediation training courses. Approval has been given for the introduction of a scheme to register mediation training courses and this is expected to be implemented in the near future in relation to both civil and commercial and workplace.

## 6.2 Code of Conduct

- (1) A Registered Mediator must follow an appropriate Code of Conduct.
- (2) That written code must be no less rigorous than the EU Model Code of Conduct for Mediators published in 2004.

## 6.3 Complaints Handling and Feedback

- (1) A Registered Mediator must have a published complaints handling procedure (this may be as a Panel Member of a Registered Mediation Provider where applicable) and keep written records of any complaints. All complaints should be followed up and the outcome notified to the complainant within a specified timescale.

- (2) A Registered Mediator must have a feedback system under which it invites, receives, assesses and reviews, all comments by the parties and their lawyers or representatives in respect of mediations.

#### 6.4 Supervision and Mentoring

- (1) A new mediator, following training, must have observed at least three civil or commercial mediations and / or three workplace mediations over the last 12 months before they are eligible for appointment as a lead mediator. One of these observerships may be of a role-play nature.
- (2) A Registered Mediator must have observed or conducted at least two civil or commercial mediations and / or workplace mediations in the 12 months prior to its registration (or re-registration) in order to ensure that they have current practice experience. This mediation practice requirement can be met by substituting two simulated mediation practice sessions of at least 1 hour each, or one community mediation, or two telephone mediations for one of the two actual or observed mediations that are required. Where a mediator is on maternity leave or long term sickness absence, this period may be extended to 18 months.
- (3) A Registered Mediator should have the opportunity to consult experienced mediators before, during or after each mediation to discuss any issues on which they would benefit from advice.
- (4) A Registered Mediator should undertake at least six hours of mediation-specific CPD per annum in addition to the practice requirements set out above.

These hours may include:

- a) courses offering practical role plays;
- b) attendance at seminars, conferences, tutorials and debates on mediation;
- c) writing articles on mediation;
- d) presenting mediation training, seminars or similar events.

Reading articles, mentoring and supervising mediators and preparing for mediation will not suffice.

So long as the hours are devoted to mediation-specific topics, CPD hours need not be dependent on recognition by a professional body.

#### 6.5 Insurance

A Registered Mediator must have professional liability insurance cover in place of not less than £1,000,000. Where a mediator is doing work involving sums exceeding this amount, he or she must have appropriate additional insurance cover in place, and be able to provide evidence of the same.

#### 6.6 Efficient administration

A Registered Mediator should have access to suitable and sufficient administrative arrangements that are proportionate to and for the work and workload he or she undertakes (e.g. the handling of enquiries, the recording of calls, the accurate accounting for fees, and the proper rendering of bills to the consumer).

A Registered Mediator should, where appropriate, be registered as a data controller (under the Data Protection Act 1998) with the Information Commissioner's Office (ICO). Further information on the requirement to register may be found on the ICO website at <https://ico.org.uk>.

#### 6.7 Mediation Work

A Registered Mediator should be able to demonstrate that he or she ensures that they are appropriately trained, experienced and skilled in the disputes they mediate.

7. All mediators applying for registration under this scheme must complete the application form for either a panel member of a CMC Registered Mediation Provider or a non-panel member.
8. If a mediator considers that there are exceptional reasons why he or she should be registered despite not meeting one or more of the requirements, then these reasons should be stated in writing for the CMC to consider. The CMC is open to considering each application on its merits in the context of the particular type of mediation work undertaken, whether Civil and Commercial and/or Workplace. Separate arrangements will be made, for example, to accommodate those working as in-house workplace mediators.

## **Registration – method of assessment**

### ***Registration***

9. The CMC has established a Registration Committee consisting of experienced independent mediators and members of mediation organisations to oversee the operation of the scheme under the direction of the Board of the CMC.
10. Applications will be acknowledged by email. Applications are reviewed by the Registrar with assistance from the Registration Committee, as required. Applications from panel members of Registered Mediation Providers will be referred to the relevant nominated provider to verify that the individual concerned meets the requirements of the scheme. The CMC aims ordinarily to notify the applicant of the CMC's decision within four weeks of the acknowledgement of receipt of the application.
11. Where on first assessment the CMC believes that the mediator may not meet the criteria for registration it will, if it is appropriate, make recommendations to the mediator and allow the mediator a reasonable time to submit confirmation that those recommendations have been implemented before making a final decision. This is part of the CMC's objective to work towards promoting higher standards and best practice in the widest possible mediation community rather than to exclude through the unreasonable imposition of deadlines.
12. Where the Registrar and / or the CMC Registration Committee is not satisfied that a mediator meets the criteria for registration it will so notify the mediator, with reasons. The mediator may then request that a panel comprised of the Chair or Vice-Chair of the CMC and two other Board members (all of whom are not on the Registration Committee) should consider any submissions it may wish to make. The panel will, on completion of its consideration, notify the decision to the mediator, with reasons.

### ***Re-registration***

13. Registered Mediators must seek re-registration at the end of each 12 month period.
14. Applications for re-registration will be processed in accordance with the procedures set out in paragraphs 9-12 above.

### ***De-registration***

15. A Registered Mediator is subject to de-registration if he or she no longer meets the requirements of the scheme or is otherwise not considered to be a fit and proper person to remain as a Registered Mediator. Alternatively registration may be suspended. Examples of where a Registered Mediator may be considered not to be a fit and proper person include where an individual has been declared bankrupt or where the registration information provided is shown to be inaccurate in a material respect.

### ***Complaints***

16. A complaint may only be made to the CMC on the ground that an individual is not fit to remain registered. The CMC is not obliged to investigate a complaint unless it first determines that there is a genuine case to answer. Any such complaints are to be considered under the CMC's procedures as determined from time to time.

17. The CMC does not operate a general complaints procedure, for example about the conduct of an individual's mediation practice. Such complaints fall to be considered under the Registered Mediator's own complaints handling procedure, whether arranged through a Registered Mediation Provider of which the mediator is a panel member or otherwise.

**Use of the phrase "CMC Registered Mediator"**

18. The Civil Mediation Council reserves the right to limit the use of the phrases:

- (1) "CMC Registered Mediator"; and
- (2) "Registered with the Civil Mediation Council"

to those mediators who have been registered under the procedures of the CMC. In the event that an individual uses such phrases without the authority of the CMC appropriate action will be taken.

19. Where a mediator is successful in being registered (or re-registered as the case may be) he or she may use either of the phrases in paragraph 18 in his/her literature or advertising providing the same is in accordance with any guidelines of usage laid down by the CMC from time to time. This will include making clear whether the mediator concerned is registered solely for civil and commercial or workplace or both.

**Confidentiality**

20. All information provided to the CMC, save for the agreed details from the registration application forms of successful applicants that are to be listed publicly, will be held and treated strictly as confidential and will not be copied or circulated other than in the proper exercise of the CMC's activities as a registering body.
21. Records will only be retained on the CMC's systems. In the event that there is a concern over confidentiality issues, please contact the Registrar.

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