



Civil Mediation Council

Code of Professional Practice for Mediators

DRAFT

Foreword

The Civil Mediation Council is pleased to invite members, stakeholders and the public to take part in this consultation on the Code of Professional Practice for Mediators.

This draft Code aims to set out what it means to practise as a mediation professional. It brings together the values, behaviours and responsibilities that underpin fair and effective mediation, and explains the standards the public should be able to expect.

Rather than attempting to prescribe every step a mediator must take, the Code is designed to guide professional judgement. It centres on core principles and high-level professional outcomes (or 'Elements') supported by expectations that show how those principles may be demonstrated as a professional.

The language used is intended to convey expectations rather than instructions, allowing room for thoughtful and responsible professional judgement, while still providing a clear point of reference for members, the public and self-regulatory processes. Further guidance and supporting resources will be introduced alongside the implementation of the Code.

At its heart, the Code emphasises public trust, integrity, fairness and accountability and seeks in a proportionate way to support a forward-looking profession that is responsive to change and committed to high standards.

Kelly Stricklin-Coutinho, Chair of the CMC, notes: "This consultation is an important part of the process. We therefore encourage everyone with an interest in mediation to review the draft and share your views, so that the final Code can truly reflect both the expectations of the public and the experience and insight of the profession."

Professional Expectations and How to use this Code

This Code describes what it means to be a regulated mediator or regulated mediation organisation and the standards the public should be able to expect. It brings together the values, behaviours and responsibilities that underpin fair and effective practice, and sits alongside the CMC's Membership Rules, Standards and Guidance. All regulated mediators and regulated mediation organisations are expected to be familiar with the Code, understand its requirements, and to apply it consistently in their professional practice.

The Code is designed to guide professional judgement. It does not prescribe every step a mediator or organisation must take but instead sets out the principles that support good practice and the behaviours that demonstrate those principles in action. Within the Code, *must* indicates a requirement which mediators and organisations are expected to meet, whilst *should* signals an expectation that normally applies but allows for reasonable professional judgement as circumstances may dictate. In this way, the Code reflects the spirit of the Nolan Principles, such as integrity, objectivity and honesty, which remain central to any profession that relies on public trust.

The Code is structured in two parts: Part 1 (Elements 1–5) applies to individual regulated mediators, whilst Part 2 (Element 6) sets out the expectations for mediation organisations. Each Element begins with a short statement of principle, followed by practical expectations. Taken together, they explain what good mediation practice looks like and how mediators and organisations can maintain public confidence in the profession.

Part 1 | Individual Regulated Mediators

- Element 1 Knowledge and Skills
- Element 2 Professional practice in relation to mediation
- Element 3 Conduct of the Mediation Process
- Element 4 Trust and Professionalism
- Element 5 Professional Accountability

Part 2 | Regulated Mediation Organisation

- Element 6 Organisational Governance and Accountability

Part 1 | Individual Regulated Mediators

Element 1 Knowledge and Skills

Maintain competence and expertise within a forward-looking mediation profession through the continual growth of knowledge, skills and experience. This includes, but is not limited to, the following *professional expectations*:

- 1.1 Mediators must practise within their own area of competence and qualifications, recognising the limits of their expertise, not undertaking work for which they are not qualified. and being open about their experience.
- 1.2 Maintaining standards of competence requires mediators to keep their knowledge and skills up to date, comply with the CMC's requirements for continuing professional development.
- 1.3 Mediators should maintain up-to-date knowledge of the legislative framework and the CMC's professional standards relevant to their area and context of practice
- 1.4 Upholding professional standards through mediators engaging in reflective practice, learning from experience, and regularly reviewing their ongoing training and support needs.

Part 1 | Individual Regulated Mediators

Element 2 Professional practice in relation to mediation

Treat everyone with respect, fairness and in an open and inclusive way, mindful of the wider impact of professional practice. This includes, but is not limited to, the following *professional expectations*:

- 2.1 In line with the CMC's Equality and Diversity Policy, everyone must be treated fairly and without discrimination, promoting respect, inclusion and equality.
- 2.2 Confidentiality must be respected at all times. Information must be kept safe and secure, comply with applicable data protection laws, and be disclosed only where authorised, justified or required by law.
- 2.3 Impartiality and independence must not only be maintained but also should be seen to be maintained. Mediators should remain alert to potential bias and guard against it influencing their professional judgment and have no personal interest in the outcome of any mediation.
- 2.4 Any undue influence or conflict of interest (including potential or perceived conflicts) must be declared at the earliest opportunity. Appropriate steps should then be taken to manage the situation openly and transparently, including withdrawal if necessary. Mediators should maintain awareness of possible conflicts throughout the process
- 2.5 Where reasonably possible, mediators are encouraged to work sustainably, taking account of the wider environmental and social impact of their professional activities.
- 2.6 Mediation services should be promoted and advertised honestly, professionally and without being misleading,
- 2.7 In accordance with CMC requirements, mediators must have in place an accessible complaint handling process and appropriate Professional Indemnity Insurance cover.
- 2.8 Digital tools or technologies are used only where their purpose and scope are clear. Mediators should ensure appropriate safeguards are in place, and the participants have given consent.

