

MEDIATORS' INSTITUTE OF IRELAND COMPLAINTS PROCEDURE

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1. Introduction

In the event that a client or a party has a complaint against an MII Mediator(s), they should:

1. Raise it directly with the Mediator(s) initially
2. If unresolved, raise it with the organisation that employs the Mediator or who engaged the Mediator to mediate (if applicable)
3. If still unresolved, raise it with the MII through the MII Complaints Procedures. *

The Mediators' Institute of Ireland ('the MII') was established as a not-for-profit organisation to promote the use of mediation as a process of dispute resolution in all areas by ensuring the highest standards of education training and professional practice of mediation and by increasing public awareness of mediation.

The MII's Code of Ethics and Practice was drawn up to provide ethical guidance for Mediators in their practice. All Associate, Certified and Practitioner Members of the MII agree to be bound by the Code of Ethics and Practice.

Complaints may or may not be upheld or may be resolved between the parties. There is no public register of those Mediators against whom a complaint has been received.

This Complaints Adjudication Procedure sets out how complaints relating to a Member of the MII will be dealt with by the MII. It does not affect anyone's legal rights.

The MII encourages the use of direct communication and a conciliatory approach wherever possible when dealing with complaints, being mindful that mediation exists to facilitate communication and negotiation, to promote voluntary decision making by the parties to a dispute and to assist them to reach a mutually acceptable solution.

2. Definitions

- **Complainant:** Any of the parties or clients of a mediation.
- **Member:** A registered Member of the MII who may be a General, Associate, Certified or Practitioner Member.
- **Independent Facilitator:** A person independent of the Complainant or the Member selected by The President for the time being of the MII
- **The Council:** The governing body of the MII.
- **The Complaints Panel:** A panel appointed by the Council of the MII to deal with complaints.
- **The Disciplinary Panel:** A separate panel appointed by Council of the MII to deal with disciplinary issues.
- **The Complaints Adjudication Process:** The process used by the MII to try to resolve complaints made about Members.
- **The Independent Facilitation:** A facilitated process that may be used by the Complainant and the Member to resolve the complaint.

3. Making A Complaint

3.1 A complaint may be made about an MII Associate, Certified or Practitioner Member if it is believed that they have acted in breach of the MII Code of Ethics and Practice.

3.2 All complaints should first be raised with the Member directly.

The MII encourages all its Members to be open to hearing complaints and to respond promptly and appropriately. By raising the complaint directly with the Member or with the organisation that employs the Mediator or which engaged the Mediator to mediate (if applicable), the complaint may then be resolved without the need to use the formal MII Complaints Procedures.

If these attempts to resolve the issue have not been successful, the complaint should then be brought to the attention of the MII through the formal MII Complaints Procedures.*

3.3 A complaint being raised with the MII must be made within six months of the practice from which the complaint arises. If a complaint is made after six months, an explanation for the delay must be given and the MII Council will have discretion in deciding whether to consider the complaint.

3.4 All complaints should be addressed to the Administrator of the MII. The Administrator will send the complaint to the Chairperson of the Ethics Committee (CEC). The CEC will first check if the person being complained about was an Associate, Certified or Practitioner Member at the date of the complaint. The MII cannot deal with complaints about people who were not

Members within that category of membership at the time of the cause of complaint. If the person complained about was not a Member or within that category, the CEC will let the Complainant know.

3.5 If the person was a Member, the CEC will call the Complainant to discuss the possibility of them raising the issue directly with the Member, if they haven't done so already.

3.6 If the Complainant chooses the MII to deal with the complaint, they will be asked to provide full details in writing including: the name of the Mediator; the nature and time of the complaint; and any prior attempts to resolve the issue. Copies of any documents supporting the complaint should also be provided.

The CEC will then contact:

- the Complainant offering them the choice of trying to resolve the issue through Independent Facilitation or through the Complaints Adjudication Process
- the Mediator, providing them with details of the complaint and giving them the opportunity to reply in writing.

The CEC will provide both with copies of the MII Complaints & Disciplinary Procedures and the MII Code of Ethics and Practice.

