

CIVIL MEDIATION COUNCIL PROVIDER REGISTRATION SCHEME

Guidance Notes

- i. Please read these Notes with care and complete the application form on www.civilmediation.org in full.
- ii. This scheme applies to organisations, bodies, groups, societies, centres and the like, collectively described as providers who provide civil, commercial and / or workplace mediation. The provider will continue to carry the responsibility of ensuring that the individual mediator is appropriately trained, insured, supervised and allocated, and fulfils the CPD and practice requirements.
- iii. Although there are no restrictions on applications, for providers of civil / commercial mediation, applicants should be aware that one of the reasons for originally setting up the scheme was to meet the requirements of the National Mediation Helpline, which was run as part of the Ministry of Justice's commitment to proportionate dispute resolution.
- iv. In order to keep costs to a minimum, the CMC does not have a large administration. Applicants are therefore advised that applications may take up to four weeks to process although an acknowledgement should be received by return.
- v. Please note the requirement for a senior official of each candidate provider to approve and date the Declaration personally, certifying that the contents of the application form are true and accurate, upon which the CMC may rely.
- vi. Please also note that by completing the application form you are authorising the CMC to hold all data in accordance with the CMC's [Privacy Notice](#) and for it to be shared with officers of the CMC and members of the registration committee.
- vii. It is the CMC's intention / policy to publish on the CMC website the name and contact details of each Registered Mediation Provider, along with basic information about the provider's 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 Secretariat).
- viii. Applications and payments should be made online at <https://civilmediation.org/membership/>
- ix. Renewal payment terms: Invoices will be issued annually, with payment due within 30 days from invoice. A grace period of 2 weeks will be given from this date, after which the course listing will be removed from CMC website.

THE PROVIDER REGISTRATION SCHEME

1. Background

1.1 The CMC Articles of Association advise under 3.4 that the CMC will:

“encourage standards of good practice in relation to mediation and other dispute resolution techniques and methods.”

1.2 The CMC Articles of Association’s ‘Defined Terms’ contained in the Schedule (interpretation) attached to the Articles at 1.16 state that a mediator is

An individual who is trained to conduct mediations in accordance with such standards as the Directors may specify from time to time.

1.3 The CMC Articles of Association’s ‘Defined Terms’ as above at 1.18 state that a Mediator Provider is

An organisation whose primary purpose or purposes include the provision of mediation services or training, or the promotion of mediation, and those activities are conducted in whole or in part in England or Wales

1.4 The CMC Articles of Association provides for registration as below:

14.1 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).

14.2 Standards, schemes, policies and terms of reference may be made, repealed or altered by the Directors as they think fit.

1.5 This scheme has been approved by the Directors of the Civil Mediation Council Limited pursuant to Article 14 (above) of the CMC Articles of Association.

1.6 The CMC Equality and Diversity Policy is copied at Appendix 1 below.

1.7 Under the Provider Registration Scheme a Registered Mediation Provider bears the responsibility of being satisfied that members have in fact successfully completed a CMC Registered training course and assessment.

1.8 Registered Providers are CMC Members. It is a condition of CMC Membership that members abide by the rules of the CMC, support and advance the CMC’s aims so far as shall be in their power and that members do not bring the mediation process, the mediation profession or the CMC in to disrepute.

2. Registration requirements

- 2.1 The CMC believes that the characteristics to be expected of a competent mediation provider can be crystallised. Such characteristics engender trust, efficiency and professionalism, and reinforce neutrality and confidence.
- 2.2 The characteristics to be examined by the CMC in the scheme when assessing a candidate provider are broadly:
- (a) **Size of panel** – to be a credible provider the CMC consider a minimum number of panel members is essential.
 - (b) **Adequate mediator training** - the method by which the candidate has and will continue to admit mediators to membership of its panel, list or group: this includes the minimum training requirement it sets for candidate members, the means by which it assesses whether that training is sufficient and whether the candidate has a sufficient understanding of role and duties of a mediator to be appropriate for admission. 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.
 - (c) **Code of Conduct** - whether the provider has instituted or adopted, and implements, an appropriate Code of Conduct for its members to follow. The CMC endorses and adopted the EU Model Code of Conduct for Mediators in 2004 and expects that this code, or a code of equivalent rigour, should be embraced by a registered mediator provider.
 - (d) **Complaints Handling and Feedback** - whether the provider has a published complaints procedure and requires written records to be kept of all complaints.
 - (e) **Supervision and Mentoring** - the means by which the provider provides adequate and appropriate supervision, mentoring, monitoring and observerships for its mediators; the provider's mediation- specific continuing professional development (CPD) policy and programme or requirements; the scheme the provider adopts for handling comments and feedback; and the opportunity for peer review.
 - (f) **Insurance** - whether the provider can demonstrate that it has adequate insurance in place for the activities it and its members undertake. Officers and directors insurance is required in addition to mediator insurance where the officers and directors are not panel mediators.
 - (g) **Efficient administration** - whether the provider can demonstrate that it has suitable and sufficient administrative arrangements that are proportionate to and for the work and workload it undertakes, including the handling of enquiries, the recording of calls, the accurate accounting for fees and the proper rendering of bills to the consumer.
 - (h) **Allocation of mediators** - the method by which the provider can demonstrate that it ensures (save where the parties decide their own choice of mediator) that an appropriately trained, experienced and skilled mediator is allocated to each case with which it deals.

