

Conflictsolvers Aims & Objectives

1. Aims & Objectives

- In order to achieve excellence in the field of conflict resolution/mediation conflictsolvers aims to assist others in the field of mediation by providing recognition of their skills within the demonstrated competence of the Australian National Mediators and Practice standards
- To provide support through information dissemination and expert presentations on a variety of topics
- Ensure the effectiveness and quality of mediators through constant reviews and upholding the values and ethics of the Australian National Mediator Standards
- Promote a body of ethical principals in helping mediators to provide standards, conduct and services
- Keep abreast of changes which may require a review of our ethics and standards we expect of both our mediators and those we train.

2. Ethical Charters

Preamble

Mediation is based on the principles of problem solving that focus on the needs and interests of the participants; fairness; privacy and self-determination

Initiating the Process

Definition and Description of Mediation

The mediator will define mediation and describe the differences and similarities between mediation and other procedures for dispute resolution.

Identification of Issues

The mediator will elicit sufficient information from the participants so that they can mutually define the issues to be resolved in mediation.

Appropriateness of Mediation & Mediation Training

The mediator will help the participants evaluate the benefits, risks and costs of mediation and the alternatives available to them

Mediator's Duty of Disclosure

Biases - The mediator will disclose to participants any biases or strong views relating to the

issues coming to mediation. Mediators undertake to comply with building a professional reputation based on integrity and ability.

Training & Experience

The mediator's education, training and experience to mediate or train will be accurately described.

Procedures

The mediator will reach an understanding with the participants regarding the procedures to be followed in mediation.

Impartiality

The mediator is obligated to maintain impartiality toward all participants. Impartiality means freedom from favoritism or bias, either in word or action. Impartiality implies a commitment to aid all participants, as opposed to a single individual, in reaching a satisfactory agreement. Impartiality means that a mediator will not play an adversarial role.

Mediators will also ensure that they refrain from making comments which may needlessly damage the reputation of a colleague. Mediators will however report unethical or unprofessional conduct by a colleague to the appropriate body.

Neutrality

Neutrality refers to the relationship that the mediator has with the disputing parties. If the mediator feels, or any one of the participants states, that the mediator's background or personal experiences would prejudice the mediator's performance, the mediator should withdraw from mediation unless all agree to proceed.

Prior Relationships. A mediator's actual or perceived impartiality may be compromised by social or professional relationships with one of the participants at any point in time. The mediation shall not proceed if services have been provided to one of the participants beforehand.

Relationships to Participants. Mediators are made aware that post mediation professional or social relationships may compromise the mediator's continued availability as a neutral third party.

Conflict of Interest: A mediator will disclose any circumstances to the participants that might cause a conflict of interest.

Costs and Fees

Explanation of Fees

The mediator will explain the fees to be charged for mediation and/or training and any related costs and shall agree with the participants on who will pay the fees and the manner of payment.

Reasonable Fees

When setting fees, the mediator will ensure that they are explicit, fair, reasonable and commensurate with the service to be performed.

Referrals and Commissions

No commissions, rebates or similar forms of remuneration shall be given or received for referral of clients to other services.

Confidentiality and Exchange of Information

Confidentiality

Confidentiality relates to the full and open disclosure necessary for the mediation process. A mediator will foster the confidentiality of the process.

Limits of Confidentiality: The mediator will inform the parties at the initial meeting of limitations on confidentiality, such as statutory or judicially mandated reporting.

Appearing in Court: The mediator will inform the parties of circumstances under which mediators may be compelled to testify in court.

Release of Information

The mediator will obtain the consent of the participants prior to releasing information to others. The mediator will maintain confidentiality and render anonymous all identifying information when materials are used for research or training purposes.

Storage and Disposal of Records

The mediator will maintain confidentiality in the storage and disposal of records. Mediators do not keep copies of information exchanged during mediation sessions. A copy of agreements may be kept for up to 12 months following a mediation session. After this date, this information will be destroyed.

Self Determination

Responsibilities of the Participants and the Mediator

The primary responsibility for the resolution of a dispute rests with the participants. The mediators' obligation is to assist the disputants in reaching an informed and voluntary agreement. At no time will a mediator coerce a participant into agreement or make a substantive decision for any participant.

Professional Advice

Independent Advice and Information

The mediator will encourage and assist the participants to obtain independent expert information and advice when such information is needed to reach an informed agreement or to protect the rights of a participant.

Providing Information

Mediators' will not give information to participants during a mediation session although qualified by training and experience. The mediator may following a mediation session provide this information (see neutrality section)

Independent Legal Counsel

When the mediation may affect legal rights or obligations, the mediator will advise the

participants to seek independent legal counsel prior to resolving the issues and in conjunction to formalising an agreement.

Parties ability to negotiate

The mediator will ensure that each participant has had an opportunity to understand the implications and ramifications of available options. In the event a participant needs either additional information or assistance in order for the negotiations to proceed in a fair and orderly manner or for an agreement to be reached, the mediator shall refer the individual to appropriate resources.

Procedural Factors

Mediators' have a duty to ensure balanced negotiations and will not permit manipulative or intimidating negotiation techniques.

Psychological Factors

The mediator will explore whether the participants are capable of participating in informed negotiations. The mediator may postpone mediation and refer the parties to appropriate resources if necessary.

Concluding Mediation

Full Agreement The mediator will discuss with the participants the process for formalisation and implementation of the agreement.

Partial Agreement When the participants reach a partial agreement, the mediator will discuss with them procedures available to resolve the remaining issues.

Without Agreement

Termination by participants: The mediator will inform the participants of their right to withdraw from the mediation at any time and for any reason.

Termination by Mediator: If the mediator believes that participants are unable or unwilling to participate meaningfully in the process or that a reasonable agreement is unlikely, the mediator may suspend or terminate mediation and will encourage the parties to seek appropriate professional help.

Impasse. If the participants reach a final impasse, the mediator will not prolong unproductive discussions that would result in emotional and monetary cost to the participants.

Training

All mediators continue to acquire substantive knowledge and procedural skill in the specialised area of practice.

Continuing Education

Mediators are encouraged to participate in continuing education and be personally responsible for ongoing professional growth. Mediators are encouraged to join with other mediators and members of related professions to promote mutual professional development

Advertising

We endeavour at all times to make accurate statements about the mediation services that we offer, the costs and benefits.

Advancement of Mediation

Mediation Services

Mediators are encouraged where-ever possible to provide some mediation services within the community for nominal or no fee.

Promotion of Mediation

Mediators are encouraged to promote the advancement of mediation by encouraging and participating in research, publishing or other forms of professional and public education.

These ethical standards have been adapted from the following source: Special thanks to the MIRC Mediator Resources Ethical Standards AFM -AFCC Standards of Practice for divorce and family mediation