3.7 If the Complainant chooses to try Independent Facilitation to resolve the issue, the President will appoint an Independent Facilitator. The Independent Facilitator will contact the Complainant and the Member to offer Independent Facilitation.

The Independent Facilitator will notify the CEC when the Independent Facilitation has concluded, for administrative purposes only.

If the Independent Facilitation takes place and does not resolve the issue, the Complainant still has the choice to use the Complaints Adjudication Process. If they chose Adjudication, they must notify the Administrator in writing. If they do not contact the Administrator within 3 months, the complaint will be deemed withdrawn and the Administrator will write to inform the Member.

3.8 Once a complaint is made, neither the Complainant nor the Member may claim confidentiality about the mediation which gives rise to the complaint. This is to allow full consideration of the complaint. Care must be given however to protect the confidentiality of information which is personal to other parties to the dispute.

If required, details of the complaint and any attempts to resolve it may be shared with the Complaints Panel and also with the Disciplinary Panel if appropriate.

3.9 There is no charge for using the Complaints Adjudication Process.

3.10 All complaints received by the MII will be dealt with as promptly as possible. Any delays will be notified to all concerned. An extension of time-limits may be agreed by all the parties.

3.11 If anyone involved in the Complaints Adjudication Process believes there is a conflict of interest they should declare it and step down from the process where appropriate.

4. The Complaints Adjudication Process

4.1 Once a Complainant has notified the Administrator that they wish to use the Complaints Adjudication Process, the Administrator notifies CEC who notifies the Member and the President.

A Complaints Panel is appointed in accordance with clause 5 below .

4.2 The Chair of the Complaints Panel (the Chair) contacts the two other members of the Panel and checks that there is no conflict of interest for any of the three of them to hear the complaint.

The Chair writes to the Complainant and the Member providing copies of all the documents received so far and notifying them of the names of the Complaints Panel members.

4.3 If the Member has not already done so, the Chair will ask them to respond in writing to the complaint within 21 days.

The Chair will send a copy of the Member's reply to the Complainant who has 21 days to reply further if they choose. The Chair will send a copy of any reply to the Member.

4.4 The Complaints Panel will meet to consider the complaint on the basis of the written documents. The Complainant and Member can choose to attend this meeting.

The Complaints Panel may meet more than once and will make their decision within 14 days of their final meeting. The Chair will then write to the Complainant and the Member with their decision.

4.5 The Complainant or the Member may appeal the decision of the Complaints Panel under the MII Appeals Process.

5. The Complaints Panel

5.1 After a Complaint has been received or in the event that it is not resolved, the Council of the MII will appoint a Complaints Panel to hear the complaint.

The people appointed will include a Mediator in the area of mediation and qualification of the Complained Against and two non –Mediator people who are independent of the MII, one of whom will be appointed as the Chairperson of the Panel.

5.2 The President of the MII will put forward names to the Council for appointment to the Complaints Panel.

5.3 If during the Complaints Adjudication Process, the Panel consider that it is appropriate to seek expert opinion on mediation practice they should contact the CEC.

5.4 If a complaint is upheld, the Complaints Panel may recommend that the Member make amends including, where appropriate, reimbursement of fees. If there is a recommendation to refund the fees, the MII is not responsible for the reimbursement of any fees recommended by the Complaints Panel. It is a between the Complainant and the Mediator.

5.5 The deliberations of the Complaints Panel will be confidential. The decision of the Panel will be notified to the Complainant and the Member.

The CEC will be notified if the complaint has been upheld or not for administrative purposes only. A report to the MII Council will be made of the number of complaints received and upheld. The names of the Complainant and the Member will not be notified to Council.

5.6 If the Complaints Panel believe that the complaint gives rise to a matter which should go before the Disciplinary Panel, they should notify the designated member of Council in writing including details of the alleged breach of the Code of Ethics.

5.7 The MII will not make the decision of the Complaints Panel public other than to send it to the Disciplinary Panel. The Complainant and the Mediator may make the decision, but not the reasons on which it is founded, and any recommendations, public unless otherwise agreed.

Footnote

* It should be noted that some Mediators are governed by provisions in legislation (i.e. employment legislation) which would not permit them to be subject to the MII complaints procedures.