- (i) **Good standing** - A Registered Mediation Provider should ensure its' key personnel meet the standards listed in the 'CMC good standing test' and disclose details for consideration if not. Key personnel are those involved in the management and running of the organisation

2.3 In order to be registered a provider must meet the following minimum requirements:

2.3a Size of Panel

1. A Registered Mediation Provider of civil and commercial mediation must have at least six trained civil or commercial mediators on its panel.
2. A Registered Mediation Provider of workplace mediation must have at least two trained workplace mediators available.
3. You will be asked to provide the names of all panel members (mediators) as at the date of application or provide a link to such a list on your website.
4. A mediator on maternity leave or on long term sick leave (which does not exceed 18 months in duration) will continue to count.

2.3b Mediator Training

1. A Registered Mediation Provider's mediators must have successfully completed a CMC Registered 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/she is to undertake civil or commercial mediations. In workplace mediation a mediator should have an understanding of anger and conflict in today's workplace.
4. For mediators who will have attended a training course up to 31st March 2011 for civil or commercial, 31st 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 attended a training course from 1st April 2011 onwards for civil or commercial, or 1st April 2015 for workplace training courses, the course and its assessment must comply with the CMC Registered Skills Training course scheme criteria.
6. Mediators who have been trained outside the UK are required to demonstrate that the training course that they successfully attended complies with Clause 2 of the CMC Mediation Skills Training Registration Scheme criteria

7. A Registered Mediation Provider bears the responsibility of being satisfied that members have in fact successfully completed a recognised mediation training course and assessment. The CMC maintains a list of recognised mediation training courses for both civil and commercial and workplace.

2.3c Code of Conduct

1. A Registered Mediation Provider must have an appropriate written Code of Conduct for its members to follow.
2. The written code must be no less rigorous than the EU Model Code of Conduct for Mediators published in 2004.

2.3d Complaints Handling and Feedback

1. A Registered Mediation Provider must have in place a published complaints handling procedure which meets the CMC's minimum standards, and keep written records of any complaints. All complaints should be investigated and the outcome notified to the complainant within a specified timescale. If the provider's decision is appealed there should be provision for the complainant to be referred to an independent party (e.g. the CMC)
2. A Registered Mediation Provider must have a feedback system under which it invites, receives, assesses and reviews, both internally and with the mediator, all comments by the parties and their lawyers or representatives in respect of mediations.

2.3e Supervision and Mentoring

1. A Registered Mediation Provider must require its new mediators to have observed at least 10 [Observation and Experience Points](#) over the 12 months before they are eligible for appointment as a lead mediator.
2. All the Provider's mediators 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 panel mediator is on maternity leave or long term sickness absence, this period may be extended to 18 months.
3. The Provider should offer the opportunity for mediators to consult experienced mediators before, during or after each mediation to discuss any issues on which they would benefit from advice.
4. The Provider should require panel members to undertake at least six hours of mediation-specific CPD per annum in addition to the practice requirements set out above. CPD is intended to be for the continued knowledge and development of the mediator.

These six hours may include a mixture of (but not solely one of):

- a) courses offering practical role plays;
- b) attendance at seminars, conferences, tutorials and debates on mediation;
- c) writing articles on mediation;

- d) delivering 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.

2.3f Insurance

1. A Registered Mediation Provider must have in place insurance cover of not less than £1,000,000 to insure itself against claims that it has negligently administered a mediation.
2. A Registered Mediation Provider must either provide or require mediators to obtain and provide evidence of professional liability insurance cover of not less than £1,000,000.
3. Where mediators are doing work involving sums exceeding this amount, a Registered Mediation Provider must have appropriate insurance cover in place and be able to provide evidence of the same.

2.3g Efficient administration

1. A Registered Mediation Provider should have suitable and sufficient administrative arrangements that are proportionate to and for the work and workload it undertakes, including the handling of enquiries, the recording of calls, the accurate accounting for fees and the proper rendering of bills to the consumer.
2. A Registered Mediation Provider must also be registered as a data controller (under the Data Protection Act) with the Information Commissioner's Office (ICO).