Part 1 | Individual Regulated Mediators

Element 3 Conduct of the Mediation Process

Creating a clear, safe and balanced environment in which participants can make fully informed decisions. This includes, but is not limited to the following *professional expectations*:

- 3.1 From the outset mediators should manage the expectations of the mediation users and be clear, open and realistic about the scope and limitations of the mediator's role in the process
- 3.2 Prior to commencement of the mediation, mediators must ensure that the participants:
 - understand the characteristics of the mediation process, including the scope of confidentiality and voluntariness
 - have understood and expressly agreed the terms and conditions of the agreement to mediate
 - are supplied with full information about fee levels and remuneration arrangements
 - are accurately and fully informed of the mediator's competence, qualifications and experience to undertake the assignment
- 3.3 Participants must be treated with respect, and mediators should take all reasonable and practicable steps to conduct the mediation process in a fair and balanced way.
- 3.4 Mediators should promote an inclusive approach that recognises participants' capacity and diverse needs, ensuring that reasonable and proportionate measures are in place so that all can engage fully and make informed decisions.
- 3.5 Mediators should remain alert to the safety and well-being of participants and maintain awareness of safeguarding principles. Where concerns about risk of harm arise, or the mediation ceases to be safe or appropriate, proportionate and timely action should be taken. This may include pausing or terminating the process, signposting to relevant support, or making a disclosure where required by law and/or in keeping with good safeguarding practice.
- 3.6 Attention should be given to power imbalances, with mediators taking proportionate steps to address them where these may threaten the integrity or fairness of the mediation.
- 3.7 Mediators must ensure any settlement agreements reached in mediation are made freely and with the informed consent of all relevant parties.
- 3.8 Mediators should carry out their role conscientiously and responsibly, ensuring that the process is managed effectively and professionally.

Part 1 | Individual Regulated Mediators

Element 4 Trust and Professionalism

Upholding standards of conduct and behaviour to ensure and maintain the public's trust and confidence in the mediation profession. This includes, but is not limited to the following *professional expectations*:

- 4.1 Mediators must be honest, trustworthy and straightforward in the way they carry out their professional responsibilities.
- 4.2 Whether in a professional capacity or otherwise, mediators must not engage in any activity or behaviour that may call into question their professional good standing, bring the CMC or the profession into disrepute, or undermine public trust and confidence in mediation
- 4.3 Mediators must comply with the laws of the country in which they are practising.
- 4.4 Notwithstanding the right to freedom of expression, mediators should: -
 - ensure that any public commentary relating to others, the mediation profession or the CMC is expressed in a measured and professional manner and is not derogatory.
 - remain aware that professional standards apply equally when online, ensuring that communications are measured, professional and non-discriminatory, and maintain confidentiality, having regard to the CMC's guidance *Using Social Media as a Regulated Mediator* (*).

Part 1 | Individual Regulated Mediators

Element 5 Professional Accountability

Upholding professional standards and sustaining public trust and confidence by demonstrating integrity, transparency and responsibility in dealings with the CMC). This includes, but is not limited to the following *professional expectations*:

- 5.1 Act in accordance with the CMC's Membership Rules, Professional Standards, Code of Professional Practice, and have regard to supporting guidance.
- 5.2 Maintain professional good standing by promptly notifying the CMC of any conviction, finding, determination, or order made by a court, regulatory body, or other competent authority.
- 5.3 Ensure that information held by the CMC about them remains current and accurate, including their contact details, professional status and any other material facts relevant to registration or membership.
- 5.4 Co-operate fully, and in good faith with the CMC in the exercise of its regulatory functions, responding to reasonable requests and honouring any undertakings given.
- 5.5 Provide information about qualifications, experience and professional status that is truthful, complete and not misleading.

Part 2 | Regulated Mediation Organisations

Element 6 Organisational Governance and Accountability

Mediation organisations should have effective governance arrangements, policies and systems that support safe, fair and high-quality practice. An organisation should foster a culture of accountability that supports the consistent delivery of services to a standard reasonably expected by the public. This includes, but is not limited to the following *professional expectations*:

Maintaining trust and fairness

- 6.1 Take all reasonable and practicable steps to support and facilitate mediation processes so that they are fair, balanced and respectful for all participants.
- 6.2 Have effective procedures in place to identify, record and manage conflicts of interest (including potential or perceived conflicts).
- 6.3 Ensure services are not provided in a way that unfairly discriminate.

Business compliance

- 6.4 Keep up to date with, and comply with, the laws and regulatory requirements that govern the organisation's work and operations.
- 6.5 Have, and maintain, adequate and appropriate Professional Indemnity Insurance cover.
- 6.6 Ensure compliance with relevant safeguarding and vetting checks where legally required or otherwise appropriate.
- 6.7 Take care when using digital tools or technologies, ensuring they are used only where their purpose and scope are clear and appropriate, and that suitable safeguards are in place.
- 6.8 Uphold confidentiality by ensuring the safe and secure handling of information, complying with data-protection requirements, and disclosing information only where authorised, justified or required by law.

Cooperation and accountability

- 6.9 Ensure that information held by the CMC remains current and accurate, including contact details and any material facts relevant to registration or membership.

6.10 Co-operate fully and in good faith with the CMC in the exercise of its regulatory functions, responding to reasonable requests and honouring any undertakings given.

6.11 Maintain professional good standing by promptly notifying the CMC of any conviction, finding, determination, or order made by a court, regulatory body, or other competent authority.

6.12 Operate in accordance with the CMC's Membership Rules, Professional Standards and Code of Professional Practice, having regard to any supporting guidance.

Provision of service

6.13 Maintain public confidence by promoting and advertising mediation services honestly, professionally and without being misleading.

6.14 Have in place an accessible complaints-handling process in accordance with CMC standards and requirements.

6.15 Provide clear and accurate explanations to clients, recognising that lawful or confidentiality-related restrictions may apply.

6.16 Maintain adequate systems and controls to support the proper and efficient management of services.