The MII strive for best practice and accordingly the Complaints Adjudication Process is an organic document which may change from time to time.

As passed by the Ethics and Standards Committee 16th March 2011

- [Guidelines for the Complaints Adjudication Procedure](#)

- [Hearing Ground Rules](#)

- [Print Page](#)

3. MAKING AN APPEAL

3.1 The decisions of the MII are made either by Council or by Committees or persons which have been charged by Council with decision-making authority. If someone who is directly affected by the decision wishes to appeal it, they (the Applicant) should notify the Administrator of the MII.

3.2 Unless otherwise specified the Applicant should notify the Administrator of their intention to appeal within 21 days of the relevant decision. The Applicant should provide in writing the nature of the decision, the name of the person or body which made the decision and their reasons for appeal.

3.3 The Administrator will acknowledge receipt of the appeal and will notify the Chair of the Appeals Panel.

3.4 The Chair of the Appeals Panel will determine if the appeal can be dealt with by the Panel. The Panel cannot deal with appeals against decisions which have been made by a person or body which did not have the authority of the Council to make a decision on behalf of the MII.

3.5 If the appeal cannot be dealt with by the Appeals Panel, the Applicant will be notified as soon as possible.

If the appeal can be dealt with by the Panel, the Appeals Process will begin.

3.6 Neither the MII nor anyone acting on its behalf can claim confidentiality in relation to decisions which are subject to appeal under the Appeals Process.

3.7 There is no charge for using the Appeals Procedure.

3.8 All appeals notified to the MII will be dealt with as promptly as possible. Any delays will be notified to all concerned. An extension of time-limits may be agreed by all the parties.

3.9 If anyone involved in the Appeals Process believes there is a conflict of interest they should declare it and step down from the process where appropriate.

4. THE APPEALS PROCESS

4.1 The Chair will appoint a Panel and will notify the Applicant and the person or body whose decision is being appealed.

4.2 The person or body whose decision is being appealed will be sent a copy of the Applicant's reason for appeal. If it is one of the MII Committees or other panels whose decision is being appealed, they must nominate one of their members to reply.

Any reply must be provided in writing and within 21 days. The Applicant will be sent a copy of the reply and may reply further within 21 days.

4.3 The Chair will set a meeting date for the Panel to deal with the appeal and will notify the Applicant and all relevant parties. Witnesses may also be called.

It is acknowledged that in some instances, the decision under appeal was reached following a previous meeting of some or all of the relevant parties, for example, a decision by the MII Complaints or Disciplinary Panels. This does not preclude a further meeting under this separate Appeals Process.

In other circumstances, no such meeting may have occurred and the Appeals Panel has the discretion to make contact with all the relevant parties before the meeting to facilitate discussions which may resolve the matter without a formal meeting taking place.

4.4 At the meeting the Panel will consider the matter on the basis of the written documents, information provided at the meeting and by way of questions to those attending.

4.6 The Panel will then meet privately to discuss the matter and make their decision. The Panel must decide whether or not to uphold the appeal. If they decide not to uphold the appeal, no further decision is made. If the appeal is upheld, the Panel must consider if any other action needs to be taken by the MII to remedy the matter. This may include directing the Council to publish their decision on the MII website.

4.7 The Chair of the Panel will notify the Applicant and the relevant person or body of the MII of the Panel's decision. The Council will also be notified. The notice should be in writing and give reasons for their decision.

5. THE APPEALS PANEL

5.1 The Council of the MII will appoint people for two years to be available to sit on the Appeals Panel. The Panel will include both Members of MII and people who are independent of the MII. The Members will be accredited Practitioner Members of at least 3 years and, as far as possible, represent of all areas of mediation practiced by MII mediators.

5.2 The Chair must be independent of the MII. The Chair will be appointed by the Council for two years.

5.3 Each matter brought to the Appeals Panel will be dealt with by a group of three people. This will include the Chair, one other independent person and a Member. In appeals against decisions of the MII Complaints or Disciplinary Panels, the Member should be experienced in the area of mediation which was subject to the complaint or disciplinary action.

5.4 The deliberations of the Appeals Panel will be confidential. Their decisions may be published on the MII website.