2.3h Allocation of mediators

A Registered Mediation Provider should have a system of allocating mediations that ensures that an appropriately trained, experienced and skilled mediator is allocated to each case with which it deals.

2.3i Good Standing

Registered Mediation Providers must confirm whether those involved in the management and running of the organisation have:

- Been convicted in the United Kingdom of any offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom, would constitute an offence;
- Been disqualified under the Company Directors Disqualification Act 1986 (CDDA);
- Been erased, removed or struck off a register of professionals;
- Been the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order in England and Wales or an order to like effect made elsewhere;

- Been a director of a company which entered in to administration or became insolvent in England and Wales or elsewhere;
- Been responsible for, been privy to, contributed to or facilitated any serious misconduct or mismanagement (whether unlawful or not) in the course of carrying on a professional activity, or discharging any functions relating to any office or employment.
- Been refused Professional Indemnity Insurance

These questions will be asked:

(i)- on first application, to establish whether any of these have occurred in the last 5 years.

(ii)- on renewal, to establish whether any of these have occurred in the last 3 years.

Should any questions be answered yes, providers will be required to disclose details, and asked to state if they think this will have an impact on their mediation work, and if not, why not. This will be considered by two members of the Registration and Standards Committee, who will have discretion to accept or not accept the application.

3. Application

1. The CMC takes the view that provided the minimum requirements in paragraph 2 above are met, there are no "correct" or "incorrect" answers to the questions on the application form and every application will be assessed on its collective merits in the context of the work undertaken.

2. If a provider considers that there are exceptional reasons why it should be registered despite not meeting one or more of the requirements, then it should state these reasons in writing for the CMC to consider.

4. Registration - method of assessment

4.1 Registration

1. The CMC has established a registration committee consisting of experienced independent mediators and members of mediation organisations. This will operate under the direction of the Board of the CMC.

2. Providers may at any time submit the application form via <https://civilmediation.org/membership/>, together with the fee for entering the registration process (which is in addition to the annual membership fee).

3. Applications will be acknowledged. They will then be sent to members of the registration committee and examined. The CMC will in the ordinary course notify the provider of its decision within four weeks of the acknowledgement of receipt of the application.

4. In the event that the CMC has further questions for the provider, these will be emailed for reply by email to the authorised official.

5. In some instances, the CMC may ask if it may visit or meet members of the provider to clarify any issues that have arisen during its consideration of the application and to ensure that it is satisfied with the responses.

6. Where on first assessment the CMC believes that the provider may not meet the criteria for registration it will, if it is appropriate, make recommendations to the provider and allow the provider 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.

7. Where the CMC registration committee is not satisfied that a candidate provider meets the criteria for registration it will so notify the candidate provider, with reasons. The provider 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 candidate provider, with reasons.

4.2 Re-registration

1. Registered providers must seek re-registration at the end of each 12 month period.

2. Applications for re-registration will be processed in accordance with the procedures set out in paragraphs 4.1 above.

5. Use of the phrase "Registered Mediation Provider"

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

(a) "Registered Mediation Provider"; and

(b) "Registered with the Civil Mediation Council as a Mediator Provider"

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

2. Where a provider is successful in being registered (or re-registered as the case may be) it may use either of the phrases in paragraph 5.1 in its literature or advertising providing the same is in accordance with any guidelines of usage laid down by the CMC.

6. Confidentiality

1. All information provided to the CMC will, save for the details in the registration application form marked for publication for successful applications, be held and treated strictly in confidence and will not be copied or circulated other than to the relevant members of the registration committee. Each and every member of that committee undertakes not to use, communicate or refer to the information provided save in the course of the registration procedure.

2. Records will only be retained by the Secretariat of the CMC. In the event that there is a concern over confidentiality issues, please contact the Secretariat at secretariat@civilmediation.org

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Appendix 1



Equality and Diversity Policy

30th September 2020

1. STATEMENT OF INTENT

The Civil Mediation Council (CMC) is firmly committed to diversity by providing equality of opportunity in all aspects of our activities. We believe we have much to learn and profit from diverse cultures, experiences and perspectives and regard diversity as an asset to our work as it improves our ability to meet the needs of members, organisations and the people we serve.

The Equality and Diversity Policy underpins all our organisation policies and procedures and is designed to promote equal opportunity and protection for all staff, partner and member organisations. The overall aim is to ensure that no job applicant, employee, member organisation and users of the Council's services receive less favourable treatment or consideration on the grounds of:

- Disability (including mental illness)
 - Sex
 - Age
 - Gender (including transgender)
 - Race, colour, nationality, ethnic or national origins
 - Religion or beliefs
 - Sexual orientation
 - Marital status
 - Social class, income level or geographical area
- The CMC therefore strives to:
- Eliminate unlawful discrimination
 - Ensure that we treat all individuals fairly, with dignity and respect
 - Promote equality of opportunity
 - Promote equality of access
 - Provide a safe, supportive and welcoming environment for staff, partnering organisations and member companies.

Status of the policy

This policy forms part of the formal contract of employment for staff and part of the formal agreement between partners, members and the CMC.

- The CMC upholds the right of everyone to be treated fairly and equitably on their relevant merits and abilities and within the requirements of their employment;
- All applicants, employees, member organisations and users of the Council's services must declare their support for the objectives of this Equality and Diversity Policy. Failure to comply may result in disciplinary action and/or ineligibility for membership;
- The CMC shall oppose discrimination in matters of gender, sex, sexual orientation, race, faith, age, disability and shall operate within an equal opportunities policy framework for the delivery of its services, for its employment practices and for the organisation of its membership.

LEGAL AND OTHER REFERENCES

The policy is founded on the provisions of:

- Equality Act 2010

2. WHAT IS DISCRIMINATION?

Discrimination can take one or more of the forms set out below.

Direct discrimination involves the favourable treatment of a person over another in the same or similar circumstances based purely on the grounds of their gender, disability, sexual orientation etc. For example, refusing to employ someone who has the required qualification or skills because of a disability or illness would constitute such discrimination.

Indirect discrimination occurs where there is a requirement, criterion or condition, which, although applying to everyone, in practice has an adverse effect on a particular group of individuals when compared to another. Often times, the provision of such a criterion cannot be justified. For example, advertising a job as requiring an unnecessary number of years' experience which is not needed for the job or the fluency of a foreign language which again, is not really needed to perform the job.

Abuse and/or harassment - Discrimination also covers actions which amount to abuse and/or harassment of people or groups of people because they are a member of a religious, racial or ethnic minority group. This occurs when a person is subjected to unwanted conduct, real or perceived, that violates his/her dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Victimisation occurs when a person is treated less favourably than someone else in the same circumstance because he/she has pursued or intends to pursue their rights or someone else's rights (such as if they had acted as a witness for the other person) in respect of alleged discrimination.

Discrimination in any of the forms stated above is unacceptable, regardless of whether there was any intention to discriminate or not.

4. IMPLEMENTING THE POLICY

Principles and policies are of limited value unless steps are taken to apply them, thereby ensuring that equality measures are embedded in the practice of organisation at all levels.

The CMC aims to actively encourage a climate of respect and is committed to ensuring that all staff and prospective staff are treated fairly and equitably on their relevant merits and abilities and within the requirements of their employment. We will:

- provide a safe working environment;
- make sure that we operate in line with the relevant employment legislation and statutory codes of practice;
- apply this Equality and Diversity Policy through the organisation's recruitment and selection process, training programmes, grievance procedures and all other employment policies;
- value and respect the identities and culture of our staff;
- do our best not to unfairly discriminate against any job applicant or employee and, when recruiting, only to consider factors which are relevant to the individual's ability to perform the job well;
- do everything we can to work towards a workplace that is free from discrimination, bullying and harassment and will act promptly on any complaints of discriminations, bullying, harassment or victimisation;
- make the workplace, and information about work, as accessible as we can for all our employees.

Commitment to members

The CMC's policy on Equality and Diversity applies to its members and membership procedures. It aims to:

- promote equality and diversity in its work with member companies and individuals;
- ensure that prospective members are selected against objective criteria and given equal consideration;
- reflect a fair balance and representation of the community we serve in its membership;
- ensure that referrals for mediation services from the Council will be without bias and fair.

Commitment to other users

Users of the CMC's services can expect to:

- receive appropriate and effective service that complies with the Equality Act 2010 and statutory codes of practice.
- have their complaints about the service we provide or the way it is provided, acted on promptly.
- work in partnership with the CMC to promote equality and diversity.

Promotion of policy

The CMC will make the Equality and Diversity Policy fully effective by:

- ensuring all other CMC policies support our commitment to equality and diversity;
- making sure that all employees and job applicants, partner organisations and members know about this policy;
- taking appropriate action, using agreed procedures, if any employee or member breaches this policy.

Monitoring

The CMC Board will review this Policy, at least annually, to ensure it is appropriate and responsive to relevant legislation. Amendments to the Policy will be made, where appropriate, in the light of experience or changes in legislation.